



## The Indian EXPRESS

FOUNDED BY  
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BECAUSE THE TRUTH INVOLVES US ALL

### FIGURE IT OUT

Decision to scrap consumption expenditure survey is unfortunate, further weakens credibility of statistical system

THE GOVERNMENT'S DECISION to scrap the latest round of the consumption expenditure survey has dealt another blow to the independence of the Indian statistical system. The decision, which comes after it had initially suppressed the findings of the periodic labour force survey, lends further credence to the view that the current government is uncomfortable with data that is not in sync with its projected narrative. The rationale for withdrawing the report, partly on grounds of divergence with national accounts data, is perplexing. This divergence is well known in academic circles and has been the subject of much debate. It is more probable that the results of the survey, carried out during a period when the economy was reeling from the effects of demonetisation and the shift to the goods and services tax, were unpalatable as they would have revealed the true extent of the shock to the system.

According to reports, the latest consumption expenditure survey shows that real household consumption fell by 3.7 per cent, to Rs 1,446 in 2017-18, from Rs 1,501 in 2011-12. As household expenditure accounts for a significant share of the economy, this data is at odds with official data which shows that the economy grew at 7.2 per cent in 2017-18. One possible explanation could be that as these surveys provide greater insight into the informal economy, these numbers, along with the unemployment data, suggest that the informal economy bore the brunt of both demonetisation and GST, which the high-frequency indicators, which largely capture the formal economy, were unable to reflect more accurately. The decision to reject this report has several implications. For one, it implies that there will not be an estimate of poverty for 2017-18. Now, after the last survey in 2011-12, it was widely expected that absolute poverty in India would have declined significantly. But the results of the survey, which show that rural consumption actually declined between 2011-12 and 2017-18, challenge this notion. Further, as these surveys also form the basis of the estimation of inequality in India, and are used for adjusting the consumer price index as well as the GDP data, scrapping the survey means further delays in updating these key statistics.

If the government did think that 2017-18 was an unusual year, it could have announced plans to carry out another survey before parts of the report were published in the media, as was done in 2009-10. But, a more sober response would have been to release the data while acknowledging its limitations. Reliable and timely data form the bedrock of sound policy-making. Doubts over official data, as in the case of the controversy over the GDP figures, weaken the credibility of the entire statistical system. Suppressing data will only further erode it.

### DEFECTION & DISSENT

Apex court verdict on disqualified Karnataka MLAs recognises that severe penalties for defection can be double-edged

LAST WEEK, THE Supreme Court upheld the disqualification of 17 Karnataka legislators by then speaker, KR Ramesh, but permitted them to contest the by-polls which are around the corner. This is the second political case that landed before the Supreme Court, following the uncertain mandate in the 2018 Karnataka assembly polls. The court validated the speaker's decision to disqualify the MLAs. However, it set aside the speaker's order barring the disqualified MLAs from contesting elections for the remainder of the assembly's term.

At first glance, the decision appears to be a balancing act, allowing a win for both sides. However, the verdict by a three-judge bench headed by Justice NV Ramana stays with the letter of the law. The Representation of the People Act, 1951, and the Tenth Schedule of the Constitution, which deals with anti-defection, do not give the Speaker "the power to indicate the period for which a person is disqualified." On the other hand, Article 164(1)(B), which deals with the consequences of disqualification of an MLA, states that an MLA disqualified under the Tenth Schedule is also disqualified from being a minister "for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier." By implication, this provision permits an MLA disqualified under the Tenth Schedule to be re-elected to the House.

The question that remains even after the verdict is whether a strict legal reading takes away the force of the anti-defection law. The 17 MLAs defected with a clear intention of triggering the collapse of the HD Kumaraswamy-led Congress-JD(U) government but can now contest unabashedly on a BJP ticket. The court, cognisant of this question, also bats in favour of a stronger anti-defection law. However, once the political colours are stripped from the issue, the legal questions become fairly simple. Can the speaker or the court subsequently pass orders that are punitive against the disqualified legislators when the letter of the Constitution does not prescribe such penalties for their actions? Such a punishment could be a double-edged sword. Disqualification for the entire term can be used by ruling parties to manufacture a majority or by Opposition parties to punish dissent. The court decision is based on this precise fear that "such extreme stand could have a chilling effect on legitimate dissent."

### FOR LOVE OF MONEY

Perhaps a fiscal argument against change of Agra's name will work when little else seems likely to

THERE WAS AT least an ideological logic — however twisted and against the spirit that animates the Constitution of India — to changing the names of Allahabad to Prayagraj, Faizabad district to Ayodhya and Mughal Sarai station to Deen Dayal Upadhyaya station. Such is the zeal of the Uttar Pradesh government in its endeavour to put a saffron stamp on proper nouns for public spaces that no amount of reasoning, pleading and even outright ridicule has dampened it: Memes replacing the word Mughal — Deen Dayal Upadhyaya Garden, Upadhyayai restaurants — were common for a while. The latest target in the name-and-claim project appears to be Agra.

The problem with renaming the home of the Taj Mahal is that no one is quite sure of its "ancient" (read "Hindu") nomenclature. So, the district administration has asked the history department of Bhim Rao Ambedkar University to "examine" what, if any, were the other names of the district. Thus far, the frontrunner appears to be "Agravan", allegedly how Agra has been referred to in the Mahabharata. Question 1: Is Agra an easily-pronounceable abbreviation, and, if so, why change it? Question 2: Given that arguments stemming from India's pluralism have made no dent in the past, what can convince the government of UP not to prolong this exercise?

Money and politics, perhaps, can talk convincingly. In 2017, when the Yogi Adityanath government left out the Taj Mahal from the state's tourism brochure, traders from the city were up in arms. Their logic: Agra earns about Rs 2,500 crore from tourism. A change in name will only hurt the trading classes, a core constituency of the BJP. Agra is a stop on most tourists' itineraries, and changing its name hurts a brand built over decades, if not centuries.

# A greater ease of living

Discussions of rural poverty fail to factor in multi-dimensional changes in the sector in the last five years



AMARJEET SINHA

RURAL POVERTY IN India has been the subject of discussion in recent times. Low increase in prices of agricultural commodities and the slower increase in rural agricultural wages have been seen by some as signs of a crisis for the rural poor. Many acknowledge the role of pro-poor public welfare programmes over the last five years. Others have recorded sharp declines in chronic poverty as also multi-dimensional poverty between 2005-06 to 2015-16. Indicators like nutrition, child mortality, years of schooling, cooking fuel, sanitation, drinking water, electricity, housing, and assets determine multi-dimensional poverty. If that is the case, the performance between 2015-16 to now would be even more spectacular, considering the pro-poor public welfare thrust.

