

Opinion

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NATIONALITY REDEFINED

Union home minister Amit Shah

The process [NRC] will be carried out across the country. No one irrespective of their religion should be worried. NRC doesn't discriminate against any Indian citizen on the basis of religion



TAXING DIVIDEND

THE FAIREST SYSTEM IS DIVIDEND IMPUTATION, WHERE TAX IS PAID ON THE DIFFERENCE BETWEEN THE CORPORATE TAX RATE AND THE RATE FOR THE SHAREHOLDER

End triple taxation

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Views are personal



tion of distribution tax by the company. Therefore, the tax was computed by the company with reference to the net amount. Due to difference in the base of the income distributed or dividend on which the distribution tax is calculated, the effective tax rate was lower than the rate provided in the respective sections. In order to ensure that tax is levied on proper base, the amount of distributable income, and the dividends which are actually received by the unit holder of the mutual fund or shareholders of the domestic company, as the case may be, were required to be grossed up for the purpose of computing the additional tax."

The above word salad was graciously explained by the tax department as an example—"where the amount of dividend paid or distributed by a company is ₹85, then DDT under the amended provision would be calculated as follows: Dividend amount distributed = ₹85 Increase by ₹15 [i.e. (85*0.15)/(1-0.15)] Increased amount = ₹100 DDT @ 15% of ₹100 = ₹15 Tax payable u/s 115-O is ₹15 Dividend distributed to shareholders = ₹85"

Thus, in 2014, all finance professionals and corporates were reintroduced to the elementary school mathematical concept of grossing up. The department's stance was that since the introduction of DDT in 1997, it was misapplied by corporates on the amount distributed as dividend, and should instead be included as part of the dividend amount declared and subsequently

paid out. This is illustrated in the accompanying graphic. Corporate India should be happy that this change was prospective instead of retrospective, sparing them the accumulated interest, penalties, and fines for lower taxes.

The Finance Act 2016 saw the delicate balance established by the introduction of DDT in 1997 being tinkered with again. Thereon, dividend amounts in excess of ₹10 lakh received by an Indian resident from a company would be taxed thrice—twice in the hands of the company via corporate taxes and DDT, and once in the hands of the shareholder in excess of 10%. The Finance Act (2) 2019 saw the introduction of the "super-rich" surcharge of 37%, further exacerbating the attractiveness of dividends. **The sum total of all these changes is that dividends are taxed thrice at a cumulative rate of 47.36% of the pre-tax profits! One income. Two parties. Three taxes.**

For a company with a turnover of ₹1,000 crore and a profit of ₹100 crore, tax expenses would be ₹25.63 crore. Assuming they declare a 100% of their ₹74.37 crore post tax profits, they would need to fund an additional ₹12.99 crore as DDT. This drives up the effective corporate tax rate for those declaring dividends to 43.10% (25.63% corporate tax plus DDT of 17.47%, as per the grossed-up regime), thereby increasing the cost of capital for corporates. Due to the grossing up provisions, the post-tax profits would have the DDT loaded on to it, lowering the amount available for distri-

bution to ₹61.38 crore. Assuming that the shareholders are in the highest tax bracket, their dividend income of ₹61.38 crore would cost them another ₹8.74 crore as tax, bringing the total tax to ₹47.36 crore (see graphic).

The tax department's motive on taxing the means to return gains to shareholders via dividends and buybacks was to encourage them to invest more into their business. But, corporate India doesn't require tax disincentives to spur investments, they do so based on available opportunities. Firms which are in a growth phase choose to reinvest their earnings so long as the cost of capital is low; firms that are mature choose to return the money back to shareholders so that they can decide to invest the money as they believe. These economic axioms are deeply ingrained in business decision making, and excessive taxes distort these core principles.

It behoves the current government to step in and unravel these dividend distortions. Triple taxation is a perversion of the tax system, and systematically drives up the cost of capital for Indian businesses. The fairest system is the system of dividend imputation, followed by countries like Australia and New Zealand, wherein tax is paid on the difference between the tax rate for the corporate and the tax rate for the shareholder. Barring this, either DDT or the tax paid by the shareholder should be removed, or rationalised to reduce the overall tax rate on corporates to below the current 43.10% level.

This government created history by removing triple *talaaq*, corporate India hopes that the prime minister, Narendra Modi, can boost investor sentiment by removing this pernicious form of triple taxation as well. If not, investors in Indian companies who rely on dividends will find themselves reminded of *Hotel California* by The Eagles. "You can check out any time you like, But you can never leave!"

