# Opinion

WEDNESDAY, AUGUST 21, 2019

NEGOTIATING BREXIT

Prime Minister of United Kingdom, Boris Johnson

Time is very short. But the UK is ready to move quickly, and, given the degree of common ground already, I hope the EU will be ready to do likewise

## Raising deficit by cutting tax rates is OK, go for it!

If exemptions done away with, move won't lead to major revenue losses, and lower tax rates will spur compliance

**IF INITIAL REPORTS** on the Direct Taxes Code (DTC) panel report are anything to go by—the report is not yet public—there will be sizeable relief for the middle and upper-middle classes as well as for corporate India, where a flat 25% rate appears to have been recommended; and, it appears, the rates will be the same for Indian and foreign firms, along with a branch profit remittance tax for the latter. What is not clear, and this is critical, is when the report's recommendations will be implemented; keep in mind, the 25% corporate tax was something first promised by Arun Jaitley in 2015, but the promise was never kept for the bigger firms; and while 25% was the prevalent rate then, several countries like Vietnam have further lowered taxes for foreign investors, so while a cut in tax rates will be welcome, India may still have higher tax rates than competitor countries.

Also, 25% has to be the all-inclusive rate, there cannot be—as there is now—further cesses on this, on top of which you have the CSR 'tax' of two%. If the lower corporation tax is accompanied by a replacement of the DDT with a tax on dividends in the hands of the shareholders, for instance, by way of a dividend withholding tax, it would remove the double taxation that the current DDT structure results in. It is not clear what the DTC panel has recommended on various exemptions and rebates that are allowed now, but if these are done away with—as seems logical—funding the lower tax rate may not be too difficult; to the extent this does cause the deficit to rise, this can be made up by compressing expenditure, though a slightly higher deficit due to a tax cut could be termed a good deficit as it will raise compliance.

It is not clear what exactly has been suggested for personal income taxes, but the top tax of 30% comes in too early at an income of ₹10 lakh; the earlier DTC had recommended this be raised to ₹20 lakh and that was a long time ago; the top rate will also fall if corporate tax rates fall to 25%. It is not certain if the new DTC suggests doing away with all exemptions and rebates like 80C and D, but their presence makes it easier for tax avoidance; the absence of exemptions will also make filing taxes easier. The structure of taxes also invites tax avoidance: after a zero tax for those earning up to ₹5 lakh, for instance, the tax rate jumps to 20.8% for those in the ₹5-20 lakh income bracket; so, anyone whose income is even a few lakh over ₹5 lakh will find ways to try and lower their taxable income. Also, while finance minister Nirmala Sitharaman hopes to earn around ₹12,000 crore more with her rich-surcharge, she will earn more from greater compliance with lower tax rates. While just 81,344 individuals reported earnings of more than ₹1 crore, the latest all-India income survey by research agency Price estimates the number of those earning over ₹1 crore at around 6.4 lakh in FY16; while Price estimates there are 11.6 lakh persons who earn ₹50-100 lakh a year, just 1.4 lakh persons declared this to be their income in FY16. A 20% hike in the number of crorepatis declaring their incomes—assume an average income of ₹2.5 crore—if the tax rate is slashed to 25% will, for instance, still lead to ₹50,000-55,000 crore additional collections even after accounting for the loss in revenues from the existing taxpayers paying at a lower rate. The budget's higher taxes—including on FPIs—did considerable damage to consumer/investor sentiment, so the government should use the DTC report to fix this and usher in a lower-tax regime at the earliest.

## Vote for Aadhaar

Linking Election ID to Aadhaar can make voting portable

**AS IN ALL** elections in the past, the last general elections, too, saw allegations of voter fraud as well as instances of the Election Commission (EC) bungling. So, just before the elections, the YSR Congress Party alleged that there were 59 lakh fake entries in the voter rolls for Andhra Pradesh; that's a massive 16% of the electorate. In the case of Telangana, it was the EC that felt the rolls were fake and struck off 27 lakh names. In other cases, such as in the case of former CII President Shobhana Kamineni, bona fide residents found their names struck off the voters' list. The EC has, in this context, done well to ask for amendments in the Representation of People Act to allow linking of Aadhaar with voter IDs. According to a report in *The Indian Express*, EC has written to the law secretary asking for making Aadhaar linking legal, while also accommodating those who cannot furnish Aadhaar cards or do not have an Aadhaar number. Although the EC had started Aadhaar-seeding of voter IDs to eliminate fake cards way back in 2015, and had linked 38 crores voter IDs before the Supreme Court ruled against the linking. Aadhaar-linking, should this happen, will, in the words of the EC, "pave the way for exploring the use of technology for voting and verification of voter identity in the future".

