



“IT IS NOT WHAT A LAWYER TELLS ME I MAY DO; BUT WHAT HUMANITY, REASON, AND JUSTICE TELL ME I OUGHT TO DO.” — EDMUND BURKE

## The Indian EXPRESS

FOUNDED BY  
RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

### PILGRIM'S PROGRESS

Kartarpur corridor brings a moment of transcendence in a fraught India-Pak relationship. It must be built upon

NOVEMBER 9, 2019 will go down as a rare day in the history of the Indian sub-continent, on which two nations managed to put aside the distrust and hostilities to jointly facilitate a pilgrimage for a small religious minority in India. Access to Gurdwara Darbar Sahib in Pakistan's Kartarpur has been a part of the hopes and prayers of three generations of Sikhs, separated by Partition from many of their most important places of worship. The shrine, built at the site where Guru Nanak, founder of the Sikh faith, is said to have spent the last 18 years of his life, is 4 km from Dera Baba Nanak on the Indian side, and on a clear day, can be spotted through the bulrushes on the banks of the Ravi. Until September 2018, when Pakistan and India agreed that a visa-free "Kartarpur corridor" from Dera Baba Nanak be fast tracked in time for Guru Nanak's 550th birth anniversary, a visit to Kartarpur Sahib for believers on the Indian side meant viewing the gurdwara through binoculars from a security forces' watchtower near the border. Since then, both sides have defied history and an extraordinary year of hostility in their relations, to give shape to the corridor and the prayers of millions of people.

About 5,000 pilgrims are expected to access the visa-free corridor every day of the anniversary year. It will be the largest sustained daily cross-border visa-free movement of people between the two countries. In any other place, this would have been evidence of friendly ties, not deep suspicion between two countries. Not surprisingly, as this is about India and Pakistan, there has been talk on the Indian side, for instance, about Pakistan's intent to destabilise Punjab — Chief Minister Amarinder Singh has made such allegations with regularity. Yet, in the end, the nay-sayers were not loud or persistent enough to put a spoke in the wheel, and Amarinder Singh himself was in the first batch of visitors to the shrine along with former Prime Minister Manmohan Singh. This conveys the importance of the corridor for India, and for Punjab.

India and Pakistan are living an unprecedented moment in their history. Even so, comparisons with the fall of the Berlin Wall, exactly 30 years ago, are overblown. That was the day the world changed as two countries created from one put the past resolutely behind them and reunited with a shared vision and goals. India and Pakistan are not in a quest for unification. Just being normal and neighbourly will do. It will require statesmanship of a high order for the Kartarpur Corridor to lead to something more than a pilgrimage between the two countries.

### STUBBLE RESISTANCE

Persuading farmers to give up stubble burning requires reaching out to them on multiple fronts, not just with cash incentives

LAST WEEK, AS the national capital recorded its worst reading in three years on the Air Quality Index, the Supreme Court pulled up the governments of Punjab, Haryana, and Delhi for their lack of concerted action against stubble burning. The Court's two-judge bench warned Delhi's Chief Secretary, Vijay Kumar Dev, that "we will not spare your top boss if you don't take remedial action" against pollution. It also upbraided the chief secretaries of Punjab and Haryana for not being sensitive enough to the issue. Given that the Delhi and Punjab governments had resorted to blaming each other for the national capital's pollution crisis, the court's censure is timely. But the significance of the two-judge bench's order of November 7 goes beyond its stern tone. It has asked the governments of Punjab, Haryana and Uttar Pradesh to pay, within seven days, Rs 100 per quintal of paddy as an incentive to farmers who have not burnt stubble on their fields. The directive meets a longstanding demand of farmers' organisations, but two questions remain: Do the states have the financial resources to bear the burden of the cash incentive? More importantly, are such incentives enough to wean farmers away from stubble burning?

Punjab Chief Minister Amarinder Singh has said that "his government will implement the order". This year, his government may not have to do much. More than 90 per cent of the non-Basmati paddy crop has been harvested. But the Punjab CM has given enough indications of the state's limitations in providing cash incentives in the future. "The Centre will have to help the states, which are facing serious fiscal constraints. While the GST regime has stifled financial resources of all states, Punjab, in particular, is in dire straits," he has said. The apex court has said that it will take a final call on the "aspect of finance" after "considering the detailed report to be submitted by the state governments and after hearing the other stakeholders, including the Centre". It will have to chart a plan that takes into account the interests of the farmers as well as recognises the constraints of the states.

The Punjab and Haryana governments subsidise the Happy Seeder sowing machines, which obviate straw burning. Even so, the technology has not got the necessary traction because farmers do not want to invest in a machine that lies idle for most of the year. As in the case of most farm technologies in the country, the adoption of Happy Seeders will require changing mindsets. To persuade farmers to not set their fields on fires, state governments will need to reach out to them with educational programmes — not just financial incentives.



SUHAS PALSHIKAR

THERE COULD NOT be a better birthday gift to L K Advani, though a day late. Under him, the VHP's Ram Janmabhoomi agitation became a national issue leading to a pan-Hindu mobilisation. Now the Supreme Court's judgement has paved the way for the construction of the temple at the disputed site at Ayodhya.

While the Court has recorded the illegality of the events of 1949 and 1992, it has chosen to restrict itself to the question of title. Following the established practice of determining the title, it has rejected the Sunni Waqf Board's claim over the title of the disputed land. The Court then turned to the 1993 law passed by the Narasimha Rao government following the destruction of Babri Masjid and asked the Centre to hand over the land to an appropriate body.

Even if one agrees to the evidence-related conclusions drawn by the Court, two nagging issues will haunt us for a long time. If the case were to be resolved by the Court when the disputed mosque existed, would the site still be handed over to the party fighting on behalf of the deity? Does this then give a message that legal disputes can be won by creating a situation of fait accompli through political intrigue? The ruling will surely come under greater scholarly scrutiny, but the political implications of the judgement deserve attention.

A controversy such as this was never ideal for adjudication but we forced the Court to settle it.

This signifies a failure to arrive at political solution. Since 1949, we failed to reach a compromise on this sensitive matter involving two communities. Ram Janmabhoomi-Babri Masjid was a controversy that India's democratic politics simply could not afford. But our politicians and political parties allowed it to linger, become complicated and finally, turn into a central theme of politics for over a decade — even more. Therefore, the Court's ruling is also a moment to remind ourselves of the petty politics of cynicism that overtook robust democratic competitive politics during and since the late 1980s.

Ironically as it may seem, post-1992, despite the need for a political solution, there was a stalemate which defied a solution — except one that came via the judicial route. A political solution required three things. One, it required frankness on the part of those who greatly contributed to the demolition to sincerely admit to their mistake and ask for forgiveness. That did not happen. Two, it required political statesmanship from the Muslim community. In the absence of a truly all-India and

# A breather, not closure

SC ruling on Ayodhya opens the door for claims based on community identity, construction of faith

secular leadership, this could not happen. Above all, a post-1992 settlement required a steely determination by the government to ensure negotiation. That too was not in sight.