It's important to understand the context of the rural sector over the last five years. The following points must be made at the outset.

One, it is true that inflation rates have been very low, and inflation on agricultural produce even lower during the last five years. Two, availability of Rs 2 per kg wheat and Rs 3 per kg rice has become a reality across the country under the National Food Security Act (NFSA), which was under implementation only in 11 states five years ago. Three, the public subsidy for the NFSA is as high as Rs 1.76 lakh crore every year. This means that 75 per cent rural households that get NFSA food-grains are able to buy at much below the market price. In 2019-20, a subsidy of Rs 33.02 per kg for rice and Rs 23.06 per kg for wheat was being given through the NFSA. For a family of five, this would mean a total subsidy of Rs 825.50 per month. Even if it is 100 per cent wheat, a family of five gets a total monthly subsidy of Rs 576.50. This needs to be factored in when understanding the lower increases in agriculture wages.

Four, this has also been a period when public welfare programmes like rural housing, rural toilets, LPG connections under Ujjwala, electricity connections to households under Saubhagya, enrollment for bank account, accident and life insurance, have all happened on a larger scale. From 10-12 lakh houses a year, 40-50 lakh houses are now being constructed annually. About 1.54 crore ru-

ral homes were completed in 2014-19.

Five, pro-poor welfare programmes often involve households contributing from their side. This is quite large in the case of rural housing (NIPFP study, 2018) as even poor households make aspirational homes, pulling together all their savings/borrowings for it. Likewise, Swachh Bharat Mission toilets, enrolment in Ujjwala, Saubhagya, or in accident and life insurance, also draws on incomes/savings. It is bound to affect demand for goods purchased by the poor, in the short run.

Six, this has been the period when the allocation for rural development programmes has gone up considerably from Rs 50,162 crore in 2012-13 to Rs 1.18 lakh crore in 2019-20. Add to this the state shares, which have increased to 60:40 instead of 75:25 or 100 per cent (in the case of the Pradhan Mantri Gram Sadak Yojana) from the central government for non-Himalayan states.

Seven, this has been the period when the 14th Finance Commission's grants to gram panchayats have been released on an unprecedented scale. The annual releases are over three to four times the previous grants. Over Rs 2 lakh crore is to be released in five years, of which over Rs 1.44 lakh crore has already been provided and works done under it. Extra budgetary resources (EBRs) have also been mobilised for the housing programme.

These figures need to be understood in their full context before coming to a conclusion on rural poverty. Works under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) have continued to be in demand even though the wage rates fixed every year on the basis of the Consumer Price Index for Agricultural Labour (CPI-AL) have grown modestly on account of the cheap price of foodgrains. In 2018-19, over 268 crore person days of work was carried out, the second-highest ever. In the three preceding years, the demand for work was about 235 crore person days every year.

Another major increase of financial resources in rural areas has been through the Deendayal Antyodaya Yojana-National Rural Livelihood Mission (DAY-NRLM) programme under which over Rs 2,12,000 crore has been

provided as loans in the last five years. Interestingly, NPA has come down from over 7 per cent in 2013-14 to barely 2.2 per cent in 2018-19, clearly establishing that DAY-NRLM SHG women borrow and return on time. Significant and diverse livelihoods have been generated through such loans leading to higher incomes, more productive assets, and larger number of village enterprises (IRMA study on DAY-NRLM, 2018).

The improvement in rural road connectivity has also been a significant development of this period, leading to 97 per cent eligible and feasible habitations as per the 2001 Census getting all weather road connectivity.

Clearly, rural households do not migrate to urban areas for very low paid jobs as survival is possible with improved rural infrastructure, housing, etc in rural areas now more than before. This explains the continuously high demand for work under the MGNREGS. This period has also witnessed a significant increase in individual beneficiary schemes like farm ponds, dug wells, animal sheds, vermi-composting etc under the MGNREGS which have all gone into creating durable assets and providing opportunities for higher incomes (IEG study, 2018). More than 18 lakh individual farm ponds, 10 lakh vermi-compost, 7 lakh animal sheds, etc have come up in this period. Over 15 million hectares of land has benefited from water conservation works.

The larger labour force available for the MGNREGA also reflects the unwillingness of a rural household with better infrastructure to go in for a distress migration with very low incomes in urban areas. While a lot more needs to be done to improve livelihoods in rural areas, the last five years have witnessed an unprecedented pace in improving the ease of living of very poor households through public welfare programmes reaching them through better identification through the Socio Economic Census (SECC 2011), IT/DBT, geo-tagging, improved financial management and governance reforms.

The writer is a civil servant. Views are personal

### HITS AND MISSES

Ranjan Gogoi's tenure as CJI started with a whimper, ended with a bang



REKHA SHARMA

Ranjan Gogoi, the 46th Chief Justice of India, has retired. Now is the time to assess his legacy. The tenure of his predecessor, Justice Dipak Misra, was marred by controversies which reached such proportions that a leading political party attempted to impeach him. Justice Gogoi was one of the four judges of the Supreme Court who held an unprecedented press conference against Justice Misra, accusing him of putting democracy in peril. The fact is, by the time Justice Misra demitted office, the image of the Supreme Court had taken a hit. Therefore, when Justice Gogoi stepped into his shoes, there was an air of expectancy. Unfortunately, Justice Gogoi courted more controversies than his predecessor.

Allegations of sexual harassment were levelled against Justice Gogoi by an ex-staffer of the Court. The allegations were damning, but equally disturbing was the response of the CJI — one of panic. Instead of constituting a sexual harassment committee, he constituted a special bench of the Court on the advice of the Solicitor General, comprising three judges to address the issue which was purely personal to him. Worse still, he himself presided over that bench ignoring the fundamental jurisprudential principle, *Nemo iudex in causa sua* — no one can be a judge in his own cause.

In a special sitting, which was held on a Court holiday, the chief justice rubbished the allegations and alluded to some larger conspiracy to destabilise the office of the Chief Justice of India. He also talked about his meagre bank balance and unblemished record, even though no one had questioned his finan-

cial or professional integrity. The bench did not pass any order on the issue except to advise the media that given the sensitivities of the matter, it should exercise restraint.

After the special bench, an in-house panel of three judges was formed to examine whether the allegations warranted an inquiry. The formation of the panel was objected to by the complainant, and also by some independent voices. One of the judges from within the SC was reported to have expressed the view that the panel should have been more broad-based — that it should have included an external member and the complainant should have been allowed the assistance of a lawyer. The complainant, who initially participated in the proceedings, walked out of the same raising various objections to the procedure adopted by the panel, including denial of assistance of a lawyer to her. However, the panel proceeded and concluded its inquiry, eventually exonerating the chief justice.