Besides, rooting out fake voter IDs, Aadhaar can find further uses to curb voter fraud. If Electronic Voting Machines (EVMs) can be linked to the Aadhaar database, and a feedback loop is designed in such a way, it could be possible to ensure that there is no duplicate voting; an Aadhaar verification, as is done for drawing rations, could ensure that there is no fake voting. Besides, it also opens up the possibility of making voting truly portable, where a migrant worker from Bihar can cast his vote—for his MLA or MP in Bihar—at any election centre while working in Delhi; once Aadhaar is used to ensure that all voter IDs are genuine, with appropriate checks, there is no reason why e-voting can't be made possible. With many companies having adopted this, via use of blockchain, even countries can do the same. For a country where losing political parties never tire of making the same allegations of EVM fraud from time to time, though, even talking of this could be premature.

## SettingSCORE

Khayyam's music wove intensity into words in a manner that is perhaps impossible to replicate

**THE MOST AN** artist can hope for is that their legacy transcends epochs. But, timelessness is an honour history bestows only a few, such is the rarity of artistic genius that imbues art with the ability to evoke awe and admiration even generations after its debut. Mohammed Zahur Hashmi, popularly known, in the Hindi music industry, as Khayyam, or Khayyam *sa'ab*, in deference to his calibre as a music composer, belonged to that elite breed assured of immortality. Khayyam died Monday, aged 92, in Mumbai, battling serious illnesses over a mercifully short period. If the lyrics gave *Kabhi kabhi mere dil mein* from *Kabhie Kabhie* (1976), and *In aankhon ki masti* from *Umrao Jaan* (1981)—both albums won him Filmfare Awards for Best Music—the exalted standing of poetry, the music that Khayyam set these songs to makes them immortal. Khayyam's four-decade-long career birthed compositions that can only be described as sublime. Born in the Punjab of British India, Khayyam received training in classical Indian music under Pandit Amarnath, and assisted Baba Chishti, before moving to Mumbai to make his debut with *Heer Ranjha* in 1948.

The Padma Bhushan recipient worked with some of the biggest names in Hindi music—his first big break, in 1950, came from a song sung by Mohammed Rafi; he regularly set Sahir Ludhianvi's words to music; it was Khayyam's songs that established Asha Bhonsle, more famous till then for her fast-paced numbers, as a serious singer; and Kishore Kumar, Mukesh, and Lata Mangeshkar regularly gave voice to his compositions. The magic of Khayyam's melodies came, in large part, from their uniqueness, highlighted by his use of classical Indian sounds—at a time when his contemporaries were experimenting with Western ones—to weave intensity into words. That genius perhaps will be impossible to replicate.

URBANISATION DIVIDEND

WITH GROWTH INCREASINGLY DEPENDENT ON STATE SPENDING, INDIA WILL ONLY REALISE ITS ECONOMIC POTENTIAL WHEN STATES URBANISE SUSTAINABLY TO RISE OUT OF POVERTY

# Urbanise India to push poverty out

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*Views are personal*

**SUSTAINABLE URBANISATION CAN** mobilise India's potential. The world is at 55.3% urbanisation on average, whereas India lags at 34%. A detailed analysis in our previous article (*bit.ly/319wUCb*) demonstrates that keeping a majority of India's population in villages has resulted in high inequity. India must systematically urbanise and provide mass-employment to its large population in high-growth sectors like industry and services.

The question of whether we can grow enough food with a reduced agriculture workforce is answered by studying other countries. World Bank data shows that with only 1.3% of its workforce in farms, the US produces enough food to feed double its population. In 2017, median farming household income was $75,994, which exceeded the $61,372 US household median. China, with 27% of its workforce involved in farming, produces 500 million tonnes of food every year with less arable land than India. India, in comparison, produces 290 million tonnes of food with a 43% agriculture workforce when 20% would suffice. With higher yield and productivity, a smaller agriculture workforce will earn comparably with industry and services.