This reminder is not merely for purposes of brooding over our failure. It should stand as a warning. The politics over Ayodhya had a strong element of recklessness. Adventurism is not just an attractive political style, it has a lure of trumping competitive politics. Indira Gandhi thought it fit to stoke Sikh communal militancy probably expecting to benefit from it, both the country and she herself paid the price. One would have thought that that was a lesson for desisting from cynical politics. But immediately after that, the BJP adopted the path of adventurism. After Advani's Rath Yatra in 1990, the BJP emerged as a major political force. Even after 1992, it retained its newly acquired support; it did not suffer a setback after Gujarat 2002. This inability of our politics to impose political penalties for such transgressions must be seen as a stark warning that India's politics is often on the brink of community-based emotive mobilisations.

Apart from these larger political failures, this ruling has another deeper implication. Courts, when they broker peace, do not necessarily bring closure to disputes; they only give momentary space for disputes to reconfigure. One can go on listing court rulings that were initially upheld as major attempts to reconcile contesting claims, but were followed by even more acrimony and political controversy — besides lot of litigation. The present ruling is of that kind. The majesty of the Court in momentarily sealing the Ayodhya dispute might be somewhat impressive, but a series of political possibilities will be staring us in the face.

Being a unanimous ruling by five judges, the verdict will carry weight. But the rather casual manner in which the Court has sought to dispose of the illegality of 1949 and 1992 will not only have implications for jurisprudence, it will also have implications for the way collective and competitive claims are executed. The ruling also opens the door for any number of claims based on community identity and construction of faith. This is not only about Hindu-Muslim disputes, but also about inter-community disputes, more generally. To put it bluntly, post Ayodhya-ruling, claims based on community's faith are bound to resonate with authenticity. In this sense, beyond the momentary breather this ruling may have offered, it will be unable to address the deeper issue which is fundamentally political, and

not juridical. For the BJP and the larger political family it belongs to, the present moment will constitute a moment of poetic justice that having been in the forefront of the Ayodhya agitation, the party now finds itself in power and also in a position to savour SC's ruling — albeit with subdued celebrations. These celebrations, for the lay supporters, would signify a victory over one place, one mosque, one site. However, the real celebration would be over the larger success of transforming a community's religious sensibilities into a political lever.

In the course of the Ayodhya movement, faith and religiosity got conflated with pride and identity. This allowed the homogenisation of the Hindu community. And, then the Hindu community constituted a political force that has only become stronger. Through the Rath Yatra, and symbolised by the events of December 6, 1992, Ayodhya ceased to be a question of Hindu faith; it became a signifier of Hindutva. The SC's ruling has given a shot in the arm for the politics of Hindutva. Notwithstanding what the Court may or may not have said, in public imagination, the Hindus have scored over Muslims — the belief that a deity was born at a certain place has been upheld. This will bring a new respect for the idea of Hindutva, it will also bring new power to that idea. The respect it will have earned will mean that Hindutva will now march as the ideology of India and the power it has acquired will mean less space for dissent.

Hence the most crucial question: Will this ruling bring a closure? Such a closure does not merely mean stoppage of further litigation over Ayodhya. That too might not happen, though it should. But more than merely the land dispute at Ayodhya, will there be a closure on listing of sites across India and seeking their liberation? Will there be a closure on making a community stand constantly as an accused and as a suspect? Will there be a closure on competitive communalism that Advani so ably unleashed?

Even as it is possible to criticise the Court's ruling, what social and political spaces exist to critique, dispute and contest the political narrative in which the Ayodhya agitation originated? Or is it that along with the Ayodhya issue, this moment portends closure in the realm of alternative political visions?

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## HAPPILY NEVER AFTER

The trend of anti-fairy tales (almost) continues with 'Maleficent: Mistress of Evil'



RADHA KULKARNI

IN RECENT TIMES, popular movies on fairy tales have been increasingly showcasing, in keeping with contemporary cultural trends, "women-friendly" narratives, resulting in what are known as "anti-fairy tales". While this originally referred to stories having tragic endings, it has come to include stories that reject fairy tale clichés. *Frozen* (2013) is a good example of this: It had elements of a romantic story, but the focus was on the sisterly bond of the two protagonists. *Maleficent: Mistress of Evil*, which released in October, tries to fit into this genre of female-centric (anti) fairy tales, and it succeeds. Almost.

The movie goes against the grain of traditional family-centric stories and portrays "found families", a trope often used in fiction, referring to abandoned individuals coming together and forging a bond, essentially creating a family of their own. The lead character, Maleficent, undergoes a journey of self-discovery when she is jilted by the family she found at the end of the previous movie, *Maleficent* (2014). She finds the Faes, a clan of powerful fairies, and embraces their community as her own, while keeping her slightly ragtag group — consisting of a crow, a human and an all-powerful Fae, together. Maleficent is a



ONE OF 800 MILLION

A VOICE, UNDER 35

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more liberated character, a luxury not offered to the deuteragonist, the princess Aurora.

While Aurora does contribute to the plot, her motivation to do so stems almost entirely from her wedding plans — her own "happily ever after", a plot infatuation that started back in the 1550s. Disney's fairy tales are particularly susceptible to this cliché. Ariel is celebrated in *The Little Mermaid* (1989) for giving up her entire identity just so that she can fall in love and get married. *Cinderella* (2015) is a story that suffers from a similar problem: Once Cinderella marries her Prince Charming, years of abuse are simply washed away for the remainder of the movie. According to Ruth Bottigheimer, a professor at Stony Brook University, the original Cinderella is a rather raw, realistic version. "And then," she says in a *Huffington Post* article, "Disney comes and takes away some of the ugliness of the stories and introduces a lot of signature elements... But then the story ends at the wedding... That's supposed to be the moment that defines the rest of her life." This description almost fits the ending of *Maleficent: Mistress of Evil*.

When the wedding of Aurora and the prince is discovered to be a trap, all festivities abruptly grind to a halt, and a fight en-

sues. Hundreds of Faes are slaughtered. But, nothing impacts the ending. All is forgiven, and the focus returns to the wedding, which resumes the moment the war ends. The characters seem to forget the horrific battle they survived. Instead, the only thing deemed worthy of showing is the happy ending, which, in typical Disney fairy tale fashion, has to be a wedding for the princess.

*Maleficent: Mistress of Evil* tackles themes like xenophobia and genocide. It portrays Maleficent's freedom — and her ability to assert her identity — in a progressive manner. The movie also looks to revolutionise the idea of the female dream, which has traditionally been limited to finding a Prince Charming. It enables Maleficent, a darker, wilder character that doesn't want a Prince Charming to design her own destiny. However, all such positives are negated by the movie's decision to revert to "traditional" fairy tale tactics when it comes to the character of Aurora. This contradiction reflects the confusion the movie seems to offer — is it the tale of a fierce character for whom the world is her oyster, or is it just another fairy tale?