Transparency in matters of appointment to the higher judiciary has been a casualty during Justice Gogoi's tenure: Under his stewardship, a judge who was a junior by 32 notches was appointed to the SC, ignoring the all-India seniority levels of others. As gathered from the SC website, the only reason assigned for ignoring the others was that the one chosen was found to be more meritorious. However, later, at least two of those ignored were made chief justices of high courts, and were also brought to the SC. This indicates that the two later appointees were equally deserving, and yet, were overlooked

at a given point in time. More recently, the collegium recommended Justice Akil Kureshi of the Gujarat High Court as the chief justice of the Madhya Pradesh High Court. The government reportedly did not agree with the recommendation. The collegium, instead of reiterating its initial recommendation, changed their original stance and recommended him to the Tripura High Court.

In the aftermath of the abrogation of Article 370, a number of habeas corpus petitions concerning the personal liberty of citizens were filed: These were routinely adjourned on the mere plea of the state that there has to be a balance between personal liberty of an individual and national security. It is nobody's case that those detained should have been set free, but considering that individual liberties were at stake, if nothing else, they were at least entitled to an urgent hearing. Justice Gogoi, while delivering the third Ramnath Goenka Memorial Lecture on "Vision of Justice", said that the judiciary "is the last bastion of hope and the one that the citizenry believes firmly will give justice to them, come what may". The words sound hollow.

To be fair, Justice Gogoi took the bull by the horns in hearing and deciding the decades-old Ayodhya dispute. The judgment brings closure to the most controversial issue of present-day India. Thus, the tenure of the chief justice, which started with a whimper, has ended with a bang.

The writer is a former judge of the Delhi High Court. Views are personal

### NOVEMBER 20, 1979, FORTY YEARS AGO

**CIA SPY ACRIMONY**  
ALLEGING A CONSPIRACY against him, Jagjivan Ram challenged the prime minister to hold an impartial inquiry to find out if he or any other minister in Indira Gandhi's 1971 cabinet had leaked information to the CIA about military operations in Bangladesh. "Let him hold an inquiry and present the verdict before the people," the Janata Party leader told a crowded news conference in Delhi. Dismissing the veiled charges that he had leaked out information to the CIA, Ram said the defectors — Charan Singh and Raj Narain — frustrated by the growing popularity of the Janata Party, had hatched a conspiracy against him.

**ASSAM IN TURMOIL**  
AN EXPLOSIVE SITUATION has developed in Assam in the wake of the agitation jointly launched by the All Assam Gana Sangram Parishad and All Assam Students Union for deletion of names of alleged aliens from the electoral rolls, and their deportation from the state. Ignoring the appeal of Chief Minister J N Hazarika to suspend the agitation, the agitators have resorted to mass picketing of central and state government offices and PSUs.

**NO PRESIDENT'S RULE**  
PRIME MINISTER CHARAN Singh said he was not thinking of imposing President's rule in

Assam, though he was "very unhappy" over the situation there. He said that "we must share the point of view of the Assamese also". The question was not that of expelling the Bengalis from Assam, there were also the cases of Nepalese and Bangladeshi, he said.

**NO RESERVATION**  
THE UNION GOVERNMENT has dropped the move to reserve a percentage of posts for backward classes in Central services. Deputy PM Y B Chavan, said. The decision to drop the proposed measure to provide for reservation is apparently aimed at preventing a serious law and order situation that could arise because of the antagonism of the forward classes.



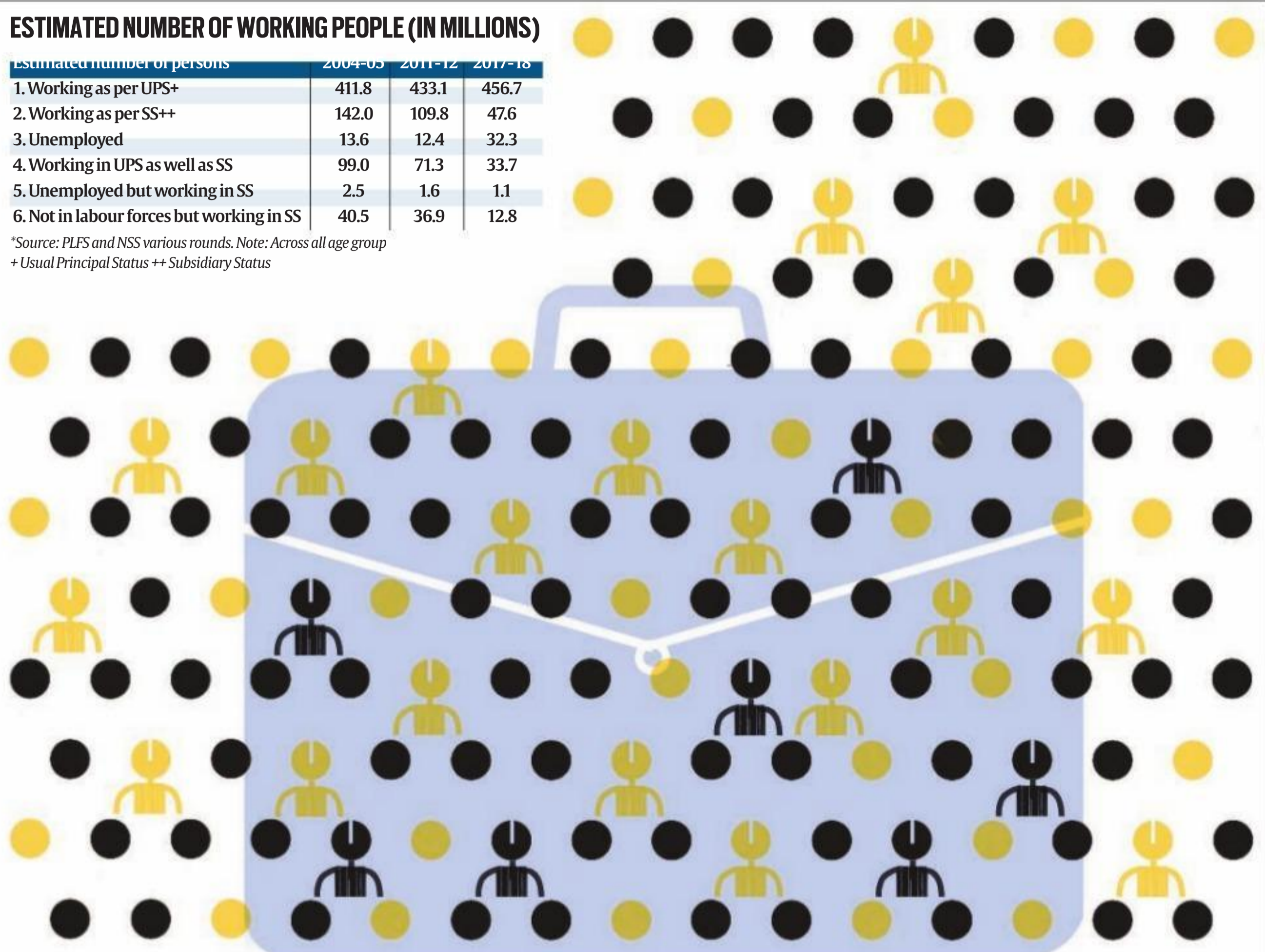
WHAT THE OTHERS SAY

History will evaluate the governance in Xinjiang, and the standard will never be determined by Western public opinion. —GLOBAL TIMES, CHINA

