

Opinion

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ONE OF A KIND

Prime minister of India, Narendra Modi

India grieves the demise of a remarkable leader who devoted her life to public service and bettering lives of the poor. Sushma Swarajji was one of her kind, who was a source of inspiration for crores of people

RBI is doing its bit, over to government now

Central bank has cut repo & ensured adequate liquidity; govt needs to do its bit with a fresh burst of reforms

WITHIN HOURS OF RBI governor Shaktikanta Das' unconventional 35 basis points repo rate cut, SBI had dropped the interest rate for fresh loans by 15 bps. That is speedy transmission for sure. However, the fact is there's a fair bit of catching up left for all lenders since the cumulative repo cuts of 75 basis points till June resulted in a fall of just 29 bps in loan rates. Governor Das' efforts to revive credit growth are to be lauded but, unfortunately, merely lowering interest rates may not be enough to stimulate appetite for credit. At this point, when there is a fair bit of surplus capacity and visibility on demand—both locally and overseas—is somewhat poor, the private sector has no real incentive to invest. That would require big reforms in labour, land, regulation and agriculture. As SBI chairman Rajnish Kumar had said a few days ago, it is the demand that is missing.

But the central bank can do only so much. Indeed, it is doing more than its best to create a conducive lending environment for banks; liquidity has been more than ample for two months now—a surplus of around ₹2 lakh crore—and on Wednesday, there was assurance of more if needed. Easing the norms for bank lending to NBFCs is helpful; loans to a single NBFC can now be 20% of Tier One capital compared with 15% earlier. Moreover, banks can route some of their priority sector lending—agriculture investment loans, affordable home loans—through NBFCs. Unfortunately, the addressable opportunity may not be large since the top-quality NBFCs don't really have too more trouble raising money in the bond markets and banks will choose to stay away from the weaker players post the IL&FS and DHFL crises. As Das rightly observed during his interaction with reporters, the central bank cannot compel banks to lend to any particular sector or customers; those decisions are dependent on ratings and are entirely at their discretion. Relaxing the lending norms for consumer credit by lowering the risk weights (except for credit cards) should help banks push through more loans to this space, though most of them already have big retail exposures.

Many have observed that the RBI's revised GDP forecast of 6.9% for 2019-20, with a downward bias, is optimistic. That may be so, but Das has done well to articulate RBI's concern on growth without any alarmist commentary. Das said the slowdown was cyclical, whereas most economists believe a good part of it is structural. Nonetheless, he seems to be working towards his priority to boost aggregate demand. Das has done the right thing in not pressuring banks to link their loan rates to external benchmarks at a time when they are struggling with NPAs and slow deposit growth. Also, he has reassured the markets, saying the RBI would make sure no systemically important NBFC collapses. Given how inflation is expected to remain benign for at least another year—RBI now forecasts Q1 2020-21 inflation at 3.6%—there is room for another rate cut. That could come in early October, but at the risk of sounding repetitive, rate cuts are little use without meaningful transmission.

Efficient, warm, charming

Sushma Swaraj was on top of her job and won many hearts

IT IS NEVER easy competing with a prime minister, particularly one as hyperactive as Narendra Modi when it comes to foreign policy, but it is to Sushma Swaraj's credit that she persevered—she wasn't even Modi's first choice, given her allegiance to LK Advani—and came up with an entirely new style of functioning. Taking to Twitter like a duck to water, it was a style that made the hitherto distant external affairs ministry accessible to every Indian, anywhere in the world, at any time of the day—recall her 3am tweet on one occasion—with just a 280-character message; perhaps too accessible given that, on one occasion, Swaraj was tagged on a tweet desperately asking for help to get a refrigerator repaired. While Swaraj's role in getting justice for Kulbhushan Yadav and hiring Harish Salve, for one rupee, got a lot of attention, what won the hearts of ordinary Indians was the backroom work she did to get hearing- and speech-impaired Geeta back from Pakistan, in helping those with passport and visa issues, and organising mass evacuations from areas like Iraq and Yemen while, all the time being there to comfort and provide solace to the families of victims or those in trouble. Her last act, before her unfortunate passing away, was to tweet a congratulatory message to Modi after Article 370 was revoked.