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### FREEZE FRAME

E P UNNY



## NOVEMBER 11, 1979, FORTY YEARS AGO

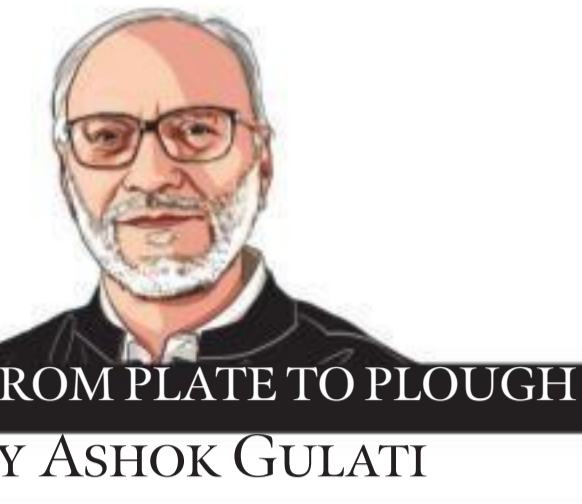
**FOOD RESERVES**  
INDIA MAY EXHAUST in a year's time the entire food reserve of nearly 20 million tonne because of drought. The kharif loss is nearly 12 million tonne. Since the absence of rain has left most of the land a dry solid crust, a large area has not been ploughed. This loss may amount to roughly seven million tonne. The dry spell was bad enough, but the shortage of power, diesel and kerosene has aggravated the situation. In the past, the failure of rains was made up by tubewells and pumps. This time the excessive cut in power and the meagre diesel supply have left no scope to save what may lie lost.

**LOK DAL WARNING**  
THE LOK DAL gave notice to the Congress that the continuance of the alliance would be "seriously reexamined" if the Congress does not stop its overtures to parties that have links with the Jana Sangh. Lok Dal general secretary, Rajinder Puri, told newsmen that he had written to Y B Chavan two days ago seeking clarification on the home minister's reported bid to have an understanding with the parallel Congress in Maharashtra which is sharing power with the Jana Sangh. Puri said he had written the letter on the basis of newspaper reports and, if the reports were correct, "I am afraid we will have to do some serious rethinking on our relationship

(with the Congress)."  
**IRAN HOSTAGE CRISIS**  
ONE GROUP OF Teheran diplomats visited hostages at the US embassy on Saturday and another called on Iran's acting foreign minister to demand an end to the embassy standoff, it was reported. But Ayatollah Khomeini went into seclusion, apparently dashing hopes for face-to-face talks and a resolution of the crisis, AP reports. The government-run Teheran Radio said that Khomeini would not receive anyone on Saturday or Sunday — observers felt it meant discussion of the fate of the hostages was postponed until Monday.

# A crop for clean air

Cash incentives must be given to paddy growers to shift to corn. Change to a less water guzzling crop will help address stubble burning



FROM PLATE TO PLOUGH  
BY ASHOK GULATI

LAST WEEK, AS the Air Quality Index (AQI) touched emergency levels in the National Capital Region, the Supreme Court came down heavily on the chief secretaries of four states — Punjab, Haryana, Uttar Pradesh and Delhi. They were berated for their failure to “give clean air to Delhi residents”. Paddy stubble burning in states neighbouring Delhi, especially Punjab, is being seen as one of the reasons for the smog in the national capital. The honourable judges of the apex court have asked the Punjab government to pay Rs 100 per quintal to farmers as an incentive for desisting from burning stubble. Solutions such as subsidising Happy Seeders are also being talked about. But these solutions seem to be scratching the surface of the paddy problem.

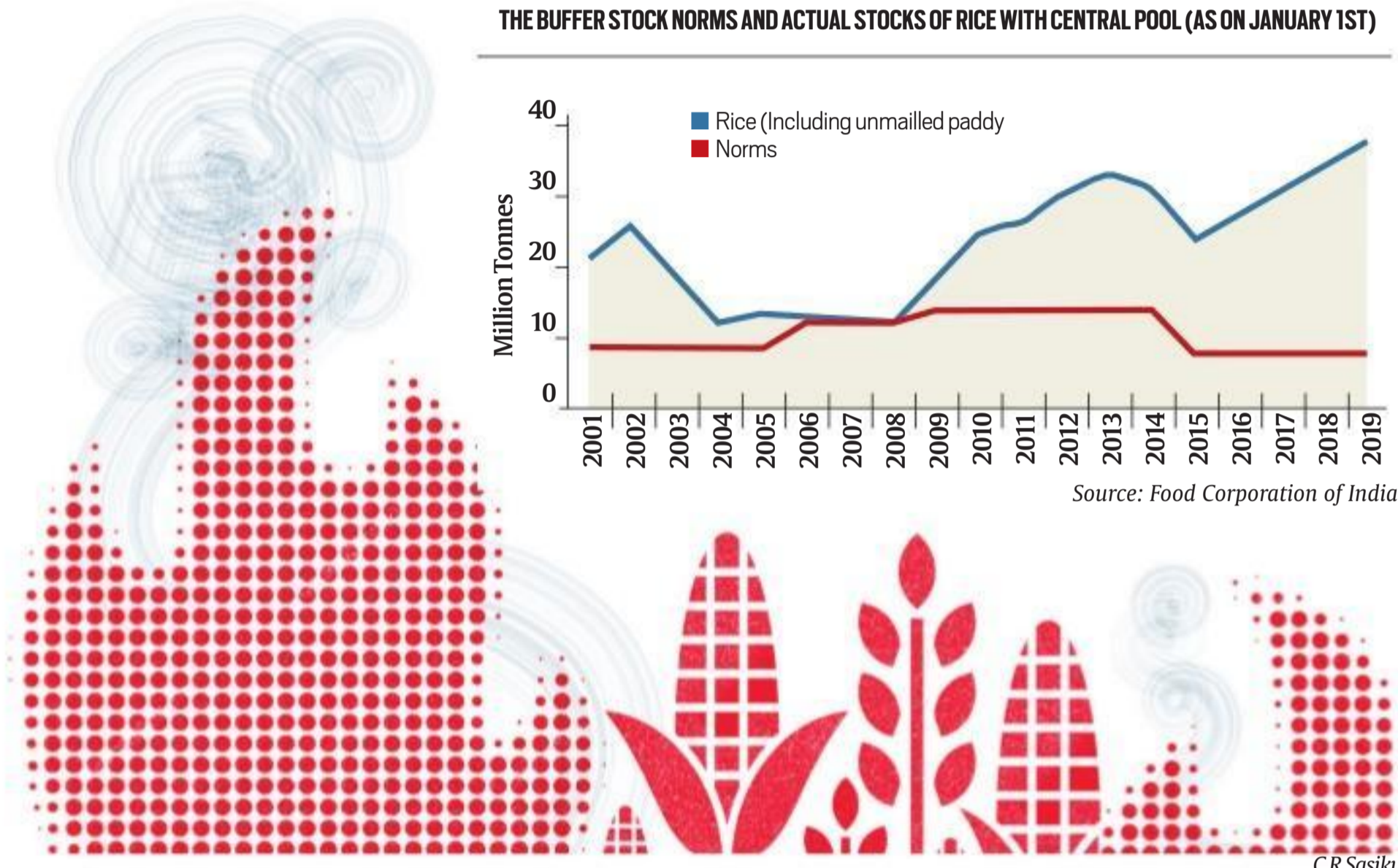
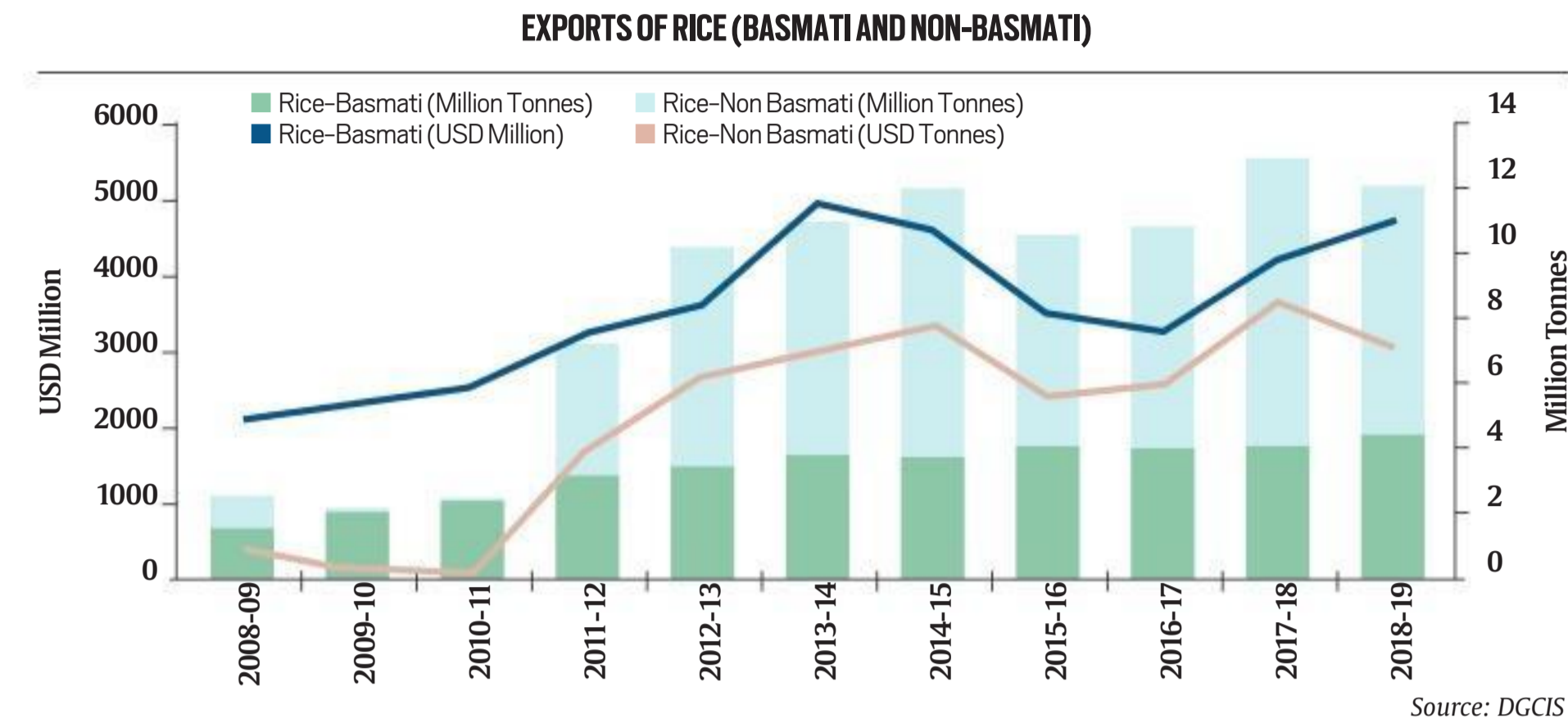
The problem is much deeper than stubble burning and nothing will be served by pulling up chief secretaries of Delhi's neighbouring states. The solution to the problem rests with the political class — both in the Centre as well as in these states. It is the elected representatives, and not bureaucracy, who make policies for grain management.