ESTIMATED NUMBER OF WORKING PEOPLE (IN MILLIONS)

Estimated number of persons	2004-05	2011-12	2017-18
1. Working as per UPS+	411.8	433.1	456.7
2. Working as per SS++	142.0	109.8	47.6
3. Unemployed	13.6	12.4	32.3
4. Working in UPS as well as SS	99.0	71.3	33.7
5. Unemployed but working in SS	2.5	1.6	1.1
6. Not in labour forces but working in SS	40.5	36.9	12.8

\*Source: PLFS and NSS various rounds. Note: Across all age group + Usual Principal Status ++ Subsidiary Status



CR Sasikumar

# Light spots in the dark

That primary employment is rising is a reason for hope. Understanding the contours of this change will show the way to accelerate changes that create opportunities



AMARENDRE DUBEY AND LAVEESH BHANDARI

ask each person whether they were employed and what was their primary and subsidiary work. Those who report their usual primary status to be homemakers, students, retired or unable to work tend to be classified as out of the labour force. Now the interesting thing is that some people who classify their primary activity to be not in the labour force may also take up some employment for a limited amount of time (less than six months). This is subsidiary employment that is for only a minor part of the preceding year.

The question, then, is, should it be included in the total employment figures? What are the pros and cons for inclusion or exclusion of subsidiary employment? We argue here that it is time policy focused only on primary employment and discard the Planning Commission method of adding subsidiary work to total employment figures.

Note, in the table, while usual principal status figures show a rise of about 45 million (row one) that of subsidiary status shows a fall of about 94 million (row two). Of this 94 million, about 65 million (row four) already have a principal status, so its not that they are out of a job. That mostly leaves those not in the labour force with a subsidiary status denoting work, their numbers have fallen by about 27.7 million (row six) and were about 12.8 million in 2017-18 — falling steadily throughout the period.

Moreover, adding subsidiary status jobs with principal status jobs will necessarily yield wrong insights into how employment is changing in an economy marked by rapid technology changes. That primary employment is rising gives us much hope to build upon. Analysing its patterns, as mentioned, will provide insights into how to accelerate

those changes that are creating greater opportunities. The fall in subsidiary employment has a different colour, it needs to be addressed separately.

Finally, what work is done under subsidiary status? The bulk of the work is for household enterprises and most of that is unpaid. And if that is falling, why is it of policy interest? There is a very large literature in the country on disguised unemployment and unproductive and extremely small household enterprises. Employment marked by subsidiary status largely reflects that element. We, instead, focus on the larger problem of primary employment.

We find many such dark spots — less educated, self-employed, the agri-cropping sector, many manufacturing segments, less-educated women, and rural areas. But we also find many bright spots — middle school educated, graduates, many personal services, livestock sector, and agriculture services. There is a deep structural shift occurring in the Indian economy and a fascinating and rich picture is emerging as more data is accessible.

We would be more keen on a wider discussion on these patterns, because that will better help devise economic policies that can impact employment more. Whoever estimates the numbers, it is time we moved away from the larger sob-stories of falling/stagnating employment towards where the light and dark spots are and what they reveal about a rapidly changing economic structure.

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VIEW FROM THE RIGHT

LEGAL MYTHOLOGY

THE SANGH PARIVAR believes that the latest Supreme Court judgment on the Ayodhya issue has given legal sanctity to Hindu scriptures, nation's oral history and mythological figures. In the latest issue of *Organiser*, the English mouthpiece of the RSS, an editorial has argued that the unanimity and clarity of the judgment is iconic in how it spans periods of history from Skanda Purana to modern-day legal provisions.

"The oral and scriptural history of Bharat has got the renewed sanctity through this judgment. The concept of deity being a juridical entity, with specific nature and form, is a unique Bharatiya legal concept. The Pran Pratishtha of the deity, the customs involved and also the nature of ownership of property also has a great deal of bearing on the legal interpretation," the editorial said. It has argued that Ram Janmabhoomi was never a Hindu-Muslim dispute, rather it was about reclaiming the icon of Indian civilisation. "The invasion of Babar as explained by Guru Nanak Dev, did not spare anybody, irrespective of caste, gender and

religion. Since 1528, there have been 76 battles to reclaim the Janmabhoomi — not just for a place of worship but also for a symbol of our national icon, whose birthplace was attacked by the invaders," the editorial said.

MEDIATION DISASTER

THE LATEST ISSUE of *Organiser*, largely dedicated to the verdict, has also carried a detailed interview of Champat Rai, vice-president of the VHP. Rai has claimed that the mediation carried out by Sri Sri Ravi Shankar was going in a direction that could have led to mass violence.

"In the latest dialogue process, I was also a part. We clearly explained our stand before that panel headed by Sri Sri Ravi Shankar. If the proposals of that panel are accepted, large-scale violence may begin in this country at hundreds of places. I don't know who gave those suggestions to the panel. It is more serious that the panel members asked us questions about those un-mindful suggestions. No sensible person can offer a solution which opens up a Pandora's box of problems. But, that panel did it. It is a serious matter. That dialogue was bound to fail and that happened," Rai has said in response to a question on efforts at mediation.

Another article in the same issue has argued that by not accepting the claim of the Hindus following the demolition of Babri Masjid, the Muslims lost a chance to restore harmony in the country after Partition. "The

destruction of the disputed structure saw a spate of reactions amongst the Muslims. However, in reality, Muslims could have taken this up as a second chance to restore harmony. They should have wholeheartedly accepted the proposition of building a temple and relocated the mosque elsewhere," the article, written by Raamish Siddiqui, said.

GREAT BETRAYAL

ORGANISER HAS ALSO severely criticised the move by Shiv Sena to cut ties with the BJP in order to have a shot at the chief minister's post in Maharashtra. In an article titled, "The Great Betrayal", the Sena has been called a "dalal" and its chief, Uddhav Thackeray, "Dhritarashtra".