Known for her excellent oratory, in both English and Hindi, Swaraj was one of India's more efficient ministers, quick to grasp the issues at stake and willing to do what needed to be done to get the job done. In external affairs, that meant preparing the groundwork for Modi's high-profile visits and giving a powerful speech at the UN General Assembly; in telecom, in the Vajpayee Cabinet, this meant doing the homework for a rescue package for the telecom sector that not just rescued beleaguered telcos but also paved the way for the subsequent boom in India's telephony. If she wasn't able to complete the job, it was because her party needed her to step in as Delhi's chief minister as the incumbent was very unpopular due to spiralling onion prices; his unpopularity was too much for Swaraj to reverse, but she was always ready to fight a battle for her party's sake. So, she took on Sonia Gandhi in Bellary, and even learned Kannada to be able to campaign effectively; she lost, but by just 60,000 votes and, later on, Bellary went on to become a BJP stronghold. A staunch conservative, something her Karva Chauth fasts and deep *sindoor* bore very public testimony to, Swaraj was quick to criticise vigilante groups like the Sri Ram Sene that was attacking women going to pubs; she spoke of how her daughter went to pubs as well. By and large, though, at least in public, she toed the party line on most issues.

In a world where politics is increasingly becoming bitter and adversarial, where party loyalties matter more than friendships, Swaraj represented the Vajpayee-era style of politicians who had endearing friendships across party groups. It helped that, though her father was associated with the RSS, she began her career as a minister in Devi Lal's cabinet; that is why, even when she got a lot of flak for helping fugitive Lalit Modi get travel documents, the Opposition never asked for her resignation. A dying breed of politicians, literally.

CrashCURBS

The Motor Vehicle (Amendment) Bill proposes steeper fines to check accidents, but will these work?

EVERY YEAR, AROUND 1.5 lakh people die in India due to road accidents. Now, as a member of the United Nations, India wishes to halve the number of road accidents. Given road accidents cost most countries around 3% of annual GDP, there is a strong economic imperative for this too. The Centre seems to believe that steeper penalties for traffic violations will fix part of the problem. So, the Motor Vehicle (Amendment) Bill raises the minimum fine for those to ₹500 from ₹100—under the draft law, driving drunk will attract a hefty ₹10,000 fine and driving without the seat-belt on will attract a ₹1,000 fine. Rash driving will incur a fine of ₹5,000. While steeper fines may seem a deterrent, research shows it is, in fact, the implementation of laws and fines that proves a deterrent. India has strict provisions against speeding and driving under influence, but their enforcement scores a lowly 3 and 4, respectively, on a scale of 10—only 30% of the drivers and <10% of the pillion riders mandated to wear helmets do so while a whopping 60% of drivers and 89% of front-seat passengers mandated to wear seat-belts do so. Without the deployment of technology to monitor violations continually, higher fines may only encourage present graft practices to continue.

The Bill also seeks to fix responsibility of contractors for faulty road design and poor maintenance causing accidents—this should put pressure on them to adhere to all safety obligations during construction. But, it is tough to ascribe responsibility in a scenario where the government itself puts a premium on the least cost in road project contracts. Also, with poor and unreliable data on factors other than construction quality that affect road infrastructure—weather, traffic additions over the long term, etc—holding the contractor responsible may not work out. The Bill gets it right on immediate, cashless transfers for victims' treatment within the "golden hour" and increased compensation to road accident victims.

KEEPING THE PROMISE

A REDUCTION IN CORPORATE TAX FOR ALL COMPANIES TO 25%, AND NOT JUST FOR MSMES, WILL ENABLE LARGE COMPANIES TO COMPETE GLOBALLY, AND INCREASE GROWTH

Reduce corporate tax to achieve \$5trn economy

TV MOHANDAS PAI S KRISHNAN

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Views are personal



IT IS FIVE years since the NDA began its first innings, and it's time to evaluate India's competitiveness on the direct tax front. Arun Jaitley, in his 2015 Budget speech, announced, "We are considered as having a high Corporate Tax (CT) regime but we do not get that tax due to excessive exemptions. I propose to reduce the rate of Corporate Tax from 30% to 25% over the next four years. This process of reduction has to be necessarily accompanied by rationalisation and removal of various kinds of tax exemptions and incentives for corporate taxpayers, which incidentally account for a large number of tax disputes."

He started the process of tax reduction in FY17, with a small reduction of 1% for companies whose turnover was less than ₹5 crore, and announcing a CT of 25% for new manufacturing companies who do not avail of any exemption. In his last 2018 Budget proposal, he extended the 25% rate reduction to MSME's with annual turnover up to ₹250 crore.