The Punjab-Haryana region was not India's rice belt, before the Green Revolution. Punjab was known for “makki ki roti and sarson ka saag”, but now it is rare to see makki (corn) in the state. Much of the kharif area in the region is under rice — about 3.1 million hectares in Punjab and 1.4 million hectares in Haryana. This has caused havoc with the groundwater table that has been depleting at about 33 cms each year. Groundwater in more than three-fourths of blocks in Punjab is over-exploited. Paddy cultivation in this belt is against the region's natural water endowment.

In order to save water during the peak summer season, the Punjab government passed a law in 2009 outlawing paddy sowing before June 15. This pushes the rice harvesting to the late October-mid-November period, leaving very little time for sowing the rabi crop, mainly wheat. Farmers rely on paddy harvesters that leave stubbles, which are then burnt to make the field ready for sowing wheat. Farm labour has become expensive, especially during the peak season.

The question one needs to ask is why have Punjab and Haryana gone in a big way for paddy cultivation when their water resource endowment does not align with the crop's requirement. One kilogram of rice requires about 5,000 litres of irrigation water in this belt. And, the natural rainfall is too less for the purpose. Farmers cultivate paddy as it gives them higher profits, compared to competing crops like corn. The key reasons for that are the massive subsidies on power provided by the state government and fertiliser subsidy given to them by the Centre. Moreover, they are assured procurement of paddy by state government agencies on behalf of the Food Corporation of India.

In the eastern parts of the country, water is available much more abundantly. About two million hectares of rice growing area in the northern belt needs to shift to this part of the country. The basmati-growing area in



the Northern belt is about 1.2 million hectares; it produces 4.6 million tonnes of basmati. But the value of basmati is almost three times higher than that of common rice and much of that is exported (see figure-1). So Punjab and Haryana should focus on cultivating basmati, that is known to give three times higher value for every drop of water. The states should try to get away from common paddy, which is largely meant for the Public Distribution System — PDS rice is being sold at Rs 3/kg under the National Food Security Act.

How can one encourage farmers to shift from paddy to, say, corn? That boils down to policy, both at the Centre and state-level. Can the Centre and the states abolish the fertiliser and power subsidies? The chances of that happening are remote, given the place of free power and cheap fertilisers in the country's political discourse. A move towards giving these subsidies in cash on per hectare basis to farmers can lead to some improvement. Farmers could be encouraged to change their crop preference if the Centre and the Punjab and Haryana governments announce a cash incentive of Rs 12,000 per hectare — shared equally between the Centre and the states — for growing corn in place of paddy. Our calculations suggest that the combined subsidy on power for irrigation and fertiliser in paddy

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cultivation is about Rs 15,000/ha. So, giving Rs 12,000/ha for corn cultivation actually is transferring the subsidy from rice cultivation to corn cultivation. It will not cost the state or central exchequer anything extra. Moreover, corn cultivation will have to be absorbed, not by government procurement but by feed mills for poultry, starch mills and ethanol. So, tax incentives for the corn-based industry in this belt could create a more market-aligned demand for corn.

This is just the right time to make this switch from paddy to corn as rice stocks with government are way above the buffer stock norms (see figure-2). This speaks of massive inefficiency in grain management. In fact, the Centre should announce that it will not procure more than say 50 per cent of production of common paddy from the blocks that are over-exploited. Further, it will not give to the state procurement agencies more than 4 per cent as commission, mandi fee, or any cess for procuring on behalf of FCI.

An incentive of Rs 12,000/ha to the farmer to switch from paddy to corn and cutting down procurement from overexploited blocks may accomplish what the Supreme Court's hauling up of the chief secretaries may not.