"The entire conduct of Shiv Sena 'Pramukh' Uddhav Thackeray (because he is the only leader in the party and the rest are 'jee huzoors') can best be compared with that of 'Dhritarashtra' of Mahabharata who, in his quest to make his son Duryodhana 'samrat' of Bharatvarsha, invited total doom of his clan. Uddhav seems to be exactly treading the 'Dhritarashtra path', blinded by his unstoppable desire to make his son Aditya chief minister of Maharashtra," the article written by Virag Pachpore has said.

Claiming that the Sena had betrayed the people's mandate, and that it would eventually be punished for it, the article said, "The dirty game the Sena leaders are indulging

in, shows how they have reduced themselves to small time 'dalals' who are willing to part with valued treasure for petty gains. No political party would behave the way Shiv Sena's Pramukh Uddhav Thackeray and his "eyes, ears and voice", Sanjay Raut, is behaving."

KHALISTAN CORRIDOR?

THE SANGH ALSO appeared to caution the government over the designs of Pakistan to stoke Sikh separatism through the Kartarpur corridor. In an article written by Jaibans Singh, *Organiser* has asked the government to be wary even though Sikhs are not inclined to fall for Pakistan's designs.

"It is quite apparent that Pakistan would aim at winning the goodwill of the Sikh community. The project will also allow Pakistan access to certain separatist tendencies that some Sikhs, mainly those living abroad, hold. It is being said that stoking fires of Sikh separatism is the prime objective of the Pakistan army in the project. This is in accordance with what is called the Bajwa Doctrine. This Doctrine, named after the present Pakistan army chief, envisages opening a front of separatism in Indian Punjab, now that the going for Pakistan and the Jihadists that it nurtures is getting tough in Jammu and Kashmir," the article has argued.

Compiled by Deeptiman Tiwary

# Reset the Code

Insolvency and Bankruptcy Code should be the preferred option for resolution of bad loans, not the last resort



ISHAN BAKSHI

THE SUPREME Court judgment in the Essar Steel case has restored the primacy of the committee of creditors (CoC), settling the contentious issue of the distribution of funds between creditors. While the judgment solidifies one of the tenets of the IBC (Insolvency and Bankruptcy Code), does it pave the way for smoother functioning of the resolution process? And does it alter the incentive structure for various stakeholders that have complicated the process so far?

Let's take a step back. The introduction of the IBC marked a structural change in the resolution architecture in India. The shift to a time-bound resolution process — meant to facilitate the quick exit of firms — was a tool to help tackle the bad loan problem. But despite its obvious strengths, various stakeholders seem to have recalibrated their approach towards dealing with the problem of bad loans through the IBC process. There are several indications to this effect.

Under Urjit Patel, the RBI took a more forceful approach to resolving bad loans through the IBC process. Its various lists directing banks to take specific companies through the process were a clear indication of its intent. But, under the new leadership, there appears to have been an institutional rethink on the approach to resolving bad loans. The June 7 circular on the resolution of stressed assets signals this change in stance.

Even certain sections of the ruling dispensation appear to have reconsidered their approach towards resolving bad loans. Initially, the IBC was touted as a game changer in dealing with bad loans. But, a few weeks ago, the minister of state for finance, signalling the shift in stance, said there should be an attempt to resolve stressed assets outside the IBC as it would help banks and the business community.

Amongst banks, too, scepticism about the process appears to have crept in. Rather than taking companies to the NCLT, banks now appear to be in favour of resolving the bigger cases outside the IBC process.

Several factors have prompted this shift. First, delays in the resolution of cases, and endless litigation have dampened enthusiasm for the process. Of the 1,497 cases that are currently going through the resolution process, 36 per cent have crossed 270 days, while another 22 per cent have crossed 180 days. As a time-bound resolution process was one of the most appealing aspects of IBC, such delays create little incentive for stakeholders to opt for this process.

Second, barring a few cases, the recovery rates have not been along expected lines. Part of the problem is that recovery rates tend to be pro-cyclical. During high growth phases, businesses tend to be inclined to bid more for assets as expectations for higher returns are baked in.

One sees this trend under SARFAESI too. In the initial few years after the law was enacted, recovery rates were low, but as

growth picked, and as the system stabilised, so did recovery rates. Recovery rates touched a high of 61 per cent in 2007-08, trending downwards thereafter as growth slowed. Over the 10-year period from 2003-04 to 2012-13, the recovery rates under SARFAESI averaged around 33 per cent.

In comparison, the recovery rate under IBC currently stands at 41 per cent. But, this also needs to be qualified. The higher recovery rates are driven partly by the resolution of steel companies during a period that coincided with high global steel prices. Even Arcelor Mittal's bid for Essar Steel was made during this period. Excluding steel companies would significantly lower the recovery rates.

A slowing economy, coupled with an over-leveraged corporate sector, has reduced appetite for assets stuck in the NCLT. Not only have recovery rates been low in the cases resolved, but more than half of the cases closed so far have ended up in liquidation as there have been no buyers. In such a scenario, as banks would have to take huge haircuts, in both resolution and liquidation, there is little incentive to resolve bad loans through IBC.

Third, lack of clear precedents has complicated matters. For investors, it was hardly possible to calculate expected returns on their investment with any degree of certainty. Fourth, instances such as the enforcement directorate attaching property, as in the case of Bhushan Power and Steel, have further disincentivised buyers.

The judgment in the Essar steel case addresses one of these concerns. The Court has done away with the uncertainty surrounding the distribution of claims. This is a positive step for creditors who otherwise faced uncertainty. But, more needs to be done to ensure smoother functioning of the code.

For one, the provisioning norms for bad loans should be made more stringent to ensure banks have strong incentives to take companies through this process and not postpone the decision, hoping to restructure the loan outside IBC.

Second, relaxing the 330-day deadline will further dampen enthusiasm. The idea of having a time-bound process was to put pressure on the CoC to ensure speedy resolution. Delays in either taking the company to NCLT or in the resolution process destroys enterprise value. This decision must be reviewed.

Third, the government should establish the supremacy of IBC to ensure that assets are not allowed to be attached once they have been admitted. Under Section 53 of the law, amounts due to the central government rank below those of secured and unsecured creditors. This hierarchy needs to be respected.

There also needs to be clarity on the role of promoters. While barring all promoters from bidding was a harsh step, there needs to be consistency of approach. Allowing them to participate in liquidation but not in the resolution process would be inconsistent. Unless, of course, there has been a considered view that promoters, barring wilful defaulters, should be allowed back in, although now it is possible only through the backdoor. Addressing these issues would go a long way in ensuring that IBC is the preferred option for dealing with bad loans rather than being the last resort.