There was high expectation that the new FM, Nirmala Sitharaman, in her maiden budget, would fulfil the earlier promise of reducing CT to 25% for all companies by 2019. She said, in her maiden budget speech, "So far as CT is concerned, we continue with phased reduction in rates. Currently, the lower rate of 25% is only applicable to companies having annual turnover up to ₹250 crore. I propose to widen this to include all companies having annual turnover up to ₹400 crore. This will cover 99.3% of the companies. Now only 0.7% of companies will remain outside this rate". The FM forgot to mention that 0.7% of the companies in India contribute about 79% of the total CT.

The Receipt Budget 2019-20 reveals that a small number of companies, 373, with profits before taxes (PBT) of ₹500 crore and above, contributed 52% of CT in FY18 and 16.35% of CT was contributed by 1,236 companies with PBT of ₹100-500 crore. Two years after the CT reduction began, about 68.5% of the total CT was contributed by a miniscule 0.2% of all companies! What was promised by the FM in his 2015 budget speech remains unfulfilled.

The Effective Tax Rate (ETR) and the average statutory CT in FY18 is the highest in the past five years for all companies. The ETR is 29.49% for FY18, compared to 23.22% in FY14—an increase

of 27%. This ETR increase has contributed ₹1.11 lakh crore out of ₹5.24 lakh crore collected as CT. The Receipt Budget 2019-20 states that the impact of 2017 Budget proposal of 25% CT for companies having turnover up to ₹50 crore is minimal. The NDA government has thus phased out profit linked deductions without proportionately reducing the CT. Obviously, FM Jaitley has not kept his promise.

When the FM announced a rate reduction to 25% over four years, it was expected that this rate reduction would benefit all the companies. By providing CT reduction to MSME's, others have not benefited. Instead, they have been forced to pay more tax due to withdrawal of tax incentives and imposition of 2% additional surcharge from FY16. The ETR for large companies has consequently increased from 20.68% in FY14 to 26.3% in FY18, a 27% increase.

Large companies in the services sector are the biggest employers in India. They provide stable jobs at good remuneration. However, the services sector, which is more job oriented, has a 2.7% higher ETR at 30.55% in FY18 compared to 27.83% in the manufacturing

sector, which adopts capital intensive automation and enjoys tax incentives. India incentivises automation and taxes job creation more!

A reduction in the CT of all companies to 25%, and not just for MSMEs, will enable large companies to compete globally, increase their growth leading to higher employment, better quality jobs, and reduce the high cost of capital in India. This will support India becoming a \$5 trillion economy.

The accompanying graphic provides the revenue impact of top six incentives for CT payers during FY18 and FY19.

Budget 2016 reduced the maximum depreciation rate to 40%, with effect from FY18, and removed other deductions. A reduction in the maximum depreciation rates to 25%, and the general rate to 10% would enable the government to reduce the CT for large companies by about 2%. A reduction in the CT will reduce the cost of credit from the banking system over time and make the job-intensive services sector more competitive. A 2% CT reduction will enable banks to write back deferred taxes up to ₹10,000 crore and corporates will be

able to write back about ₹25,000 crore. By lowering the CT, the labour intensive industries will have more cash to grow faster and create more jobs, which is India's top priority.

Jaitley had also announced, in Budget 2015, his "vision of putting in place a direct tax regime which is internationally competitive on rates, is without exemptions, incentivises savings, and does not realise tax from intermediaries."

A study on the CT around the world in CY 2018 reveals that the worldwide average statutory CT to be 23.03%, measured across 208 tax jurisdictions. The average statutory CT is 21.86% among EU countries, 23.93% in OECD countries and 27.63% in the G7. The US has a combined statutory rate of 25.84%. The majority of the 208 separate jurisdictions surveyed have CT below 25% and 103 have rates between 20% and 30%. This study was conducted by Tax Foundation, a tax policy non-profit organisation based in the US.

India's average statutory CT at 34.4% in FY18 is higher by more than 10% compared to the worldwide average statutory CT. Instead of India being internationally competitive in tax rates, it has the highest CT among the large economies in CY18. It is in the ninth spot among the 20 countries with the highest CT in the world. This high CT in India is negatively impacting the competitiveness of Indian multinational companies, and India as a destination for investment. When overseas investors come to India with a much lower cost of capital, Indian entrepreneurs cannot compete with a much higher cost.