The case for urbanisation is evident when we examine state-wise data. The accompanying graphic shows urban percentage, per-capita GSDP, higher education Gross Enrolment Ratio (GER), and Total Fertility Rate (TFR) for representative states. GER is an indicator of human capital development; crucial for high-growth sectors like services. TFR indicates whether a population is shrinking or expanding and is vital to policy planning, as discussed in the article (*bit.ly/2MtXsLY*). Urbanisation data from the 2011 census must be re-examined with the 2021 census. Nevertheless, there is a clear correlation between urbanisation and prosperity.

States in the South-West zones are more urbanised, all above the 31% all-India average. These states also have low TFR, considerably below the national average of 2.18. Low fertility and high GER has resulted in better educated, smaller populations that are earning more than their northern counterparts. Urbanisation is driving this trend—urbanisation aggregates human activity, enabling specialisation and productivity improvements. It boosts economic prosperity, which reflects in the leading per-capita GSDP figures of these states. In 2011-12, already these states had higher per-capita GSDP—with Andhra Pradesh on the low end at ₹77,000 and Maharashtra with the highest at ₹1.13 lakh. In six years, these figures have doubled.

Tamil Nadu (TN) has India's highest GER, at 48.6, and one of the lowest TFRs, at 1.7. In 2011 itself, we can see TN is most urbanised at 48.4%, with an already-high GER of 40. No other big Indian state attained a GER of 40 even in 2017-18. Rapid urbanisation has boosted TN's enrollment in higher education. However, regressive focus on caste politics has taken away from growth. Though TN had the second-highest per-capita GSDP in 2011-12, growth is lower compared to states like Karnataka and Telangana, which are driven by services. The TN government must converge on using high GER and urbanisation to drive its strong industry legacy and build a large services sector.

Karnataka is an intriguing case. With one of the highest per-capita GDPs at ₹2 lakh in 2017-18 and a reasonably high urban percentage at 38%, a reality check indicator is its lower GER of 27.8. Data from RBI and the Economic Survey show 60% of Karnataka's GDP comes from Bengaluru and the services sector—driven by IT and other technological drivers. As analysed in our article (*bit.ly/2GAaSk6*), a majority of the specialised workforce comes from elsewhere. Like most southern states, TFR is low; but, the state sees significant immigration. Despite its large services sector, by defocusing on human capital, Karnataka's government is placing natives in an unfortunate situation of being unable to compete for the best jobs in their state. Karnataka must focus on urbanisation and development of human capital to remedy this, which will further boost the state's impressive growth trajectory.

Gujarat is another unusual case—high urbanisation at 43% but lower-than-average GER of 20.1. Gujarat's steady growth and high per-capita GSDP of ₹2 lakh are driven by its phenomenal industry sector, which accounts for more than half of GVA. High dependency on industry, and not services, which contribute only 35% of GVA, means Gujarat's growth will start slowing down when automation and other factors kick in. With a TFR of 2.03, Gujarat's population downturn is not as steep as southern states. Without the development of human capital, Gujarat is in danger of lagging in the future. The answer to this is investing in higher education and building a strong services sector to complement its industry.

Punjab stands out among northern states. It boasts a high urban percentage (37.5%), high GER (30.3) in 2017-18, and one of the lowest TFRs (1.62). Despite this, Punjab still relies heavily on agriculture; its services and industrial output is lower than that of southern states. With indicators of high urbanisation, high GER and low population growth, Punjab can easily make the transition to a high-growth economy focused on services, with the right policies.

Other states in the North-Central-East zones mostly have low urbanisation and low GER. The lack of urbanisation has resulted in a shortage of industry and services sectors and low per-capita GDP. The populations in these states will keep growing in the foreseeable future, indicated by higher TFRs. Without employment options in high-growth sectors, these large populations cannot rely on agriculture or industry alone for growth. Services are a must. Uttar Pradesh has made a valiant effort to develop human capital—GER rose from 17.4 to 25.9 in six years. Now, policies to boost output with labour-intensive industries (LIIs) and services to provide formal employment can increase growth.