(₹ crore)	Pre 2014	Post 2014	Company tax	₹ crore	Dividend distribution tax	₹ crore	Dividend taxation - shareholder	(₹ crore)
Amount declared as dividend	100	100	Turnover	1,000	Gross amt available for distribution (A-B)	74.37	Dividend amount	61.38
Grossing up for DDT @15%		117.65	Profit (A)	100	DDT @ 15%	11.16	Taxable dividend	61.37
DDT @ 15%	15	17.65	Tax @ 22%	22.00	Surcharge @ 12%	1.34	Dividend tax @ 10%	6.14
Add: Surcharge (12%)	1.8	2.12	Surcharge @ 12%	2.64	Cess @ 4%	0.50	Surcharge @ 37%	2.27
Add: Cess (4%)	0.67	0.79	Cess @ 4%	0.99	Tax amount (D)	12.99	Cess @ 4%	0.34
Amount paid to the govt	17.47	20.56	Total tax (B)	25.63	Dividend declared & distributed (C-D)	61.38	Tax amount	8.74
			Increase in taxes	17.65%	Effective DDT rate	17.47%	Effective tax rate	14.25%

MISFORTUNE COMES IN threes—we have often heard it appended to routine issues (missed one's alarm, missed one's ride, and missed a meeting) or in deaths (CS Lewis, Aldous Huxley, and John F Kennedy), but India has taken it a step forward, applying it to taxes as well. In the era of double taxation avoidance agreements, Indian investors and shareholders are groaning under a triple taxation regime in the form of the dividend distribution tax (DDT)—a fossil that has increased India's average corporate taxes, and decreased India's attractiveness as an investment destination.

India's history with dividend taxation has been complicated—up to 1959, dividends were taxed in the hands of the shareholders only. India followed a form of taxation known as "dividend imputation", wherein the tax paid by the company was imputed to the benefit of the shareholder, thus enabling the shareholder to only pay the differential between the corporate tax rate and his/her marginal tax rate on the dividend income. However, due to the byzantine system of rebates, concessions, etc, enjoyed by corporates, the grossing up process became subjective, leading to it being changed in 1959. Since then, tax authorities adopted a method which promised simpler computation process, but a higher computed tax amount; all dividends would be paid out of post-tax profits, and would also be taxed in the hands of the shareholders. After liberalisation, the Finance Act 1997 brought in dividend distribution—a 10% tax on the dividend amounts being distributed by corporates, with all dividends becoming tax-free in the hands of shareholders.

Finance Act 2014 stipulated that dividend amount payable be grossed up for taxes. Previously, companies would deduct 15% of the dividend amount being distributed, and remit it to the government along with the additional surcharge and cess. But, from 2014, the dividend amount would need to be grossed up for taxes before distribution. The taxman's argument for this in the explanatory circular to the Finance Act 2014 (2) reads thus—"Prior to introduction of DDT, the dividends were taxable in the hands of the shareholder... However, after the introduction of the DDT, a lower rate of 15% was applicable but this rate was being applied on the amount paid as dividend after reduc-

Time for a big bang

The rupee needs to be made convertible on the capital account to create an immediate burst of demand for dollars

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THE RUPEE'S SUDDEN slip below 72 to the dollar last week, the first time in a year that it fell so low, reawakened concerns of another major step down. While it recovered a little equanimity by the end of the week, the big question is how long this respite will last.

Looking at the rupee's history since 2009, from the (then) all-time low of 51.95, it strengthened steadily to a high of nearly 44 under the influence of shockingly easy money (QE); however, the sudden sharp rise in crude in May 2010 (from 61 to over 120) slammed it down, and in a few months, it fell by more than 20% to 54. As oil steadied, albeit at this higher level, the rupee bounced back—still global easy money—to just below 49. By this time, the Euro debt crisis started heating up and threatening global trauma; the rupee once again fell sharply (by over 15%) to 57 in a few months. But, with QE still in play, the rupee yet again climbed grudgingly higher to 54 till the taper tantrum hit in 2013. The Fed merely suggested that it would soon stop its quantitative easing; the main prop under the rupee fell away, and it crashed by nearly 25% in a couple of months to nearly 69.

Dr Rajan, who had just come in as RBI Governor, launched his rescue effort, which helped the rupee recover to 58 in about a year. However, since the market believed that the days of zero cost money were coming to an end, the rupee slowly, but surely drifted lower, and, despite the fact that oil prices had fallen sharply (to around \$40), it remained generally weak. Over the last five years, it tested the 69 low a couple of times; finally, about twelve months ago, when oil climbed

above 80 again, it broke the barrier and hit the all-time low of 74.50.