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## LETTERS TO THE EDITOR

### CHAOS IN MUMBAI

THIS REFERS TO the editorial, 'Congress & Sainiks' (IE, November 19). In the game of power-sharing in Maharashtra among three "unequals", NCP supremo Sharad Pawar has been calling all the shots. The Shiv Sena is known for its anti-minority and anti-migrant sentiment. While both the Congress and its breakaway group, the NCP, profess secularism, the Congress' arena is pan-India and that of the NCP, so far, is Maharashtra. It seems that all political parties, including the BJP in the rival NDA camp, are unpredictable. That's unfortunate for voters

Varin Dhir, Ahmedabad

THIS IS REFERS to the editorial, 'Congress & Sainiks' (IE, November 19). The political developments in Maharashtra while seeking a probable Sena-NCP-Congress coalition fits the oft-repeated statement that in politics, there are no permanent enemies, and no permanent friends, only permanent interests. Bal Thackeray had once lampooned Sonia Gandhi. If the Shiv Sena is alleged to be communal by design then the Congress has emerged as communal by default. The alliance has dented the BJP's position and exposed the chinks in the NDA armour.

LR Murmu, Delhi

### 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 or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301.

### SRI LANKA MATTERS

THIS REFERS TO the article, 'Towards a Colombo reset' (IE, November 19). The geographical proximity of Sri Lanka to the most significant marine trade routes means that it is bound to be drawn in to the rivalry between great powers. New Delhi must realise that it once occupied the position that Beijing has today. China may understand the developmental needs of the Sri Lankan state, but India understands the pulse of the Sri Lankan people.

Sudip Kumar Dey, Kolkata

**FACT CHECK, GROUND REALITY**

**UNIFORM OF RAJYA SABHA MARSHALS: WHY AND HOW IT WAS CHANGED**



RS Chairman flanked by marshals in their old (above) and new uniforms. PTI

ON MONDAY, Rajya Sabha marshals appeared in a dark-coloured suit and a peak cap. Amid the criticism that followed from former Army officers and Opposition leaders, Rajya Sabha Chairman M Venkaiah Naidu ordered a review of the new uniform on Tuesday.

**WHAT WAS CHANGED:** So far, Rajya Sabha marshals were wearing white safari suits with a white turban. Former MPs said this had not changed since at least 1965 — which suggests that this had been the uniform for over 50 years. The new dark suit and cap appeared on Monday, and was unveiled for the first time in a meeting that Naidu had with RS MPs the previous day.

About half a dozen marshals assist the Presiding Officers — the Chairman, Deputy Chairman and Vice Chairmen — in conducting the proceedings of the House. The Chairman is the authority for their appointment and service conditions.

**WHY THE CHANGE:** Rajya Sabha sources told *The Indian Express* that the marshals themselves had sought a change to a uniform that would be user-friendly, and have a modern look. There was unhappiness, according to the sources, among marshals as their existing uniform was the same as that of chamber attendants who are junior to them and assist MPs in the House.

"Marshals had long been demanding a change in attire because their earlier uniform was the same as what the non-gazetted staff wore, whereas the marshals are all officers," said an official. Also, many described the turban as "cumbersome

headgear that took very long to wear." Subsequently, senior officers of the Secretariat including the security officers held several rounds of discussions before designing the new dress. Instead of hiring an outside expert, the designing, sources said, was done in-house.

**WHY THE OUTRAGE:** The new uniform resembles that worn by Army officers. Former Chief of the Army Staff Gen VP Malik tweeted: "Copying and wearing of military uniforms by non military personnel is illegal and a security hazard. I hope @VPSecretariat, @RajyaSabha & @rajnathsingh ji will take early action." Malik told *The Indian Express*: "There is a rule which has been followed most of the time; even recently the Ministry of Home Affairs sent out directions that people outside the Army should not be copying military uniform. Wearing of such uniforms by non-military people is a security hazard, amounts to impersonation. I had taken this up with the Home Ministry, and the Department too has done so at various times. Parliament in particular has faced attacks in the past."

A former Presiding Officer of the House, speaking on condition of anonymity said: "They now look exactly like the ADCs that accompany a Governor or the military secretary to the President. The earlier uniform of the marshals added a bit of old-world glamour to the House, it was a part of the identity of the Upper House. Thank God Lok Sabha has not gone for such a change."

RS secretary general Desh Deepak Verma was not available for comment.

**SIMPLY PUT**

**The new President Rajapaksa**

Gotabaya Rajapaksa, Sri Lanka's new President, is best known for defeating the LTTE in a final, bloody war in 2009. His brother Mahinda had a strong pro-China tilt, and India will be watching his policies closely

**ARUN JANARDHANAN**  
 COLOMBO, NOVEMBER 19

GOTABAYA RAJAPAKSA, who took oath as Sri Lanka's President on Monday, will be closely watched by the international community, including India. He has the reputation of being the man who crushed the Tamil Tigers when he was Defence Secretary during his brother Mahinda Rajapaksa's presidency (2005-15), a period that also saw reports about brutalities on surrendered militants and civilians. India, in particular, will be watching Gotabaya for the way he shapes Sri Lanka's relations with China.

**The brothers Rajapaksa**

Gotabaya, 70, is one of the four Rajapaksa brothers in active politics in Sri Lanka, hailing from the south of the country. Besides Mahinda and Gotabaya, the other brothers are Basil Rajapaksa, who served as an adviser to President Mahinda and was an MP between 2007 and 2015; and Chamal Rajapaksa, who was Parliament Speaker (2010-15) and is no longer in active politics. Basil told *The Indian Express* last week that politics was in Gotabaya's blood; their father too was a parliamentarian and a minister.

**Gotabaya's legacy**

A former lieutenant colonel who served two decades in the Sri Lankan Army, Gotabaya later worked as a technocrat in the US from 1992 to 2005, before returning home to take charge as Defence Secretary. In a country that had been in the grip of civil war and ethnic clashes for nearly three decades, Gotabaya's decisive moves with the help of Indian and US intelligence agencies helped Sri Lanka finish the war against the LTTE in 2009. In the final stages of the war, over 40,000 civilians and a number of Army personnel were killed, while several hundred



'I did not create the war, I ended it,' he had told *The Indian Express* earlier. AP

civilians and LTTE cadres disappeared. This led to reports of "white flag incidents" in which surrendered LTTE men were allegedly killed by the Army, and "white van incidents" in which Tamils and those who opposed the war were allegedly abducted by government-backed private militia.