Bihar is a troubling case study on the effects of low urbanisation and human capital. Only 11.3% of the population is urban. GER is the lowest in India and hardly growing—from 12.5 to 13 in six years. Per-capita GSDP is lowest, at ₹42,000 in 2017-18. Despite having fertile land, Bihar's agriculture sector cannot grow because it is disorganised with a large number of dependents. With India's highest TFR—3.41—Bihar's expanding population is condemned to a sub-aspirational existence due to the state's stagnant economy. Bihar needs special attention from the Centre, with focused schemes to organise the agricultural industry, urbanise and educate the masses, and provide mass employment through LIIs. Madhya Pradesh has set a good example here by prioritising agrarian growth as well as instituting LIIs to provide mass employment.

It is clear that every state—irrespective of prosperity or geographical location—is diverse. We are now in an era where the role of the Centre is increasingly limited, and state spending is growing. Each state must evaluate its economy—workforce distribution, sectoral contribution, demographics, formal employment, higher education and specialisation, unique growth drivers—and set a development plan.

Maharashtra CM Devendra Fadnavis has taken the lead here by setting a far-sighted vision of a $1 trn economy by 2025 to match PM Narendra Modi's $5 trn goal. It remains to be seen how Maharashtra will back this vision up with policy changes. Similarly, we need CMs of each state to evaluate and execute a long-term plan and vision for their state. India can only realise its true potential as a top-three economy when every state rises out of poverty—and into prosperity—through sustainable urbanisation and human capital development.

| Zones | | Urban % 2011 Census | Per-capita GDP 2011-12 | Per-capita GDP 2017-18 | GER 2011-12 | GER 2017-18 | TFR 2013-15 |
|---|---|---|---|---|---|---|---|
| NORTH-CENTRAL | Uttar Pradesh | 22.3% | 35,917 | 62,291 | 17.4 | 25.9 | 2.74 |
| | Rajasthan | 24.9% | 62,907 | 1,11,539 | 18.2 | 21.7 | 2.40 |
| | Madhya Pradesh | 27.6% | 43,082 | 93,491 | 18.5 | 21.2 | 2.32 |
| | Punjab | 37.5% | 95,379 | 1,55,816 | 23.0 | 30.3 | 1.62 |
| EAST | Jharkhand | 24.0% | 45,318 | 69,534 | 9.9 | 18 | 2.55 |
| | Odisha | 16.7% | 54,708 | 92,726 | 16.6 | 22 | 2.05 |
| | Bihar | 11.3% | 23,525 | 42,242 | 12.5 | 13 | 3.41 |
| | West Bengal | 31.9% | 56,693 | 1,04,750 | 13.6 | 18.7 | 1.77 |
| SOUTH | Tamil Nadu | 48.4% | 1,03,600 | 1,86,125 | 40.0 | 48.6 | 1.70 |
| | Andhra Pradesh | 33.4% | 76,997 | 1,57,495 | 29.9 | 30.9 | 1.83 |
| | Telangana | 33.4% | 1,00,732 | 1,98,577 | 29.9 | 35.7 | 1.78 |
| | Karnataka | 38.7% | 98,568 | 1,99,875 | 23.8 | 27.8 | 1.80 |
| WEST | Maharashtra | 45.2% | 1,13,154 | 2,05,499 | 26.3 | 31.1 | 1.87 |
| | Gujarat | 42.6% | 1,01,075 | 2,00,244 | 16.5 | 20.1 | 2.03 |
| | **All-India** | **31.2%** | **72,187** | **1,31,698** | **20.8** | **25.8** | **2.18** |

Data for representative Indian states from Census, RBI, AISHE and NFHS-4. Per-capita GDP computation by authors based on RBI data

# FDA's new graphic cigarette labels

The new warning labels are significantly less graphic than the originals, but they are plenty disturbing nonetheless

CASS R SUNSTEIN
*Bloomberg*

**CAN A NEW** regulation be something to celebrate? If it stands to save lives, absolutely. Here is one that does: the Food and Drug Administration's new proposal requiring warnings, including graphic images, on cigarette packages and in cigarette advertisements. The regulation, now out for a 60-day comment period, also appears to fix the problems that hobbled previous attempts to mandate graphic cigarette warnings.

It has been 10 years since Congress first directed the FDA to require graphic warnings, and that job was supposed to be done by mid-2011. The FDA duly aimed to meet the deadline, proposing labels that were indeed graphic. (As administrator of the Office of Information and Regulatory Affairs at the time, I helped oversee that process.) But the tobacco companies convinced a federal court that, by compelling speech, the FDA's regulation violated their First Amendment rights. Importantly, the court did not say Congress lacked the power to mandate graphic warnings. It ruled more narrowly that the FDA had not provided sufficient evidence that its warnings would substantially cut US smoking rates—either by discouraging people from starting to smoke or by encouraging smokers to quit.

