



Health above faith

SC lays down the salutary principle that the right to life must override religious sentiments.

Highlights:

1. It does not require any higher wisdom to know that there is considerable risk to public health during massive religious gatherings in the midst of a pandemic.
2. Yet, it took some prodding by the Supreme Court for Uttar Pradesh to cancel the annual Kanwar Yatra. The yatra, in which Kanwaris, devotees of Shiva, make a pilgrimage to collect water from the Ganga, was not held last year due to COVID-19.
3. The Court had reiterated a principle that is being observed in most places: the idea that the health of the public and their right to life are paramount.
4. There may be a case for relaxations aimed at economic revival and restoration of normality in most parts of the country, but there really is none when it comes to choosing between religious rights and the right to life and safety.

The crisis ahead, from learning loss to the resumption

Since school closure has led to a great loss of nutrition and schooling for the poorest sections of our society, there is some urgency in the calls we hear to reopen schools.

The disruption

1. In what has been perhaps an educational disruption in history without parallel since the mass education system took root in India, schools have been closed for 16 months now, with no clarity on or a timeline for their resumption as yet.
2. The country has promoted online classes and e-connectivity as the solution, perhaps inevitably so, since physical contact between teachers and children has not been possible.
3. The focus has been on secondary and higher secondary education, with most States ensuring some form or other of online classes for this segment.



4. However, due to a lack of connectivity as well as a lack of access to e-devices, only a fraction of children even in this age group has had online education of any kind.
5. When it comes to children in the primary and upper primary classes, even such access has been limited to a minuscule fraction. Children of the poor, studying in government schools, have been especially disadvantaged in this regard.
6. Further aggravating the situation is the quality of online education — it is largely abysmal. As most studies show, the percentage of teachers in the country capable of handling digital platforms for pedagogic purposes is very small.
7. The educational material provided by them has also been mere reproduction of what is used in a physical classroom. Hence, even where online classes have taken place regularly — as in the case of urban schools, with students largely from middle and high-income groups — the teaching-learning processes have by and large been poor.

Learning Loss:

1. As has been well documented by now, all this has resulted in what commentators have termed nutrition loss and learning loss.
2. Worldwide, many studies in the last year have documented a loss of learning in children. In the Netherlands researchers found that among eight to 11-year-olds, “students made little or no progress while learning from home” and that “learning loss was most pronounced among students from disadvantaged homes”.
3. A large multi-State study in the United States records that the pandemic “has also prompted some students to leave the public school system altogether”.
4. According to a study by the Azim Premji Foundation in January 2021, covering more than 16,000 children in the age group six to 11 years, and across five States, 92% of children on average have lost at least one specific language ability from the previous year across all classes; the figure is 82% when it comes to mathematical ability.
5. Even assuming that enrolment is not an issue, if we return to the child, as the child enrolls into Class six (he left school in Class 4 in march 2020) will she



start with Class five textbooks, or Class six textbooks, or some new “bridge” material?

International experience

1. ‘One way of addressing the learning crisis might be to repeat the entire academic year. The government in Kenya has decided to do just this’.
2. Some countries, such as the Philippines, allow extended time for classes on resumption, both in duration of school hours and more calendar days of interaction.
3. ‘Another approach is to reduce and synthesize the curriculum so that students are able to focus on a few subjects and learn them well’. This is followed, for instance, by the State of Ontario in Canada.
4. One-to-one tutoring for the most disadvantaged learners has been taken up in many countries. Among the most prestigious such programmes is the National Tutoring Programme in the United Kingdom for which the government has announced funding to the tune of £350 million.
5. Ghana has also announced a national programme of tutoring. There are several such programmes in different States in the U.S. In Italy, university students are volunteering to conduct one-one-one classes for middle school children from poor immigrant backgrounds.
6. Accelerated education programmes or “bridge courses”, which condense several months (or even years of schooling) into a few weeks or months, are another option. This concept has been taken up in several countries.

What we need now is nothing less than a national rejuvenation programme for elementary education. The school system cannot do what is needed by itself. We need a vast body of volunteers engaging in small groups with children from the most disadvantaged sections, working in tandem with schools, which will need to focus on safety measures and average performance. It is critical that we should not reduce education to foundational literacy and numeracy, but treat children as they are, study the experiences they bring, and address their nutritional, emotional and intellectual well-being as a whole. This requires a flexible curriculum rooted in local reality, working with physical material, and pedagogy based on sound principles of the psychology of learning.



Making India a sporting nation

India can compete better in the international arena if different States are developed as centres of excellence for different sports.

Factors that determine performance

1. There are many factors that are important in determining the performance of a nation in various sports. Beyond a threshold level, the average standard of living in a nation and the country's population size may be important determinants for its performance at the Olympics.
2. The size of total GDP is hardly important in countries like India where a sizable segment is fighting hunger. A person of poor health can never be a good sportsperson. In countries where there are high levels of stunted growth, malnutrition and anaemia, we cannot expect good athletes.
3. Genetic factors are also no less important. The U.S., Australia and the Netherlands are powerhouses in swimming, but not China.
4. Perhaps, taller people have an advantage in swimming or basketball but height is not important in shooting or gymnastics. China excels in shooting along with the U.S. and Germany. East Asian nations do better at table tennis than Western nations.
5. Russia, East European nations and Central Asian countries do well in amateur boxing whereas China and Central Asians countries do better in weightlifting and wrestling.