This reputation also won Gotabaya widespread support from the majority Sinhalese Buddhists as well as all as others who op-

posed the LTTE. Gotabaya is also credited with measures relating to urban development and beautification of Colombo, until his brother lost the presidency.

**His reflections on his legacy**

In a recent press conference in Colombo, Gotabaya was asked about his previous role and the punishment meted out to alleged war criminals. His reply that it was time to forget the past and move on.

In an interview with *The Indian Express* in 2018, he said he had done the right thing. "War is not a good thing; it is not a nice thing. But in Sri Lanka, I didn't create the war, I ended the war... Our country is a better place without the LTTE," he said.

Asked if he could sleep in peace during the days that witnessed hundreds of killings, he had said: "It is not only soldiers but innocent people too died due to terrorism. Bombs do not understand who is enemy and who is friend, or if it is a civilian or military van. So I do not regret. I used to sleep every day during the war too."

**His stated priorities**

In his speech while being sworn in, Gotabaya said: "I consider the foremost responsibility of my government is to ensure the national security of my country. We will rebuild the state security machineries to secure the country from terrorism, underworld activities, robbers, extortionists."

The victory came in the aftermath of terrorist attacks on hotels and churches in April, in which more than 250 people were killed. The Islamic State claimed responsibility.

**What his victory means**

Although he has been sworn in, Gotabaya will be a President without a government until the current government of Prime Minister Ranil Wickremesinghe is dissolved. It is unclear if Wickremesinghe's United

National Party (UNP) is ready to dissolve Parliament. Sources said Gotabaya can have control over the Army and key portfolios while he has to either wait for the next Parliament election after March, or form a cabinet on his own to assume full powers.

Sources close to defeated presidential candidate Sajith Premadasa (UNP) said he would oppose any move to dissolve Parliament before it completes its term. Sources in the Wickremesinghe camp, however, said he was ready to step down.

**What it means for India**

After his victory, a source in Gotabaya's camp told *The Indian Express*: "A strong President in Sri Lanka will make sure that India is the closest friend while protecting the independence and autonomy of his own country."

During the Mahinda regime (and Gotabaya's tenure as Defence Secretary), Sri Lanka's pro-China stance had caused concerns to India, particularly when Chinese submarines and warships made repeated undeclared visits to the port of Colombo. China had got huge concessions then, and extended loans worth billions of dollars, which, while helping build ports and highways in Sri Lanka, put the country deep in debt.

In his 2018 interview with *The Indian Express*, Gotabaya said the Mahinda government had never allowed Sri Lankan soil to be used by any foreign country against India. Now, an adviser in his camp said Gotabaya will have a special interest in strengthening a healthy relationship with India while exploring more trade partnerships with China and potential investors.

Critics see Gotabaya as being obliged to the United States, where he had citizenship before he relinquished it ahead of the elections. The Opposition has raised allegations about dual citizenship, which Gotabaya's camp denies.

**West Bank: What change in US policy means**

**EXPRESS NEWS SERVICE**  
 NEW DELHI, NOVEMBER 19

THE UNITED States no longer thinks Israeli settlements in the West Bank violate international law, Secretary of State Mike Pompeo said Monday. The new US view is different from that of most countries' on this issue.

**What are the West Bank settlements?**

The West Bank, a patch of land about one and a half times the size of Goa, was captured by Jordan after the 1948 Arab-Israeli War. Israel snatched it back during the Six Day War of 1967, and has occupied it ever since. It has built some 130 formal settlements in the West Bank, and a similar number of smaller, informal settlements have mushroomed over the last 20-25 years. Over 4 lakh Israeli settlers — many of them religious Zionists who claim a Biblical birthright over this land — now live here, along with some 26 lakh Palestinians.

**Are these Israeli settlements illegal?**

To the vast majority of the world's na-

tions, yes. The United Nations General Assembly, the UN Security Council, and the International Court of Justice have said that the West Bank settlements are violative of the Fourth Geneva Convention.

Under the Fourth Geneva Convention (1949), an occupying power "shall not deport or transfer parts of its own civilian population into the territory it occupies". Under the Rome Statute that set up the International Criminal Court in 1998, such transfers constitute war crimes, as does the "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly".

Under the Oslo Accords of the 1990s, both Israel and the Palestinians agreed that the status of settlements would be decided by negotiations. But the negotiations process has been all but dead for several years now.

Israel walked into East Jerusalem in 1967, and subsequently annexed it. For Israel, Jerusalem is non-negotiable. The Palestinians want East Jerusalem as the capital of their future state. Most of the world's nations look at it as occupied territory.



Netanyahu with Israeli settlement authorities in West Bank Tuesday. AP

**What was the American stand earlier?**

In 1978, when Jimmy Carter was President, the State Department concluded that the Israeli settlements were "inconsistent with international law". Soon after taking office in 1981, President Ronald Reagan said he did not agree — even though the establishment of new Israeli communities in Palestinian territory was indeed "unnecessarily provocative". Thereafter, the United States took the line that the settlements were "illegitimate", not "il-

gal", and repeatedly blocked UN resolutions condemning Israel for them. In 2016, President Barack Obama broke with this policy — and the US did not veto a resolution that called for an end to Israeli settlements.

On Monday, Pompeo said: "After carefully studying all sides of the legal debate, this administration agrees with President Reagan. The establishment of Israeli civilian settlements in the West Bank is not *per se* inconsistent with international law."

**What impact will the change have?**

Those who support the right of Israelis to settle in the West Bank are likely to see the decision as an endorsement. It will boost Prime Minister Benjamin Netanyahu, who has promised sweeping annexations in the West Bank.

However, Pompeo did not come out as directly backing the settlers. "The hard truth is there will never be a judicial resolution to the conflict, and arguments about who is right and wrong as a matter of international law will not bring peace. This is a complex political problem that can only be solved by negotiations..." he said.

**Why is Delhi air cleaner? Count of farm fires is not the only factor**

**MALLICA JOSHI & ANJU AGNIHOTRI CHABA**  
 NEW DELHI, JALANDHAR, NOVEMBER 19

**FRIDAY, NOVEMBER 15:** A thick layer of haze engulfs Delhi, the smell of smoke in the air discernible. Air Quality Index: 458 (severe)

**SATURDAY, NOVEMBER 16:** Air quality improves to "very poor" but the layer of haze remains thick. AQI: 357 (very poor)

**SUNDAY, NOVEMBER 17:** Clear skies, bright sunshine and strong winds. AQI: 216 (poor)

**Looking for reasons**

The AQI in Delhi fell 243 points between Friday and Sunday, and from severe to poor in less than 24 hours. Social media buzzed with photos of a clear sky and a bright day, which had eluded Delhi for at least a week.