For reasons that remain unclear, Barack Obama's administration did not seek an alternative way to comply with Congress's direction. And Americans continued to die from smoking-related causes at the rate of 480,000/year (12X as many as die from gun-related causes). Finally, the Campaign for Tobacco-Free Kids (which is supported by Bloomberg Philanthropies), the American Cancer Society, the American Lung Association and several other organisations sued the FDA for failing to carry out the 2009 law. And last September, a federal district court ordered the agency to get to work.

The new warning labels that resulted are significantly less graphic than the originals, but they are plenty disturbing nonetheless. To smokers and would-be smokers, they vividly portray what cigarettes can do to the human body. And the FDA is now providing a new justification for them—one that should much reduce the risk of further legal challenge. Rather than insist that the labels will directly cut smoking rates, the agency says they will promote "a greater understanding of the negative health consequences".

The text-only warnings that have been displayed on cigarette packs and ads since 1984, the FDA argues, are inadequate: Many people, including adolescents, "do not see or read, and do not remember" them, or give them much thought. Pictorial warnings, in contrast, heighten attention and awareness, and thus increase smokers' knowledge about health outcomes, including stroke and cancer. Employing focus groups, individual interviews and online research panels, the FDA tested various textual and graphic warnings, and homed in on the kinds that best attract attention and are most likely to be remembered. "Smoking can harm your children," for example, made the cut.

Like any agency issuing a new regulation, the FDA also had to quantify the benefits and costs of the new rule, and show that the former justify the latter. The agency found that for the tobacco industry, the annual expense of adopting, designing, rotating and advertising the various labels will be in the vicinity of $110 million—a reasonable estimate.

As for benefits, the agency acknowledges that they "are difficult to quantify." The reason is simple: When you are aiming to increase public understanding rather than reduce illness and death, it is hard to assess monetary savings. So, as agencies often do in such situations, the FDA undertook a "break-even analysis," by which it asks how great the benefits would have to be in order to justify the costs. It noted that if the benefits of graphic warnings were as low as $0.01 per pack, they would be worthwhile. Surely, greater public understanding of the health risks of smoking is worth at least a penny a pack.

The FDA's new label requirement is set to be finalised in March. Let us hope the agency meets that deadline—and that cigarette makers have the good sense to stay out of court this time.

*This column does not necessarily reflect the opinion of the editorial board or Bloomberg LP and its owners*

## LETTERS TO THE EDITOR

### Shooting skills

Apropos of "Back to Hindu rate of growth", Aug 20, P V Narasimha Rao can be largely credited with the orbital shift in the rate of growth of our economy. He must also be simultaneously credited with achieving the nation's improved pre-eminence in foreign relations. Dr Manmohan Singh, an economist, during his stint as prime minister, sustained and improved upon the growth indices. But, his tenure had meagre contributions in global management and diplomacy. Modiji earnestly climbed the development plank only to step onto ideological crusades of many hues. Economy was led with great intentions but the needed reforms were sporadic, isolated and loosely stitched. Private investment and employment, and manufacturing index have dipped rapidly. Sharp shooting in politics and diplomacy can, at best, hit the outer rings of the target board of economic growth, never the bull's eye.

— R Narayanan, Mumbai

### Ban guns in J&K

Any place of humans should plant trees of prosperity not violence. Unrest and happy development can't go together anywhere. Enough of the inhuman dirty life; real human life is constructive and development oriented.

— Sandhya Murthy, Hyderabad

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# Time for benchmarking bulk deposit rates of banks?

Such benchmarking could protect the interest of retail savers and help the system achieve quicker transmission. Banks would be comfortable if bulk deposits are floating rates and would be more willing to pass on as well, by having repo-linked loans. Since no bank can do it alone, it needs to be an RBI decision for the implementation to happen

**THE RESERVE BANK** of India (RBI) has deregulated the interest rate structure and has moved from the prime lending rate (PLR) to base rate to the marginal cost of funds-based lending rate (MCLR) for better transmission. Recently, RBI has been pushing banks to benchmark loans to an external benchmark, as conspicuous transmission is not happening. Until now, the transmission has been slow, even though this is the fourth rate cut in a row—the policy rate is down from 6.25% in February 2019 to 5.4% now. During the same period, banks have, on an average, transmitted around 40 basis points through their MCLR, with public sector banks transmitting more than private sector banks.