This capsule history is to point out that the rupee, thus far at least, has only fallen sharply under global pressures—rising oil prices, threat of another global crisis, or the threat of the end of easy money. Domestic considerations—falling exports, growth in the gutter, etc—don't seem to have a significant impact. This is, perhaps, unsurprising because the net demand for dollars (from the current account deficit, debt repayments, outward investment, etc) in the domestic forex market is generally overwhelmed by portfolio flows and, historically at least, direct investment.

Currently, portfolio flows remain strong—they have reached \$17 billion this year, the fourth highest since 2011. Importantly, absent a global crisis, these will likely continue given that more than \$15 trillion of bonds globally currently provide negative yields; the issuers include some AAA corporates as well as some governments, like Romania and Bulgaria, that are normally considered emerging economies. India, despite the major problems with growth and governance, is certainly as good a bet (or better) than some of these and provides fully-hedged dollar returns that are positive. There is also the nearly \$7 billion closure of ArcelorMittal's purchase of Essar Steel through the IBC, plus expected disinvestment proceeds, which the government is budgeting for before the end of the financial year, that could further support for the rupee.

RBI, of course, has been steadily buying dollars—its reserves have risen by over \$1 billion for seven straight weeks—

no doubt aware that a stronger rupee would be disastrous for both the export sector, and local manufacturing.

The government appears to be clueless, perhaps even unaware that there is a problem; to be more charitable, perhaps they are waiting for another global event, which could happen anytime—tomorrow or a few years from now. But, that's hardly sensible—if the rupee were to collapse (to, say, 80 or 85) in the next global firestorm, chances are many other currencies would fall as well, and our relative competitiveness would either not budge or, possibly, take a further hit.

It is clear that we need to grab the bull by the horns, and undertake another set of big bang reforms, part of which would be making the rupee convertible on the capital account. There would be an immediate burst of demand for dollars as people pushed and shoved to send money overseas; there would also be huge speculative short rupee positions, and the rupee could fall as far as 100, perhaps even 120. At such, much weaker levels, investment flows would grow sharply, pushing the rupee back up to, perhaps, 80 or 85. Volatility would rise, and exports would finally become much more competitive.

To be sure, this disruption will only be effective if there is a parallel deregulation of markets for labour, land, and capital. Tax authorities, regulators, the judicial system and governance would need to be overhauled as well. A huge job, but, with appropriate planning, it can be done—indeed, it must be done.

The government needs to get its head out of the sands of self-congratulation, acknowledge the crisis and do its job.

LETTERS TO THE EDITOR

Statistical system at stake

The independence and credibility of the Indian Statistical System is at stake. The government's decision to scrap the Consumption Expenditure Survey which is reportedly to have been pointed out the fall in household consumption by 3.7% is unfortunate. It shows a continual reluctance to accept ground economic realities and an unwillingness to correct course. As households expenditure accounts for a significant share of the economy, the report pointing to a considerable fall in household consumption is very much at odds with official data, which shows that the economy grew at 7.2% in 2017-18. Reliable and timely data form the bedrock of policy making and the government can't ride rough shod over the statistical system's independence. — M Jeyaram, Sholavandan

Cloud of uncertainty

A cloud of uncertainty hangs over government formation in Maharashtra, with none of the political parties making any concrete move. After it appeared that the Shiv Sena had parted ways with its ally, the BJP, the former has indicated that it is again willing to align with the NDA provided that the saffron party reverts to the 50:50 formula. The BJP is also sparing no efforts to get Sharad Pawar's NCP on its side to cobble up the numbers required to form the government. However, the picture continues to be hazy. — NJ Ravi Chander, Bengaluru

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Onus of fixing GST not just the central government's

While GST Council must work on tackling ITC fraud better, states must agree to removing exemptions & hiking rates

GIVEN STATE GOVERNMENTS have not got their GST compensation—this is guaranteed when their revenue-growth falls below a certain level—for the months of August and September, and the chances of getting the full compensation for the rest of the year also look bleak, it is not surprising they are up in arms. A joint statement by the finance ministers of four non-BJP states—Kerala, Punjab, Rajasthan and West Bengal—points out that, with GST comprising nearly 60% of the tax revenues of states, this is "literally bringing activities of the States to a grinding halt". A day prior to this, West Bengal finance minister Amit Mitra wrote to union finance minister Nirmala Sitharaman, asking her to convene a meeting urgently to discuss ways to augment revenues, and to set up an effective mechanism to detect and avert input tax credit (ITC) frauds. It is not clear how large ITC fraud is, but given the Centre caught ITC frauds worth ₹11,500 crore last year, the total fraud could be in the region of ₹100,000 crore a year; estimates are the government catches 10-15% of theft. Since higher collections of ₹100,000 crore per year would be enough to ensure the states get fully compensated, Mitra was right in pointing out that development of business intelligence systems to detect such frauds, and setting up dedicated units in each state, is the need of the hour.