Way Forward:

1. Mobilising resources in world-class training provides an edge to sportspersons. Such infrastructure makes the U.S. the superpower in athletics and gymnastics, Germany in equestrian, and the U.K. in diving, sailing and cycling. For poor nations, creating such infrastructure is a luxury.
2. Resources in India were spread thinly across sports disciplines.
3. Asian countries such as Kazakhstan, Singapore and Malaysia may stand below India in the medal's tally at the Asian Games but are ahead of it at the Olympics. This is primarily because India is moderately good at many sports but not good enough to be the best at any of them.



4. In recent years, India has shown promise in shooting, amateur boxing, wrestling, gymnastics and badminton. We need to concentrate more on sports where the physical build of an average Indian will not stand as a disadvantage.
5. States need to be integrated in a bigger way in India's sports policy. The policy of "One State, One Sport" can be a game-changer in India.

Surveillance reform is the need of the hour

The proposed legislation related to the personal data protection of citizens fails to consider surveillance.

Pegasus project:

1. It is worth asking why the government would need to hack phones and install spyware when existing laws already offer impunity for surveillance.
2. This unsettling query arises on the basis of reports emerging from a collaborative investigation by journalists from around the world, including from India's The Wire, titled the 'Pegasus Project'.
3. Reports say that over "300 verified Indian mobile telephone numbers, including those used by ministers, opposition leaders, journalists, the legal community, businessmen, government officials, scientists, rights activists and others", were targeted using spyware made by the Israeli firm, NSO Group.

Threat to press freedom

1. These revelations highlight a disturbing trend with regard to the use of hacking software against dissidents and adversaries.
2. In 2019, similar allegations were made about the use of Pegasus against journalists and human rights activists. Most of them were situated in Maharashtra and Chhattisgarh as the hack targeted lawyers related to the Bhima Koregaon case and Dalit activists, respectively.
3. This is not surprising since the World Press Freedom Index produced by Reporters Without Borders has ranked India 142 out of 180 countries in 2021.
4. What is shocking, however, is that the press requires (and in democracies is afforded) greater protections on speech and privacy. Privacy and free speech



are what enable good reporting. They protect journalists against threats of private and governmental reprisals against legitimate reporting.

5. This has been recognised in Supreme Court decisions. In the absence of privacy, the safety of journalists, especially those whose work criticises the government, and the personal safety of their sources is jeopardised. Such a lack of privacy, therefore, creates an aura of distrust around these journalists and effectively buries their credibility.

Problematic provisions

1. The government, in its purported undated and unsigned response, relied on existing provisions of law under the Indian Telegraph Act of 1885 and the Information Technology (IT) Act of 2000.
2. Even without the use of Pegasus or any other hacking software and surveillance, these provisions are problematic and offer the government total opacity in respect of its interception and monitoring activities.
3. While the provisions of the Telegraph Act relate to telephone conversations, the IT Act relates to all communications undertaken using a computer resource.
4. Section 69 of the IT Act and the Interception Rules of 2009 are even more opaque than the Telegraph Act and offer even weaker protections to the surveilled.
5. No provision, however, allows the government to hack the phones of any individual since the hacking of computer resources, including mobile phones and apps, is a criminal offence under the IT Act.
6. Nonetheless, the surveillance itself, whether under a provision of law or without it, is a gross violation of the fundamental rights of citizens.
7. The very existence of a surveillance system impacts the right to privacy and the exercise of freedom of speech and personal liberty under Articles 19 and 21 of the Constitution, respectively. It prevents people from reading and exchanging unorthodox, controversial or provocative ideas.



Without any checks and balances:

1. Constitutional functionaries such as a sitting judge of the Supreme Court have reportedly been surveilled under Pegasus without any checks outside the executive wing of the government.
2. Vesting such disproportionate power with one wing of the government threatens the separation of powers of the government. In response to a Right to Information (RTI) request in 2013, the Central government had revealed that 7,500 to 9,000 orders for the interception of telephones are issued by it every month.
3. However, RTI requests for such information are now denied citing threats to national security and to the physical safety of persons.
4. The government, in its purported response, stated that any surveillance which takes place happens through a “due process of law”. However, the existing provisions are insufficient to protect against the spread of authoritarianism since they allow the executive to exercise a disproportionate amount of power.
5. Such surveillance, when carried out entirely by the executive, curtails Articles 32 and 226 of the Constitution (empowering the Supreme Court and High Courts, respectively, to issue certain writs) as it happens in secret.
6. Thus, the affected person is unable to show a breach of their rights. This violates not only the ideals of due process and the separation of powers but also goes against the requirement of procedural safeguards as mandated in *K.S. Puttaswamy (Retd) v. Union of India (2017)*.

Role of judiciary

1. Thus, in order to satisfy the ideal of “due process of law”, to maintain an effective separation of powers and to fulfill the requirements of procedural safeguards and natural justice, there needs to be oversight from another branch of the government.
2. Only the judiciary can be competent to decide whether specific instances of surveillance are proportionate, whether less onerous alternatives are available, and to balance the necessity of the government’s objectives with the rights of the impacted individuals.



3. The need for judicial oversight over surveillance systems in general, and judicial investigation into the Pegasus hacking in particular, is also essential because the leaked database of targeted numbers contained the phone number of a sitting Supreme Court judge, which further calls into question the independence of the judiciary in India.

Surveillance reform is the need of the hour in India. Not only are existing protections weak but the proposed legislation related to the personal data protection of Indian citizens fails to consider surveillance while also providing wide exemptions to government authorities.