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## WHAT THE OTHERS SAY

“Electoral pacts are a consequence of the first-past-the-post voting system. If Britain's electoral system was fairer, and less prone to confer majoritarian powers on parties with only minority support among voters, they would not be necessary” — THE GUARDIAN

# Lessons from Ayodhya

Court verdict nudges us to look back at how much we have lost over years of conflict



SALMAN KHURSHID

SEVERAL DECADES OF simmering disquiet and subdued anxiety have finally ended with the Ayodhya verdict of the Constitutional Bench of the Supreme Court. In a sense it is fortunate that the Court has delivered a unanimous judgment of five judges. All sides and political parties that had either exploited public sentiment or indeed suffered politically had categorically committed to accepting the outcome. Initial reactions suggest that the decision has been received widely with a sense of relief that the fire of passion, real or contrived, has finally been doused, even if some people feel a bit disappointed and legally-trained professionals will continue to dissect the findings for their impact as precedents for future decisions.

Despite the predictable 1,045 pages (a modest size compared to recent trends), the judgment makes easy reading and should not be difficult to read and understand for legal experts as well as ordinary people. What, of course, stands out conspicuously is that the disputed plot of 2.77 acres along with the surrounding land acquired by the state post demolition will be handed over to a trust to be established by the government. This is not by an act of obeisance towards Ram Lalla (the deity) or in other words, by submission to the faith of Hindus but by an interesting balancing of principles of establishing title.

The Court held that the right to the inner courtyard of the mosque, claimed by Muslims, was never free of opposing claims and periodic attempts by Hindus to assert their rights. On the other hand, Muslims had themselves admitted that Lord Ram was born in Ayodhya and the *chabutra* in the outer courtyard was undisputedly in the possession of Hindus for decades and puja was conducted uninterrupted. Although a close analysis of the interface of competing claims might throw up questions, the fact remains that the present decision, undoubtedly made very thoughtfully by the Court, was made possible by the conduct of the Muslim side over the decades. Be that as it may, ultimately the Court made a delicate balancing effort of subscribing to legal principles and putting a closure on a festering civilisational wound. Muslims, who had all along committed themselves to acceptance of the Court verdict, now have a chance to show

grace, generosity and reaching out to claim a place in contribution to true national integration and unity.

The Supreme Court might have found the Hindu case marginally more persuasive than the Muslim case, but it has done a great deal more to facilitate and inspire the Muslims to see this as a moment of reconciliation rather than defeat. There could not have been clearer condemnation by the highest Court of the land of the acts of intrusion in 1949, when the idol of Ram Lalla was placed under the middle dome of the mosque, as indeed of the act of vandalism when the mosque was demolished in 1992.

The Court was also clear that the ASI report showing evidence of previous civilisations did not prove that a temple, least of all a Ram temple, was demolished to construct the Babri Masjid. Reaffirmation of India's secular character in the judgment should not be obscured by the baseline outcome. This is the truth that preceded reconciliation. Furthermore, the direction that five acres of other land be given to the Sunni Waqf Board is a gesture that proclaims that the Court and the nation treat all citizens as equals. It has recognised that all citizens have their respective faiths and manner of worship but that while faith has a place in our national life, it does not trump legal rights in an unqualified sweep.

The greatest opportunity that the judgment offers is a reaffirmation of India as a secular society. It is a decision that refutes the idea of Hindu Rashtra and amplifies the practical handling of sensitive religious concerns in a secular system. Upholding the purpose and effect of the Places of Worship Act, amongst other matters, is a clear indication that the secular edifice of India and the commitment of its highest Court to the constitutional principles we cherish has not only remained undisturbed but indeed been fortified. If we have all placed our trust in the Court, it is imperative that we recognise our trust has been redeemed. There is silence on one issue: Periodic attempts to find a solution outside the court room that failed does not seem to have found a place under the sun.

Perhaps there is a lesson in it for us: If this is what was to happen, could we all not have done it ourselves? Has the Court gently nudged us to rethink our approach to our national life? As we look back, we will be able to see how much we have lost over Ayodhya through the years of conflict. If the loss of a mosque is preservation of faith, if the establishment of a temple is emancipation of faith, we can all join together in celebrating faith in the Constitution. Sometimes, a step back to accommodate is several steps forward towards our common destiny.

The writer is a former Union minister and senior Congress leader

# Moving on from here

Nation is tired of mandir-masjid debate. Let's use this moment for a fresh start



TAHIR MAHMOOD

THE AYODHYA VERDICT deviates from some established juridical traditions. A 930-page judgment signed by five learned judges without disclosing its individual authorship, it has a 116-page addendum penned by one of them incognito, containing his “separate reasons” on one of the case issues.

Noting that the “disputed site has been a flash point of continued conflagration over decades”, the Supreme Court has chronicled related developments on a year by year basis since 1856 and acknowledged the illegality of the monumental transgression occurring in the holy city in December 1992.

The operative part of the judgment rules in favour of building the temple on the disputed land as desired by the majority community, enjoining the central government to facilitate it by taking prompt action in terms of the Ayodhya Act of 1993. For those aggrieved by the demolition of the mosque in 1992, it directs earmarking of a “suitable” five-acre plot of land to be allotted to UP's Sunni Waqf Board, either by the central government out of the land acquired under the Ayodhya Act 1993 or by the UP government at a “suitable prominent place” in the city, the choice between these alternatives to be determined by the two governments in mutual consultation.

I have been part of the reconciliation process in the matter and was consulted both by the court-appointed mediation committee

and individually by its members. On October 4, when Sunni Waqf Board chairman Zulfar Ferooqi wrote to me seeking my opinion on the advisability of accepting the committee's proposals, I had replied, “my convinced opinion is that the Board should convey to the court its acceptance of mediation committee proposals”. After securing concurrence of some other prominent persons, the Board conceded and the committee conveyed its consent to the court. Finding the proposed agreement conditional and not signed by all disputants, the court did not treat it as a “binding or concluded agreement”. Though the Court's judgment is more or less along the same lines, an extrajudicial settlement, in my opinion, would have been graceful, and, potentially, more fruitful.

The Court has devoted one full part of the judgment to Places of Worship (Special Provisions) Act 1991, which under the proposed settlement had to be fortified and strictly enforced. Enacted by the government of the day at a time when the mandir-masjid tussle in Ayodhya had assumed alarming proportions, this Act had rendered unalterable the character of all religious places in the country, as on the day of the country's independence. The Ayodhya dispute was, however, inexplicably excluded from its purview — but for that unwarranted exception, the course of events to come could have been different.

Given more teeth, this Act may ensure that

the Ayodhya melodrama is not repeated elsewhere. Bearing this in mind, the Court said: “The State has by enacting this law enforced a constitutional commitment and operationalised its constitutional obligations to uphold the equality of all religions and secularism which is a part of the basic features of the Constitution.” Clarifying as to who all are bound by this Act, the Court said: “The law addresses itself to the State as much as to every citizen of the nation. Its norms bind those who govern the affairs of the nation at every level.” And, the Act must, henceforth, be meticulously enforced throughout the country.

The Ayodhya case decided by the apex court was technically between the contesting parties before it, but the unsavoury dispute has, from the very beginning, been seen as a tussle between the two largest communities of the country, both deeply religious in their outlook. Jesus Christ had enjoined people to “render unto Caesar things that are Caesar's and unto God things that are God's”. But in our country, God has a lot to do in Caesar's domain. The founding fathers of the Constitution had, therefore, opted for a quasi-secular state, legally swearing by secularism, but at the same time well accommodating religious sensitivities. Acknowledging this, the apex court had once observed that, “It is only in a qualified sense that India can be said to be a secular state.” (St Xavier's, 1974). In such a country, the apex court

— confronted with an awfully sensitive matter — has to opt for a course of action that does not plunge the nation into a tsunami of communal tensions.