It is, of course, not clear how Mitra thinks all fraud can be caught, and within a few months. And, surely the fact that the economy is growing much slower than last year—FY20 growth could be 5.5%-5.75% as compared to FY19's 6.8%—would also have contributed to the slowdown in collections; more so, when you look at how sales of automobiles that are taxed at the highest rate have fared so far in the year.

While it is true that states were promised a compensation, the four state finance ministers are stretching credulity a bit when they say "it was recalled that the assurance of GST compensation was a necessary enabler in States agreeing to subsume their fiscal sovereignty into GST" since the suggestion is that Sitharaman dip into the Centre's tax kitty to pay states the compensation. The GST Act did provide for compensation—paying this if state revenues failed to grow at 14% was more than a bit generous—but, this was to be paid out of the compensation cess; if the cess fell short—as it is now, thanks to the slowdown in sales of automobiles, for instance—there is no mechanism to ensure the states get paid.

The only way to ensure GST grows faster, then, is to reduce the number of items that are not taxed at all, and to raise the tax slabs of 5% and 12% and, over time, also reduce the 28% rate so that GST settles in the 14-16% range; as the number of slabs, and the gaps between them reduce, tax evasion will also fall. And, while it is true that there are problems with the GST system that need to be ironed out, it has to be worrying that 28 months after GST started, the annual returns for even FY18 have not been filed as yet; the last date was this month, and that has just been pushed to December 2019. Nor has, till now, an acceptable solution been implemented for invoice-matching that is at the heart of the GST system. So, when a special GST meeting is called, the states would do well to focus on the real issues instead of trying to exert pressure on the Centre to dip into its own kitty to pay them compensation.

ULBs must get finances right

CAG report on Karnataka highlights problem areas

WITH FUND DEVOLUTION from states often delayed and inadequate, one would think that urban local bodies (ULBs) would look to strengthen their tax revenues—from property tax and/or professional tax. However, as a recent report from the Comptroller and Auditor General (CAG) of India on ULBs in Karnataka shows, even in a top-tier city like Bengaluru, local governments have dropped the ball on tax collection. The Bruhat Bengaluru Mahanagara Palike (BBMP), which had been named the worst performing ULB in Janaagraha's *Annual Survey of India's City Systems 2017*, saw its collections as a proportion of the budgeted estimate slip to 60% in 2017-18, from 66% in 2015-16. Overall, ULBs in the state saw tax collections as percentage of demand raised fall to 54% in 2017-18, from 62% in 2013-14. While the report doesn't state reasons to explain the shortfall, the CAG's findings in the case of the Shimla (Himachal Pradesh) ULB are instructive—authorities not only failed to collect any fraction of a ₹1.77 crore tax demand raised against a company, they also didn't take any punitive or legal action for three years.

The CAG report also talks of how BBMP has repeatedly defaulted loan repayments despite provisioning for these in the budget and availability of sufficient funds, including the portion devolved from the state government. This has caused an avoidable penal interest of ₹20.07 crore to be levied. Such mismanagement is not specific to the ULBs. While the 13th Finance Commission had recommended that states set up a property tax board to assist ULBs in coming up with a transparent process to assess property tax, Karnataka hasn't done this.

The Economic Survey 2017, based on a Janaagraha analysis, had stated that municipalities could earn more by correctly assessing the tax due. In the case of Bengaluru and Jaipur, Janaagraha had estimated that the cities collected just around 5-15% of the total property taxes due in principle. Bengaluru, for instance, could raise as much as ₹4,360-8,694 crore as tax from property. Matching real-time satellite imagery with cartographic archives could help identify untapped property tax potential, even evasion. But, as the CAG report shows, the problem is not just of inadequate funds, but also of poor handling of available funds. While OECD countries have an average property tax collection of around 1.9% of GDP, India's is a much lower 0.2%. The system, thus, is in dire need of a revamp. Ranchi, with its PPP model of tax collection, can be one example—property taxes rose five times in the city in just two years. Raising money via municipality bonds to fund infrastructure could be another. Once ULBs gain a satisfactory record on generation of tax revenue, even municipal bonds that could bolster ULB finances significantly could take off.