The case of the State Bank of India (SBI) is bit different. Due to the linking of savings bank deposits with balances above Rs 1 lakh and short-term loans (cash credit accounts and overdrafts with limits above Rs 1 lakh) to the repo rate, the SBI floor rate (repo-linked lending rate, or RLLR) for short-term loans has declined from 8.5% (at the time of announcement of linking) to 7.65% (a whopping reduction of 85 basis points), effective from September 1, 2019. The SBI has also introduced a repo-linked home loan product.

However, to be fair, for external benchmarking it is not possible for banks to only link the asset side of the balance sheet as it will create ALM (asset and liability management) mismatch—as close to 35% of bank liabilities are savings bank deposits. Further, banks are also not able to link external benchmark to the entire liabilities (especially time deposits), as the floating term deposits are not accepted by Indian depositors and have already been unsuccessfully experimented by some peer banks in India.

Therefore, the key to effective transmission, we believe, is adjusting either savings bank deposits or time deposits. Savings bank deposits typically serve the transaction needs of the depositor. The option is always available with the customer to transfer the surplus savings bank deposit balance to time deposits. However, the problem is that it cannot be done in isolation by any one bank, and must be enforced by the regulator.

The best option for us is to link the bulk deposits within time deposits to an external benchmark/floating rate. In India, single rupee deposits of Rs 2 crore and above (since February 2019, earlier it was Rs 1 crore and above) are considered as bulk deposits, and banks have the discretion to offer differential rate of interest on bulk deposits as per their requirements and ALM projections. The share of bulk deposits (Rs 1 crore and above) in banks' total deposits was in the range of 32-38% in the period between March 2016 and March 2018. This was more than 40% in some fiscal years also, but with the revision of definition we believe that this share is currently around 30% of total deposits. Needless to say, most of the bulk deposits are from institutions.

It is, therefore, logical that large institutions could afford to take interest rate risk as this would spare the retail depositors from taking the same. Specifically, with India currently aiming towards becoming a $5-trillion economy, it is imperative that the interest rate derivative market expands. Just to put it in a different way, currently, all kinds of risks—be these FX, credit or rates—are all largely warehoused in the banking system itself, and with the economy growing, we must diversify this risk across the financial market at arm's length.

However, most importantly, such benchmarking could protect the interest of retail savers and help the system achieve quicker transmission. We believe that banks would be comfortable if bulk deposits are floating rates and would be more willing to pass on as well, by having repo-linked loans (as their spreads get locked with more stability in the net interest margins). Since no bank can do it alone and sail through, it needs to be an RBI decision for the implementation to happen. It is, in fact, pertinent to initiate a discussion on this.

It may also be noted that, in India, interests on deposits are an important source of income for many, particularly rural and middle class segments. For example, savings bank interest income currently constitutes 1.8% of the private final consumption expenditure (PFCE) of individuals. However, interest incomes on time deposits are nearly 10% of PFCE, and hence any effort to go beyond savings bank deposits and subsequently linking time deposits with market rates could introduce a significant spike in the consumption patterns of individuals. This could also result in a concomitant decline in income velocity of money, as it could then be used more for precautionary purposes. This is not desirable for economic activity, though.

**The share of bulk deposits (₹1 crore & above) in banks' total deposits was 32-38% in the period between March 2016 and March 2018. We believe currently it is around 30%**

Even as transmission remains a challenge, we believe that banks can reduce deposit rates and align the real deposit rates that are as high as 4.45%. Our estimates suggest that bank deposit rates remain the largest constraining factor in rate transmission. For example, a 100 basis point cut in deposit rates could result in 45-50 basis point reduction in lending rates. However, in a developing country like India, cutting deposit rates always remains a challenge, given that a large populace of senior citizens depends on interest income from deposits as a source of livelihood.

Interestingly, contrary to popular belief, small savings rates are not a large constraining factor as incremental small savings collections are merely 11% of incremental deposits.