The court has said that the Waqf Board will be “at liberty” to build on the allotted plot a new mosque “with other associated facilities”. But I am not sure if the self-respecting community the Board represents should let it avail this “liberty”, generously granted by the court. Finding the judgment lopsided, some community leaders are contemplating further legal action. They would better act on the great poet-philosopher, Allama Iqbal's counsel: “Na rah minnatkash-e-shabnam nigan jam-o-subu kar le” (Don't take petty obligation and have no pious hopes). As the Court has arrived at the present decision after “navigating through the layers of complexity of the case”, a decision to continue with the legal battle will, in all probability, be an exercise in futility.

The nation is indeed tired of the sickening mandir-masjid dispute which has been perpetuating communal tensions and shattering social harmony. We must now avail whatever chance the Court has provided to bury the hatchet and hope for sustaining bonhomie in future.

The writer is former chairman of National Minorities Commission and member, Law Commission of India

## LETTERS TO THE EDITOR

### QUAD'S SPINOFFS

THIS REFERS TO the article, ‘Quad in the spotlight’, (IE, November 7). The Quadrilateral Security Dialogue or the Quad is now a multifaceted strategic and economic dialogue between a group of like-minded countries with shared commitments that go beyond ensuring freedom of navigation and respect for the laws of the sea. The Quad should not limit itself to countering any particular country, instead the liberal democratic values of the Quad partners can strengthen the institutional approach in the governance of the global commons.

Sudip Kumar Dey, Kolkata

### LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to [editpage@expressindia.com](mailto:editpage@expressindia.com) or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301.

### UNFAIR GAME

THIS REFERS TO the editorial, ‘Not cricket’ (IE, November 9). It is not the first time and sadly nor the last time when an arrest has been made of an Indian cricketer involved in match fixing. Some well known cricketers have fallen into this trap in the past but Indian cricket emerged from that crisis. Ever since IPL came into the scene, a plethora of other smaller state specific leagues have blossomed across the country. And with it came the greed of money to which these unknown cricketers are prone to, and when a known cricketer like CM Gautam, who was once considered a back up wicket-keeper option for Indian team, can fall into this trap we can easily understand how vulnerable other players would be. Nothing and no one is bigger than the game and a strong message must go to each and every player that the game should be played with utmost fairness and integrity.

Bal Govind, Noida

### LIMITS OF ECONOMISTS

THIS REFERS TO the article, ‘Experts,

dissent and the economy’ (IE, Nov 08). There are two basic problems in implementing author's suggestions. In today's world there are no economists who have the requisite expertise but are politically and ideologically neutral. The second problem is, economists are expert in devising various solutions after the horse has bolted away. No economist worth his salt had predicted the 2008 meltdown. Lastly, economists are never known to give practical and precise advice. Their craft lies in beating around the bush while sounding profound.

H N Bhagwat, Chiplun

### AN ICON

THIS REFERS TO the article, “With a twinkle and a smile” (IE, November 9). Nabaneeta Dev Sen was not only an eminent writer but also an icon in literary criticism. She was loved and followed by her readers, editors and young writers. Her contribution to contemporary literature is seminal. We, the readers of her works, are poorer by her death.

Tapamoy Ghosh, Bardhaman



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If there are questions of current or contemporary relevance that you would like explained, please write to [explained@indianexpress.com](mailto:explained@indianexpress.com)

**TELLING NUMBERS**

## Anaemia among men: how it varies among age groups, states

A RECENT study published in *The Lancet Global Health*, which looked at anaemia among men in India, found that nearly a quarter of them (23.2% in a sample of 1 lakh men) in the age group 15-54 had some form of anaemia (*The Indian Express*, November 9). The study also covered 6 lakh women.

Cases among men ranged from moderate or severe (5.1%) to severe anaemia (0.5%). Among age groups, men in the group 20-34 years had the lowest probability of having anaemia, while actual prevalence was lowest in the age group 50-54, at 7.8%. The prevalence was higher for younger age groups. Among men with anaemia, 21.7% had moderate or severe anaemia; among women with anaemia, 53.2% had moderate or severe anaemia.

Among the states, the highest prevalence of any anaemia was in Bihar, with 32.9% of the men reporting it. This is followed by West Bengal (30.46%), Jharkhand (30.3%), Meghalaya (29.13%) and Odisha (28.45%). The lowest prevalence among men was in Manipur (9.19%), followed by Mizoram (9.78%), Nagaland (10.23%), Goa (10.68%) and Kerala (11.77%).

The World Health Organization defines anaemia as a condition in which the number of red blood cells or their oxygen-carrying capacity is insufficient to meet physiological needs. Anaemia in men can cause fatigue, lethargy, creates difficulty in concentrating, thereby reducing the quality of life and decreasing economic productivity. An estimated 1.9 billion people had anaemia in 2013, which is 27% of the world's popula-

### ANAEMIA PREVALENCE (%) BY AGE GROUP

Age	Men	Women	Total
15-19	16.9	18.0	17.9
20-24	14.6	15.9	15.7
25-29	14.3	15.5	15.4
30-34	13.0	14.1	13.9
35-39	12.5	13.6	13.4
40-44	10.8	11.7	11.6
45-49	10.1	11.1	11.0
50-54	7.8	-	1.1

### ANAEMIA AMONG MEN IN THE STATES

HIGHEST 5		
Bihar	32.86	
West Bengal	30.46	
Jharkhand	30.3	
Meghalaya	29.13	
Odisha	28.45	
LOWEST 5		
Manipur	9.19	
Mizoram	9.78	
Nagaland	10.23	
Goa	10.68	
Kerala	11.77	

tion, and 93% of these cases occur in low- and middle-income countries. Factors such as consuming smokeless tobacco, being underweight, level of urbanisation and household wealth are associated with a higher probability of developing the disease.

Data source: *Lancet Global Health*

**THIS WORD MEANS**

### PLIOSAUR

Predatory reptiles ruled the seas millions of years ago. Now, pliosaur bones have been found in Poland

OVER 150 million years ago, enormous reptiles swam the Jurassic oceans. The largest aquatic carnivorous reptiles that have ever lived, they are often dubbed "sea monsters". Scientifically, they are placed in the suborder *Pliosauroidae*, whose members are called pliosaurs. Interest in these giants has been revived with the recent discovery of their bones in a cornfield in the Polish village of Krzyzanowice. Remains of pliosaurs are rare in Europe.

"They measured over 10 metres in length and could weigh up to several dozen tons. They had powerful, large skulls and massive jaws with large, sharp teeth. Their limbs were in the form of fins. We found bones of these pliosaurs in the north of the Swietokrzyskie Mountains," palaeontologist Dr Daniel Tyborowski said in a statement released by Poland's Ministry of Science and Higher Education.

In the Jurassic era, the Swietokrzyskie Mountains area is believed to have been



Artist's impression of pliosaurs by Piotr Szczepaniak. Ministry of Science and Higher Education, Poland

an archipelago of islands, where there were warm lagoons and shallow sea reservoirs, home to the marine reptiles discovered by the palaeontologists. The locality where the remains were discovered is considered to be rich in the fossils of coastal reptiles. Researchers now hope to find more remains in the coming months.