RightSTAND

Delhi HC refusing to quash rape FIR after accused agrees to marry petitioner a strong push for justice

THE DELHI HIGH Court has refused to quash the FIR in a rape case after the accused agreed to marry the woman—in similar instances, the Bombay and Kerala High Courts had quashed FIRs using Section 482 of the Criminal Procedure Code that allows for the inherent powers of the High Court to prevail over the provisions of the CrPC if an order of the Court under this provision is passed to, among other things, "secure the ends of justice". In this particular case, Justice Brijesh Sethi opined that rape falls under the category of severe and heinous crime, which could not be quashed even if parties had agreed to settle the dispute. So, even if the person had decided to marry the woman, the criminal case shall continue against him.

Even though SC had warned against HCs using Section 482 to quash cases where parties had amicably settled the matter—it had observed that rape is an offence against society, and is not a matter to be left for the parties concerned to compromise and settle—the practice has been widely prevalent across courts, on the grounds that it would harm the woman's interest if the criminal case against the accused were to continue even after settlement. It is true that many complaints are usually filed in cases of rape on the pretext of marriage, and a lot are settled outside court, but coercion can also lead to rapists getting off scot-free if such a precedent is set. More so, when as per NCRB data, one-third of the 32,559 reported rape cases pertain to assault by a known person. Delhi HC has, thus, done well not to allow such infractions. Not only will it save the Court from frivolous litigation but also protect the rights of the petitioner, and given how rape cases are often settled in the hinterland, this will be a strong vote for justice.



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Constitutional issues arising from telecom, Essar rulings

Unless every organ of our democracy focuses on its own sphere only and outcomes, a constitutional crisis is not too far away

THE SUPREME COURT (SC) needs to be commended for bringing closure on the telecom and Essar Steel cases. Having said that, the implications of some of these orders require wider public debate.

First, the SC upheld the government's definition of adjusted gross revenue (AGR). The estimated liability of companies, including those having gone out of business, is ₹1.33 lakh crore, of which Vodafone Idea's is ₹39,313 crore, Airtel's ₹41,507 crore, and RCom's about ₹16,000 crore, etc.

What surprised me was that the SC asked the parties to pay this sum within three months of its order dated October 24, 2019. In normal times, paying such a large sum in three months is tough even for India's highest rated corporate, but in today's challenging times even tougher.

What was the pray? According to Para 1 of the SC order, the matter to be decided was the definition of gross revenue, i.e. "In the appeals, the question involved with respect to the definition of gross revenue as defined in clause 19.1 of the license agreement granted by the Government of India to the Telecom Service Providers."

Was not the dispute about the definition of AGR? Having decided that, should the honourable court have also decided a payment schedule? Is that not a decision to be taken by the government of India, whose claim was upheld, or and the Association of Independent Telecom Service Providers of India, etc?

Is the executive not best suited to decide on the payment schedule? Its decision could be based on the ability of telecom companies to pay, their existence as a going-concern, possible NPAs, promo-

tion of digital India and government's revenue needs, which has a bearing on the fiscal deficit, etc.

The payment of such large sums, within three months, has increased the gloom in the telecom and banking sectors, both of which are under severe stress. For the record, the net debt as on September 30, 2019, of Bharti Airtel was ₹1.18 lakh crore, and Vodafone Idea ₹1.02 lakh crore.

Now, the SC has to agree on payment terms for which it needs to understand the pros and cons of each parameter referred to above. The point is, these decisions are commercial in nature and do not involve interpretation of law, so do they not lie within the domain of the executive?

I recall the words of eminent lawyer Harish Salve who recently said that "The Supreme Court is to be squarely blamed for the current economic slowdown." In an interview to a news website, Salve has said that the slowdown began with the top court's judgment in the 2G spectrum case in 2012. In the interview, Salve also said that the Supreme Court has been "inconsistent" in dealing with commercial cases, causing "grave concern in the minds of investors."

Do we want a repeat? Telecom companies must realise that the government does not have the fiscal space to repeatedly bail them out because of their errors of judgement (revenue-sharing) or interpretation of AGR.

Whilst the author has the highest regards for the judiciary, here is another matter worth reflecting upon.