Delhi Chief Minister Arvind Kejriwal, who had put the blame for the toxic air on Punjab and Haryana for failing to control crop stubble burning, posted a photograph of the clear skies on Sunday and tweeted, "We live in such a beautiful city. Imagine, if the stubble burning were to stop, our skies will look like this all year round and our health will also improve."

Was it just a dip in the number of farm fires that helped clear Delhi's air within hours? Experts say it takes a lot more than that to explain Delhi's air quality.

**Wind direction & speed**

According to officials at the Central

Pollution Control Board, a change in wind direction and a sudden increase in wind velocity were the main reasons behind Delhi going from severe to poor in a little over a day. Wind blowing northwest brings pollution from Punjab and Haryana to Delhi; on Friday and Saturday, the direction changed to northerly.

"On Friday, the average wind speed in Delhi was under 10 km/hr. Because of an active western disturbance, the wind speed gradually rose and on Saturday it was around 12 km/hr. By late Saturday night, an even bigger increase in wind speed was seen and within hours, the air quality improved," said a senior IMD official. On Sunday, the wind speed was around 35 km/hr. "At this speed, pollutants 250 km away can reach a spot within 8 hours and also be flushed out as quickly if the wind speed holds."

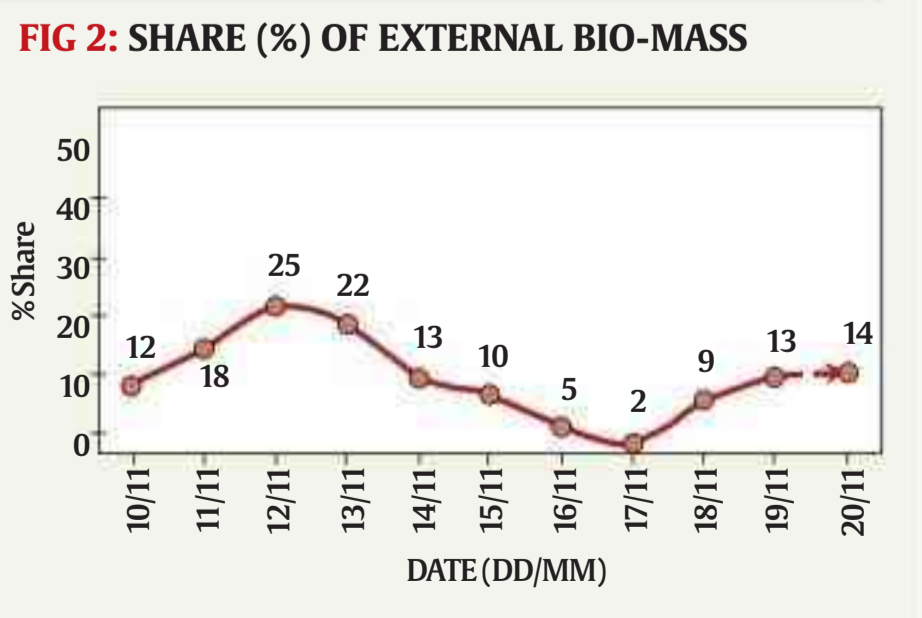
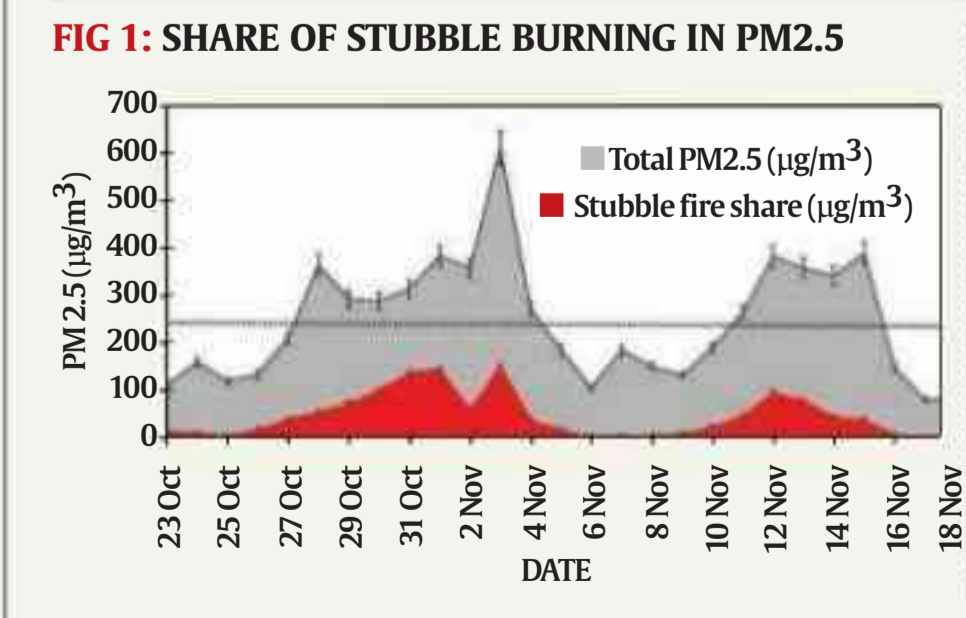
**Geographic location**

Air quality deteriorates or improves for a variety of reasons, the main being emissions. In Delhi, vehicular emissions, road and construction dust, waste burning and industrial pollution play key roles. Add to this Delhi's location — on the Indo-Gangetic Plain (IGP), the most polluted belt in the country.

"Pollution is not Delhi's problem alone. If we plot the most polluted cities in India on a map, most will fall on the IGP. This is because of the predominant wind direction and the way dust travels. On Sunday, for example, when Delhi's air quality improved significantly because of strong winds, Kolkata's AQI went from moderate to poor," said Dipankar Saha, former air laboratory



(Above) Increase in fires over the days leading up to November 18; (below) factors contributing to PM2.5. NASA, SAFAR



head at CPCB. An official at IMD Chandigarh said: "Delhi gets polluted due to its own base pollution levels. With the onset of winter, the air's carrying capacity for pollutants increases, and if

winds are slow, it does not disperse, effectively trapping pollution in Delhi."

**Stubble burning**

A look at the contribution of stubble

burning to Delhi's air, calculated by SAFAR shows that farm fires' contribution to PM2.5 levels was less than 150 micrograms per cubic metre for nearly a month, including on severely polluted days.

On Monday, 500 fires were recorded, but on Tuesday, this number rose to 1,289. According to forecasts, Delhi's air is expected to deteriorate to very poor on Wednesday and severe on Thursday.

Inputs by Shivam Patel in New Delhi