At the end of five years of NDA government, the CT reduction is not provided to all companies but only to MSMEs. Tax collection has increased hugely by reduction of depreciation rates and withdrawal of corporation tax breaks. India has the highest CT among large economies, making its direct tax regime most uncompetitive internationally. The quantum of tax litigation in India has gone up considerably at all levels too. While Our FMs have been lofty in making statements, they have not kept their promise.

It is very important for the present FM to first reduce the CT to 25% for all companies, incentivise labour-oriented service industries in India and keep the promise made to its citizens which will enable India to move to a \$5 trillion economy.

LETTERS TO THE EDITOR

A much-loved leader

Sushma Swaraj richly deserved all the encomiums heaped on her. A much-loved leader, her passing filled us with a sense of loss. She was a tall leader of considerable stature on India's political stage. Hers was an instantly recognisable face that exuded confidence, charm and character. Under the tutelage of stalwarts like AB Vajpayee and LK Advani, she blossomed into a capable leader. As a protégé of LK Advani, she climbed up the career ladder to become a prominent politician in her own right. At one time, she even looked like the prime minister-in-waiting. We differed with her ideologically, but admired her for her grace and affability. Her unassuming and unpretentious conduct endeared her to one and all. Even though she subscribed to Hindutva ideology and upheld party interest uncompromisingly, she was never regarded as a hardliner or as a rabble-rouser. In fact, she had the moral courage and humanity to rise above caste, colour and creed when it came to providing humanitarian assistance to anyone in need. She stayed away from jingoism. The nation will remember her with gratitude for her interventions to rescue the Indians in difficult or dangerous situations. She was essentially a fine human being, affectionate and consoling. She will go down in history as a much-loved leader.
— G David Milton, Maruthancode

Write to us at feletters@expressindia.com

Trump's China shock

The Trump administration in its wisdom has managed to accuse the Chinese of the one economic crime of which they happen to be innocent—currency manipulation

PAUL KRUGMAN



NYT

I DIDN'T KNOW that the Dow was going to drop 750 points, so my latest column is El Paso-related. Probably the right choice anyway, because US-China is moving so fast that anything in the print paper would be out of date.

But it does look as if I should try to explain (a) what I think is happening (b) why the markets are going so nuts. By the way, given Mnuchin's declaration earlier this week that China is a currency manipulator, subsequent market action should be...interesting.

So here's the thing: neither Trump's tariff announcement last week nor, especially, the depreciation of China's currency earlier this week should objectively be that big a deal. Trump slapped 10% tariffs on \$200 billion of Chinese exports, which is a tax hike of 0.1% of US GDP and 0.15% of Chinese GDP.

In response, China let its currency drop by about 2%. For comparison, the British pound has dropped around 9% since May, when it became clear that a no-deal Brexit was likely.

So why are these smallish numbers such a big deal? Mostly because we've learned things about the protagonists in this trade conflict, things that make a bigger, longer trade war seem a lot more likely than it did even a few days ago.

First, Trump really is a Tariff Man. Some naive souls may still have been hoping that he would learn something

from the failure of his trade policy so far. More sensible people hoped that he might do what he did with NAFTA: reach a new deal basically the same as the old deal, proclaim that it was totally different, and claim a great victory.

But no: it is pretty clear now that he refuses to give up on his belief that trade wars are good, and easy to win; his plan is to continue the beatings until morale improves. What may have looked like temporary tariffs designed to win concessions now look like permanent features of the world economy, with the level of tariffs and the range of countries facing them likely to expand over time.

Second, China is clearly signalling that it's not Canada or Mexico: it's too big and too proud to submit to what it considers bullying. That slide in the renminbi wasn't a concrete policy measure as much as a way of saying to Trump, "talk to the hand" (no doubt there's a good Chinese expression along these lines.)

Incidentally—or maybe it's not so incidental—while there are many valid reasons to criticise Chinese policy, currency manipulation isn't one of them. China was a major currency

manipulator 7 or 8 years ago, but these days if anything it's supporting its currency above the level it would be at if it were freely floating.

And think for a minute about what would happen to a country with an unmanipulated currency, if one of its major export markets suddenly slapped major tariffs on many of its goods. You'd surely expect to see that country's currency depreciate, just as Britain's has with the prospect of lost market access due to Brexit.