Finally, interest rates offered on deposits in India are demography-agnostic (barring the separate rate for senior citizens) by regulation. However, going forward, in our view, RBI could consider an age-wise interest rate structure, with rates linked to long-term bank deposit rates till a certain age group, and offering a higher-than-market rate over that age group. This could, in one go, serve the multiple purposes of (1) ensuring a lower lending rate structure, (2) adequate returns for senior citizens, (3) lower interest expenditure, and (4) an alternative to floating rate deposits.

● HOMEBUYERS' RIGHTS

# A halfway house

SHLOK CHANDRA

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Those at the bottom of the real estate pyramid shouldn't start celebrating, yet

**IN 2018, THE** Centre pushed through a major amendment to Section 5(8)(f) of the Insolvency and Bankruptcy Code, 2016. An 'explanation' was added to that section with effect from June 6, 2018, which allowed homebuyers to be treated as financial creditors and allowed them to approach the National Company Law Tribunal (NCLT) in case of default by real estate developers in handing over units. Thousands of homebuyers got relief from the NCLT in the ensuing months. But the joy for homeowners was short-lived, as the amendment to the IBC was stayed by the Supreme Court in the *Pioneer Urban Land and Infrastructure Limited vs Union of India* case in January 2019.

The strength of the NCLT as a forum was the speed at which relief could be obtained by homebuyers. Builders who did not want to lose control of their companies and believed in the inherent commercial viability of their projects soon entered into out-of-court settlements with homebuyers, with a range of customised agreements, such as refund of interest, waiver of part cost, etc. Now, in a judgment delivered on August 9, 2019, the Supreme Court cleared the dark clouds hanging over the fate of homebuyers and affirmed the constitutional validity of the amendment to Section 5(8)(f). In addition, it has mandated that the Real Estate (Regulation and Development) Act and IBC have to coexist. In the event of a clash, RERA is to give precedence to IBC.

The Supreme Court also clarified it would be open to the developer to put forth its defence that the homebuyer is himself a 'defaulter' or a speculative investor, and not a person who is genuinely interested in purchasing a flat/house. These are bona fide observations by the apex court to allay developer fears that a floodgate of litigation would be opened. The subject would have been well-served had the court elaborated on these points and set out clear guidelines in this regard. Nevertheless, it is a matter of time before the court is called upon to adjudicate in detail on these issues.

In the light of the safeguards set out in the *Pioneer Urban Land* judgment, it remains to be seen if a minor default in payment of an instalment by the homebuyer would be sufficient ground to disentitle the homebuyer from seeking remedy before the NCLT. Hopefully, the NCLT will examine the payment history to determine whether the homebuyer can be deemed a 'defaulter'.

**Where building work has not come to a standstill and construction is going on, homebuyers could approach the NCLT with the expectation of out-of-court settlement**

It also remains to be seen how the NCLT would cope with the deluge of cases that could potentially be filed before it by disgruntled homebuyers. The Supreme Court has adjudicated that homebuyers can pursue their remedies simultaneously before consumer courts, RERA and the NCLT. It has also directed that states in which RERA is not operational should operationalise RERA within three months, and vacancies of NCLT members are also to be filled up within three months.

Homebuyers would be advised not to rush to the NCLT in all cases. Where construction is ongoing and building work has not come to a standstill, homebuyers could approach the NCLT with the expectation of out-of-court settlement. They should factor in the fact that upon initiation of the corporate insolvency resolution process, there is a 180-day moratorium on institution of new legal proceedings or continuation of existing suits or proceedings. Developers in serious financial strife may be relieved to get a 180-day moratorium from paying off their debts and initiation of the corporate insolvency resolution process, and may want to get a troublesome monkey off their back. Thus, things are not all that rosy for homebuyers in projects where developers are in genuine financial strife—the path remains hazy. The government may consider the feasibility of compulsory insurance of real estate projects and a central levy on real estate transactions whose proceeds can be made available to entities (for example, NBCC) nominated to salvage real estate projects that have run into trouble, albeit without an element of fraud or diversion of funds.

The Supreme Court has passed a strong judgment in the interest of homebuyers. But much work remains to deliver solace to those at the bottom of the real estate pyramid.