**SIMPLY PUT QUESTION & ANSWER**

# How global credit ratings work

Ratings agency Moody's has lowered India's outlook from stable to negative. How do such agencies assign these ratings? How seriously are these taken, and what changes for a government if it is downgraded?

**SHAJI VIKRAMAN**  
CHENNAI, NOVEMBER 10

MORE THAN a decade and a half ago, a senior government official wrote an article in a newspaper headlined 'Moody's or Moody' — or words to that effect — on what was in his view the unjustified action of global credit ratings agency Moody's in pushing down the sovereign credit rating of India. Whether it is Moody's or its peer Standard and Poor's (S&P), Indian policymakers have often criticised the credit ratings assigned by these agencies.

This time, Moody's has lowered India's credit rating outlook from stable to negative because of what it has assessed as risks to economic growth, prospects of a more entrenched slowdown, weak job creation, and a credit squeeze being faced by Non-Banking Finance Companies. With growth slowing to 5% in the quarter to June this fiscal, and hardly any green shoots visible, most analysts may find it difficult to fault this assessment.

#### What do these ratings mean?

Credit ratings agencies rate on a scale the financials and business models of companies, as well as economic management by sovereign governments, after analysing official and other data and interacting with government officials, business leaders, and economists. These agencies then rate instruments such as bonds, debentures, commercial papers, deposits, and other debt offerings of companies or governments to help investors make informed decisions.

From a company's or a government's perspective, a better rating helps raise funds at a cheaper rate. The agencies do this on a continuous basis, either upgrading or downgrading the instrument based on performance, prospects, or events likely to have an impact on the balance sheet of a company or on the fiscal position of a government or a sub-sovereign entity. Political uncertainty can trigger a sovereign rating downgrade. In August 2011, S&P cut the highest rating (AAA) of the US citing rising debt levels and political risks. This provoked a government official to comment that "this was a 'facts be damned' decision".

Within the two categories of investment grade, which is for good-quality firms and speculative, there are several notches for companies whose financials pose a risk of defaulting on payments. India's sovereign credit rating from Moody's is now Baa2, with the outlook cut from 'stable' to 'negative'.

### HOW INDIA REACTED TO PAST RATINGS

**2016**  
**ARUN JAITLEY**



After economic growth had rebounded, thanks also to low global oil prices, the government was miffed that the rating agencies chose not to

acknowledge that — and the then Secretary, Economic Affairs, wrote to Moody's questioning its methodology. But when the agency revised India's sovereign rating the next year, then Finance Minister Arun Jaitley said that Moody's has rightly recognised the structural reforms undertaken such as GST, a sound monetary policy framework, recapitalisation of state-owned banks, etc.

**2013**  
**JASWANT SINGH**



Towards the end of UPA-II, former NDA Finance Minister Jaswant Singh told Parliament that the credit rating agencies had got it all wrong, pointing out the case

of Iceland, which had the highest rating of AAA given by S&P, and whose economy had collapsed. India as an investment destination had fared better than many East Asian countries, whose economies had been hit severely over a decade earlier. "These agencies pretend to know everything. But certainly, they don't know better than the government," Singh had said.

This could potentially have an impact on companies planning to borrow overseas through bonds or foreign loans, for investors or banks abroad may well seek higher interest rates because of weak prospects. This usually weighs on institutional investors such as pension funds, endowment funds of overseas universities, or sovereign wealth funds that manage the wealth of rich countries. They have to rejig their investments when there is a lowering of ratings. Firms and many governments that borrow from the international markets too are mindful of rating downgrades.

In India, the concern could be that after Moody's upgraded its rating two years ago, when the economy grew two percentage points faster than now, the lowering could signal that a change upwards could be a long way off. As the agency put it, compared with two years ago (when it upgraded India's rating to Baa2 from Baa3), the probability of sustained real GDP growth at or above 8% has significantly diminished. It explained that the decision to lower the rating was based on increasing risks that growth will remain materially lower than in the past, leading to a gradual rise in the debt burden from already high levels.

#### Does a downgrade really matter?

That depends on how and where governments borrow. Many countries tap the global

debt or credit markets to raise money. Global banks or their investment banks often claim that it is important to diversify their investor base, be it companies or governments, to lower the risk of a narrow set buying into such borrowing programmes and posing a risk of selling or pulling out.

India has been an outlier on this count. It has not issued a bond or raised money directly in the international market so far, which means that to a good extent, a downgrade has limited impact. Rather, the impact is felt almost fully by private firms or state-owned companies which raise foreign currency funds. In this year's Budget, the government announced its intention to go in for a sovereign bond, but hasn't moved on it yet in the backdrop of criticism and caution by the RBI. In the past, Indian policymakers with long memories had stymied attempts to issue a sovereign bond or borrow from the international market directly. And one of the reasons for that has been what they perceive as the alleged bias of credit ratings agencies.

Consider this. In the run-up to India's balance-of-payments crisis in 1991, the agencies swiftly downgraded the sovereign rating, thus reducing the country's ability to raise money abroad through public sector oil companies or banks for short periods to buy oil or to pay for imports. In 1998, when India an-

nounced that it had carried out nuclear tests in Pokhran, the ratings agencies were quick to react again, impacting borrowings. The government and the RBI then decided to ignore these agencies and raised billions in foreign exchange through bonds issued by the SBI in two tranches. It helped that the government did not have foreign borrowings. And for long, the Indian government did not engage much with credit ratings agencies in trying to change perceptions. This was until after 2004-05 or so onwards, with the growth uptick that lasted for well over six years.

#### How credible are the agencies?

Credit ratings agencies have taken a knock after the global financial crisis of 2008, when they were exposed after the collapse of highly rated banks and other institutions. Since then, they have come under attack in India too, and also faced regulatory action, besides a probe by central investigating agencies after they had assigned top ratings to borrowings by firms that were part of the IL&FS group last year.

Just a year before the last sovereign rating upgrade by Moody's in 2017, Shaktikanta Das, who was the Secretary, Economic Affairs then and is now the RBI Governor, had written to the agency raising questions on its methodology and making out a case for revisiting it. The Finance Ministry's point then was that India's debt levels had declined, and that it ought to reflect in the ratings metric. Often, the government has also complained that countries with higher levels of debt and a weak fiscal have managed better ratings.

This time, the government has responded to the change in outlook by saying that India's fundamentals are robust and that other macroeconomic indicators such as inflation are still low, which is reflected in low bond yields, with growth prospects strong both in the near and long terms. Essentially, it has indicated that it does not agree with the assessment of the agency. Whether the financial markets share a similar assessment, is what needs to be seen over the next few weeks.

India's policymakers have often grumbled about the "moody" nature of credit rating agencies and their seemingly differential standards. But it is useful to keep in mind the fact that despite the sovereign ratings being what they have been for a long time, India has attracted plenty of portfolio and flows into both government and corporate debt, besides Foreign Direct Investment. A rational approach should help.

# Why a small area in India map bothers Nepal

**YUBARAJ GHIMIRE**  
KATHMANDU, NOVEMBER 10

THE NEW political map of India, recently released by the government to account for the bifurcation of Jammu and Kashmir, has triggered fresh protests over an old issue in Kathmandu. Mapped within Uttarakhand is a 372-sq km area called Kalapani, bordering far-west Nepal and Tibet. While the Nepal government and political parties have protested, India has said the new map does not revise the existing boundary with Nepal.