In other words, the Trump administration in its wisdom has managed to accuse the Chinese of the one economic crime of which they happen to be innocent. Oh, and what are we going to do to punish them for this crime? Put tariffs on their exports? Um, we've already done that.

So how does this all end? More important, neither does anyone else. It looks to me as if both Trump and Xi have now staked their reputations on hanging tough. And the thing is, it is hard to see what would make either side give in (or even to know what giving in might mean.)

At this rate, we may have to wait for a new president to clean up this mess, if she can.

Both Trump and Xi have now staked their reputations on hanging tough...it is hard to see what would make either side give in



PORTRAIT: SHYAM KUMAR PRASAD

SY
QURAISHI

Former Chief Election
Commissioner of India



IN MEMORIAM

A protege's tribute

Sushma Swaraj was a leader with the stature and backbone to withstand political pressures as a minister

MY ASSOCIATION WITH Sushma Swaraj goes back to 1977, when after the end of the Emergency, she became an MLA of the Janata Party and was made minister for cultural affairs by Chaudhary Devi Lal, becoming the youngest ever minister in the country at 25. I was the director in the ministry. She exuded warmth and trust and started addressing me affectionately by my first name Yaqoob, my being six years older than her notwithstanding.

I was newly married then and she became very affectionate towards my wife, a budding journalist, as well. She granted her an interview for the last page of Sunday magazine—a first for both of them!

Her positivity and my enthusiasm ensured that we reached many landmarks in an otherwise lacklustre and nondescript department. A film star night by Sunil Dutt's troupe at Ambala for social causes was organised. Sushma ji decided that no one would be given free passes. The only two persons who complied were Sushma ji and I. I had to leave my three-month-old bride at home, which she probably begrudged me but never complained! A national award—Sangeet Martand—of ₹1 lakh, a princely sum at that time, was another landmark. A Haryana *suwab* (a folk theatre form) workshop with Habib Tanvir and another with Balwant Gargi resulted in legendary productions which were sent to border areas to entertain our *jawans* for years thereafter.

Even after we moved on to different ministries, our association continued,

though there was increasing acrimony between my journalist wife and her. She never allowed my wife's hostile writings against her and her party to affect her relations with me. She always said we are different individuals and even defended my wife's freedom of expression.

In 2001, out of the blue, I got a call from Sushma ji saying that she wanted me to come to her ministry, Information and Broadcasting, as Director-General Door-darshan. I was then posted as principal secretary to the chief minister of Haryana, O P Chautala. The post considered the most powerful in the state. I thought it would be awkward to request him to relieve me of this job as he would consider me an ungrateful rascal. I therefore requested Sushma ji to speak to Chautala herself, which she promptly refused to do, saying, "Yaqoob, you know very well that your CM is hostile to me as I had opposed my party's alliance with his." On my persuasion, she kindly agreed to call him and the conversation I heard is best forgotten. I learnt quite a few original Haryanvi invectives. The politest refrain being "you want to ruin me by taking away my principal secretary".

A few days later she again called me asking if I could use some other influence to get my name forwarded to Delhi. Surely there were many in the CM's secretariat who would be happy to push me out. I used their "good" offices. And it worked.

When the news about my appointment as DG DD spread, she faced a barrage of attacks from BJP leaders, including very senior ones, for appointing a Muslim to such a sensitive post, one with an anti-BJP wife to boot. Only a leader of her stature and backbone could have withstood the pressure. The complimentary words of faith and trust she used for me have always moved me. It transpired that she didn't even mention these conversations to me and I got to hear of them from her staff.

At DD, she gave me a direct recruit, especially as I was the first direct recruit for Prasar Bharati and she extended her full support in all my initiatives. The introduction of DD Bharati, a unique channel for women, children and culture, within a month of my joining set the tone. DD India, narrowcasting (local broadcasting from our TV towers) and later setting up of DD Archives on the first Pravasi Bharati Divas were some of the other milestones possible with her support.

One not so fine day, she was abruptly moved out of I&B to the Ministry of Health because of party infighting. I was the next target. Many people suggested that I am being moved out for being a Muslim, which I did not countenance. My belief was that my being considered a protegee of Sushma Swaraj was the real reason. Being labelled a "protegee" of a great leader like her is a matter of pride for me.