# Ujjwala 2.0: Clean air for all

Despite its success, the Pradhan Mantri Ujjwala Yojana is yet to be acknowledged as an efficient strategy to reduce air pollution

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**ONE OF THE** most effective and under-acknowledged schemes of the government that has the potential to significantly reduce air pollution is the Pradhan Mantri Ujjwala Yojana, which provides clean LPG cooking gas to first-time users to in an attempt to replace *chulhas* that use traditional fuels and biomass for cooking. By next month, Ujjwala will have met its revised target of providing 8 crore deposit-free LPG connections to women whose family income falls below the poverty line, up from the initial 5 crore—bringing 95% of households across 715 districts under its coverage.

This is an extraordinary achievement. But the government has made one big mistake in the most basic of premises while implementing Ujjwala. By making this about providing cooking gas to those who don't have it, without strongly focusing on the health benefit of cooking with clean fuel in a targeted way, it has not only lost a big opportunity for long-terms gains in increasing LPG use through uptake of refill cylinders, but has also lost the political advantage of positive publicity it could have harvested in highlighting how it is tackling air pollution at a national level.

By focusing on increasing access versus increased use by new beneficiaries, the government is missing out on key benefits of such a programme. The data shows that although 7.75 crore new connections have been given to first-time users at subsidised rates until August 2019, the actual uptake of LPG hasn't risen concomitantly. This means that people are accepting new LPG connections, but not using, or not refilling.

This data divergence can be explained by the fact that while the first cylinder is free, subsequent cylinders need to be paid for, which BPL users are likely to find challenging, especially if the alternative remains free biomass like wood or cow dung. To understand this is fairly simple. The cost of anything when you compare it to 'free' is always higher. Unless a direct benefit of using higher-cost fuel is demonstrated—like better health for family—people may switch to a free LPG connection on paper, but will continue to use free or low-cost biomass to burn for heating and cooking purposes when they have to pay out of pocket for a refill.

If the government had emphasised health benefits of using clean cooking gas while giving out free connections, it would have been easier to drive behavioural change. If it had especially focused on improved health of women, the government would have been able to claim the credit for improved health of an entire voting demographic, while ensuring better re-uptake of cylinders. This could easily have been done if the health ministry had been co-opted to collaborate with Ujjwala's nodal petroleum ministry and the messaging targeted towards health benefits of cooking with clean fuel.

Strategically, this is important since as many as seven independent studies have shown household sources to be the largest single source of ambient air pollution. The Collaborative Clean Air Policy Centre states that burning of solid fuels for cooking and heating contributes anywhere between 22% and 52% to the PM 2.5 load of ambient outdoor air pollution. Even taking a median value of 30%, this is much higher than any of the other sources contributing to particulate air pollution, including the much-maligned vehicular pollution from transportation, or micro-particulates from power plants or industries.

Household biomass burning first affects its immediate users, usually women in rural kitchens (just as stubble burning first impacts the health of farmers). By adding to the overall pollution load of PM 2.5, it also affects the health of the rest of us who use clean fuel for indoor energy use. Exposure to household air pollutants at source is estimated to result in about 8 lakh premature deaths in India. By adding a 30% pollution load to outdoor air, indoor household pollutants result in roughly 3 lakh additional premature deaths. As the CCAPC recommends, it "should be one of the pillars of India's pollution control efforts."

An enlightened government would focus even more on universal access to cleaner fuels like LPG, while encouraging increased usage by emphasising health benefits, thus making it a signature programme that promotes not only social justice, but also environmental justice.

However, all is not lost.

By making this more about better health and less about free/subsidised connections, the PMO can still claim credit for tackling air pollution at a national level, especially since it increasingly being recognised as a public health emergency. And what better time to do this than on the Independence Day?

For that, the government must make new LPG beneficiaries aware that cooking with clean fuel directly benefits their health, not just increasing productivity, but also bringing down medical bills. This will encourage those who have been given subsidised connections to continue using LPG even as the cost of replenishing LPG cylinders remains higher than cow dung cakes or wood. This won't be hard to do if the government is able to co-opt the health ministry into this strategy. Its rural health and ASHA workers can demonstrate the connection between the nagging cough a woman keeps coming back with and the fuel she is using at home. Also, signages at rural LPG stations can make this connection between smoke and ill-health more direct. Together, this will lead to an actual increase in the use of LPG and drive behavioural change.

Ujjwala is an excellent policy for reducing national air pollution levels and bringing down premature deaths. However, it is essential to not just bring the last 5% of the households into the clean cooking and heating fuel net, but also to ensure existing users don't fall back into biomass use.