Following reports about the publication of the map, youths and students of the ruling Nepal Communist Party and the opposition Nepali Congress came on the streets. The Nepal government described India's decision as "unilateral" and claimed that it will "defend its international border". In India, Ministry of External Affairs spokesperson Raveesh Kumar told journalists that the map "accurately depicts the



sovereign territory of India".

At an all-party meeting on Saturday, leaders of various parties urged Nepal Prime Minister K P Singh Oli to take up the matter urgently with Indian Prime Minister Narendra Modi.

#### Defining the boundaries

Nepal's western boundary with India was marked out in the Treaty of Sugauli between the East India Company and Nepal in 1816. Nepali authorities claim that people living in the low-density area were included in the Census of Nepal until 58 years ago.

Five years ago, Foreign Minister Mahendra Bahadur Pande claimed that the late King Mahendra had "handed over the territory to India". By some accounts in Nepal, this allegedly took place in the wake of India-China War of 1962.

A committee formed by the Nepal government to study this claim submitted a report to Prime Minister Oli during his first tenure. It claimed that India had "occupied" an additional 62 sq km land.

#### Bilateral talks

The Prime Ministers of the two countries discussed the issue in 2000, with Atal Bihari Vajpayee assuring Nepal that India would not occupy even an inch of Nepal. Five years ago, the matter was referred to a new mechanism

comprising foreign secretaries of both sides. "There had been some sincere efforts made soon after Vajpayee's assurance," a former diplomat in Nepal said. Then National Security Adviser Brajesh Mishra and Indian Ambassador to Nepal K V Rajan had gone for an aerial survey, but the matter did not move further, the diplomat added.

In New Delhi, Raveesh Kumar said: "The boundary delineation exercise with Nepal is ongoing under the existing mechanism. We reiterate our commitment to find a solution through dialogue in the spirit of our close and friendly bilateral relations."

At least two former Foreign Ministers of Nepal — Upendra Yadav (now Deputy Prime Minister) and Sujata Koirala — had said that 98 per cent of border-related matters had been settled with India. Apart from Kalapani, another unresolved issue involves a vast area along the Nepal-Uttar Pradesh border. During his visit to Nepal in 2014, Prime Minister Modi had said that the Susta and Kalapani issues would be sorted out.

# How India subsidised certain exports, why WTO panel ruled against it

**PRABHA RAGHAVAN**  
NEW DELHI, NOVEMBER 10

A WORLD Trade Organisation (WTO) panel recently ruled against India in a trade dispute over its subsidies to exporters under various schemes. If the panel's ruling is adopted, the decision is expected to put at risk export subsidies claimed to be worth over \$7 billion.

#### Why was India taken to the dispute settlement panel?

The US in March 2018 challenged export subsidies provided by India under five sets of schemes — Export-Oriented Units, Electronics Hardware Technology Park and Bio-Technology Park (EOU/EHTP/BTP) Schemes; Export Promotion Capital Goods (EPCG) Scheme; Special Economic Zones (SEZ) Scheme; Duty-Free Imports for Exporters Scheme (DFIS); and Merchandise Exports from India Scheme (MEIS).

The US had alleged these schemes violated certain provisions of WTO's Subsidies and Countervailing Measures (SCM)

Agreement that prohibit subsidies that are contingent upon export performance. According to the agreement, India was only exempt from this provision until its Gross National Product per capita per annum reached \$1,000.

The export subsidies under most of the challenged schemes, except for MEIS, consist of exemptions and deductions from customs duties and other taxes. The subsidies under MEIS consist of government-issued notes ("scrips") that can be used to pay for certain liabilities vis-à-vis the government and are freely transferable, according to the WTO dispute settlement panel.

The US argued these subsidies were a detriment to American workers and manufacturers. When consultations with India did not work out, the US in May 2018 requested that a dispute settlement panel be set up.

#### What was India's defence?

India argued that certain provisions under the SCM Agreement, allowing for special and differential treatment of certain developing countries, excluded it from the provi-

sions prohibiting export subsidies. It also argued that all the challenged schemes, except the SEZ scheme, adhered to a provision of the SCM Agreement that carves out exemptions from or remission of duties or taxes on an exported product under certain conditions.

#### On what grounds did the panel rule against India?

The panel found the US had "demonstrated the existence of prohibited export subsidies" that were inconsistent with provisions of the SCM Agreement. It recommended that India withdraw certain "prohibited subsidies" under the DFIS scheme within 90 days; under the EOU/EHTP/BTP, EPCG and MEIS schemes within 120 days and under the SEZ scheme within 180 days from the adoption of its report.

According to the panel, the US was able to show that India had foregone revenue through exemptions and deductions from duties and other taxes to the benefit of exporters in most schemes. In the case of MEIS, it was able to establish that exporters benefited from a direct transfer of funds through

the provision of scrips. MEIS, because of its design, structure and operation, did not meet the conditions for the exemptions from these prohibitions as well, according to the panel.

The panel found that the US had established that most of the measures under the other four schemes (EOU/EHTP/BTP, EPCG, SEZ and DFIS) were "contingent in law upon export performance". It also found that, as there was no dispute that India had graduated from the special and differential treatment provision that it originally fell under in the SCM Agreement, it was no longer excluded from the application of the prohibition on its export subsidies. It concluded that "no further transition period" was available to the country to stop these subsidies.

Not all the US' arguments were accepted. The panel rejected some of its claims regarding certain customs duty exemptions provided under the DFIS scheme and excise duty exemptions under the EOU/EHTP/BTP schemes.

#### Who will be impacted if these "prohibited subsidies" are withdrawn?

These subsidies were worth over \$7 billion annually and benefited producers of steel products, pharmaceuticals, chemicals, information technology products, textiles and apparel, according to the office of the US Trade Representative. While there will be no retrospective impact, India would have to stop providing the subsidies in this form. However, some experts say India can tweak the schemes to support exports while making them more WTO-compliant.

Some ways that India can continue to support exports, according to these experts, is by providing tax concessions (like concessions on GST) on parts and components used in the production of the exported product. The government has already begun work on making some of the debated schemes more WTO-compliant. In September, it announced the Remission of Duties or Taxes on Export Product to replace the MEIS as a more WTO-compliant scheme. The overall duty foregone under this scheme is expected to be "more or less the same" as MEIS (around Rs 40,000 crore-45,000 crore annually).

#### What happens next?

India plans to appeal the report on some aspects of law and legal interpretation before the panel's report is adopted within 60 days of it being circulated with all members. While the US is expected to push for early adoption, if India's notice to appeal the report is submitted before this, it stands a chance of challenging this ruling.

In this particular situation, with the dispute panel's appellate mechanism expected to become dysfunctional after December 11 (when two of the three remaining members of the body will retire), India may not be obligated to implement the panel's current ruling.

This is because, if its appeal is submitted on time, it will join a pipeline of 10 other appeals in other WTO dispute cases that have been filed since July 2018. Until those appeals are cleared and India's own appeal is resolved, the country will be under no legal compulsion to make the changes recommended in the dispute settlement panel's current report, according to experts.