Sushma ji was an original thinker and doer par excellence. One of her achievements I can never forget was to declare film production as an industry, a demand that had been rejected for decades. In the one stroke, she killed the phenomenon of the underworld financing in the film industry as it became bankable. Has any one ever heard the name Haji Mastan since?

My last meeting with her was on June 13, when I went to her home to inquire about her health. Rumours were rife that she had been "dropped". I inquired why she had chosen to withdraw from active electoral life. She said that ever since her kidney transplant, she was advised by her doctors to keep away from two things—dust and human physical contact. She said with a constituency which spread over 100 kilometres, and millions of constituents and friends, this was impossible. I had not seen her so happy in a long time. She was glowing. Who knew that this was the proverbial last of a dying flame.

Ma'am, I love you.

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CUSHIONING COTTON

Measures to tap global potential

SHUNMUGAM

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Views are personal



Agencies should work towards enhancing the availability of adequate quantities of desired quality seeds at a subsidised rate

A THIRD OF THE global cotton growing area in India, hybridisation and increasing adoption of BT hybrid cotton varieties have turned India into a major exporter of cotton in the last decade. India was crowned the largest cotton producer in the world in the crop year (CY) 2015-16. In CY 2018-19, the cotton crop fared poorly due to a 20% rainfall deficit, with an estimated 14% reduction in production. Last year's production was also lower by 11% over decadal average cotton production of 352 lakh bales. As the farmers contributed to 'Cotton Revolution' of the last decade, mill consumption also expanded by over 30%. Increasing quality awareness and widespread use of hybrid seeds, led to India's cotton exports witnessing a growth until CY 2017-18, despite lower stocks. Lower crop estimates for 2018-19 pushed Indian cotton millers off the cliff to seek out their raw material requirements through imports. Though the production estimates of the significant trade body are being contested by the stakeholders, the proof of production numbers is attested by the increasing trend of cotton imports estimated at 31 million bales—highest in the last decade on the back of lower exports. Added to the lower production, is also a low stock of 13 lakh bales, which is a third of the decadal closing stock of 38 lakh bales.

Production numbers reveal that after reaching the peak of 398 lakh bales during CY 13-14, production has been south-bound. Domestic consumption and augmented export demand had kept the mill consumption clock ticking annually in the last decade. Increasing exports and mill consumption led to stocks moving to a low of 5% of the consumption in CY 18-19. Given that Indian productivity estimated as 502 Kg/hectare is lower than 1,751 Kg/hectare of China and USA, respectively, one needs to see as to what ails India's production.

Productivity levels seem to have hit a plateau and pulling the country and farmers out of the same would require multi-pronged efforts. First, and foremost issue, is ensuring the availability of adequate good quality seed with traits such as drought tolerance, pest resistance, etc. A major reason for the significant reduction in crop output witnessed during 2018-19 remain the drought conditions in major producing areas and attack of the pink bollworm. Second, the adoption of better agronomic practices such as high-density planting of short duration varieties. This has the potential to increase yields to about 29% via lower exposure to pest attack, efficient use of water and other inputs while also suppressing weeds. Also, management practices such as in-situ soil and water conservation with bunds, integrated pest management, soil fertility testing and management, drip irrigation, etc., can have a significant impact.

Growing cotton varieties of high staple length is an important step towards augmenting the production and making available desired length of cotton fibre in the country. Adoption of better harvesting and post-harvest management practices will eliminate contamination, ensuring production and recovery of good quality of cotton that meets the requirements of domestic consumption as well as exports. Use of commodity derivatives will help the farmers either directly or through aggregators will help the farmers lock in their prices and create quality awareness. This will encourage the farmer to adopt better agronomic practices.

Both the private and public sector agencies should work towards enhancing the availability of adequate quantities of desired quality seeds for the farmers at a subsidised rate. With the sowing of the new crop due in the next few weeks, the performance of monsoon will be a key factor for the output. Amid concerns of end-stocks to fall to an alarmingly low level, there is an urgent need for remedial measures to be taken, to reclaim the coveted position of being the top producing nation.

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ARTICLE 370

DEMOCRACY IS ALWAYS by the people, for the people, and of the people—it is always representative of the will of the people. In a constitutional parliamentary democracy, the most legitimate means of expression of this will is through elected representatives. The Indian Constitution gives Parliament the legitimate power to express this will, while expressing which, Parliament looks to the Preamble as the guiding light in enacting or amending laws. The principles of justice and equality are building blocks of the Preamble. Unfortunately, post-independence India committed two Constitutional irregularities, which were against the principles of justice and equality—Article 35A, and Article 370. These provisions for Jammu and Kashmir were utilised as "special" provisions by leaders of the valley, and their allies governing in Delhi. Insertion of constitutional amendment 35A through a presidential order was a move that had no constitutional precedent. The Constitution, under Article 368, gives Parliament power to amend it. Bypassing parliamentary powers, 35A, which disenfranchised people of J&K from basic constitutional rights, was inserted through executive means.

On marrying a non-Kashmiri, Kashmiri Muslim women lost their right to get government jobs, settle in Kashmir, or send their children to government schools. However, a

A win for democracy

The Jammu and Kashmir Reorganisation Bill, 2019, portends a future of hope

PRADIP
BHANDARI

Founder, CEO, Editor & Chief, Jan Ki Baat



Kashmiri woman marrying a Pakistani retained the right to settle in J&K, and was eligible for a permanent resident certificate (PRC). This acute gender discrimination violated the spirit of the Constitution, and was also a threat to unity and integrity of people.

Article 35A also denied basic right to life to more than 4,000 families, who migrated from west Pakistan. They were not entitled to any land, and have been living as refugees for the past 60 years. Even the 200 Valmiki families who were brought from Punjab to J&K following a cabinet decision in 1957, to be specifically employed as *safai karamchari*, were not qualified for government promotion. Their children could not take

admission in government education institutions, nor were they eligible to apply for government jobs. In short, the son or daughter of a *safai karamchari* had no other option but to be one too. Political leaders who claimed represent the downtrodden would always look the other way at this denial of right to life to Dalits in the Valley.

More than one lakh Gorkhas, who historically serve in the Indian Army, suffer from social, economic and educational backwardness. Scrapping of 35A gives social and economic justice to the *suab* of Kashmir.

The common narrative on J&K consciously overlooked the voice of Jammu, and Ladakh. Recently, when Mehbooba Mufti



and Omar Abdullah called an all-party meeting, not even one leader from Ladakh and Jammu was invited. The assembly was designed such that despite having more geographical area and population density, Jammu had a smaller share of seats in the assembly. No chief minister could be elected without the support of the Valley. The provision supported leaders promoting separatist tendency and isolated leaders displaying overtly nationalist tendencies. Making J&K a temporary Union Territory, and Ladakh a Union Territory is the first step to equalise political power in Jammu and Kashmir.

When Article 370 was enacted, the Constitution makers envisaged it to be "tempo-

rary provisions with respect to the state of Jammu and Kashmir". Even in sub-clause 3, it reads, "Notwithstanding anything in the foregoing provisions of this article the President may by public notification declare that this article shall cease to be operative, or shall be operative only with some exemptions and modifications from such state as he may specify provided that the recommendations of the Constituent assembly shall be necessary before the President issues such notification". This gave the Executive, with the will of the Parliament, the authority to amend and make necessary changes to Article 370. Since the Article was temporary, the word Constituent Assembly was inserted, and not

State Legislature. Neither the spirit, nor the operatives of Article 370 indicate the necessity of consultation and concurrence from the J&K Legislative Assembly before making any constitutional changes.

By continuing with a temporary article perpetually, a constitutional irregularity was committed for political convenience. The Preamble speaks of "We, the people of India". It was unfathomable that a separate Constitution, flag, and proxy dual citizenship in the name of PRC would continue in J&K for seven decades. In the name of preserving *Kashmiriyat*, Article 370 pulled away any investment opportunity in the Valley, leading the state to run the highest unemployment rate. Even J&K's share in new projects announced decreased to a historical low of .02%, as per CMIE data. With more than 40,000 lives lost in Kashmir, and countless soldiers martyred in the line of duty despite continuous talks with all possible stakeholders, there was no other option but to address the genesis of the turmoil. After all, *Kashmiriyat* needs to create progressive opportunities for all people of Kashmir—Muslims, Valmiki, Gorkhas, Bakarwals, Pandits—equally. By passing the Jammu and Kashmir Reorganisation Bill, 2019, India has moved away from 70 years of turmoil to a future of hope and prosperity. The Bill upholds constitutional morality, and, for the first time, permits the application of the entire Preamble of India to the J&K region.