Essar Steel's journey under the Insolvency and Bankruptcy Code (IBC) started on August 2, 2017, when its cause was admitted in the National Company Law Tribunal (NCLT), and ended on November 15, 2019, when the SC passed its order. The process took 834 days.

In between the matter kept moving from one court to another. It seemed petitions were being filed to prevent the inevitable. Bankers were frustrated with these delays, since the company owed its financial creditors ₹49,473 crore. Eventually, the government amended the IBC in July 2019, revising the time limit to 330 days including litigation period, from the earlier 270 days.

This was done to put a sense of urgency into the process so that the resolution professional and adjudicating authority took timely steps to complete the process.

In the Essar Steel case, the National Company Law Appellate Tribunal (NCLAT) order was passed on July 4, 2019, and decided by the SC on November 15, i.e. a good 133 days later.

Those involved in the IBC process need to understand the concept of 'time

value of money'. If the Essar Steel matter was resolved a year ago, can you visualise the impact on India's banking sector and the economy?

In its November 15 order, the SC "relaxed the revised 330-day timeline for resolving stressed assets by diluting its mandatory nature and leaving a window open for the adjudicating authority/appellate tribunal to extend the time under certain circumstances." (*Business Standard*).

"The SC called the amendment an excessive and unreasonable restriction on the litigant's right to carry business under Article 19(1)(g) of the Constitution. The amendment goes against Article 14 of the Constitution, which says that the state cannot deny to any person equality before the law or equal protection of the laws within the territory of India." (*Business Standard*).

Given the delays that continue to plague the judicial system, was doing away with the mandatory clause warranted? While constitutional experts can debate this, here are some observations.

It is an example of courts' unwillingness to work within the deadlines laid down by the executive. Bahram Vakil, founding partner at AZB & Partners, said it simply in a November 15 interview on CNBC TV18, "As I say, my profession is not known to be very keen on timelines."

Striking down the word 'mandatory' must also be seen in the context of courts getting involved in governance issues, huge backlog of cases across courts, and its approach that the judiciary is accountable to none but itself.

If the former Chief Justice of India Ranjan Gogoi could, along with four fellow judges, burn midnight oil, first tell the petitioners in the Ayodhya case to finish their arguments before a predetermined date and then pass an order a week before he retired, what is there to prevent the resolution professional, adjudicating authority/tribunal and courts from following a similar approach.

A faster IBC resolution will benefit all, especially India's banking sector reeling under NPAs, and improve India's ranking in the ease of doing business and the business climate in the country.

Coming to Articles 19(1) and 14. Article 19(1)(g) reads, "All citizens shall have the right to practice any profession, or to carry on any occupation, trade or business."

The SC held the 330-day deadline (mandatory) to be an excessive and unreasonable restriction on the litigant's right to carry business. Since this article applies only to the citizens and the 330-day deadline to the corporates, it would be interesting to know why Article 19(1)(g) was applied in this case.

Even if this Article applied to the corporates, it seems difficult to fathom how did the word 'mandatory' 330-day deadline infringe upon the right of a company to carry on any occupation, trade and business? It is by exercising such a right that the business was carried on. The inability of the corporate to repay bank loans started the bankruptcy process, thus all rights ceased.

Now coming to Article 14. It reads, "The State shall not deny to any person equality before the law or the equal protection of laws within the territory of India."

Concept one, i.e. equality before law, ensures that there is no special privilege in favour of any one. This concept of equality is a misnomer. If it were true, Hindus would, like Muslims and Christians, have the privilege of managing their places of worship.

Unless every organ of our democracy focuses on its own sphere only and outcomes, a constitutional crisis is not too far away.

(The purpose of raising these issues is to provoke thought and not cast aspersions on the judiciary, individually or collectively. The author does not claim to be a constitutional expert.)

Taking the rural road to growth

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Rural demand stimulus could be the key driver to overcome the slowdown

IS INDIA'S ECONOMIC slowdown in sync with the global synchronised slowdown? It is hard to find a definite answer, but in a limited sense it could be 'yes'. Why one argues this is because India is still relatively more domestic-driven than external-driven; we do emphasise the significance of the external sector and its contribution to GDP and growth rate, but such overriding contribution of exports to India's economic growth is yet to be felt, unlike China. This is clear by looking at the last three quarters' data that show mostly continuous decline in exports—6.1% decline by registering \$26.13 billion in September-end 2019 from \$30-plus billion in earlier years.

So, the genesis of the problem possibly lies somewhere else. Surveys and ratings by the IMF, World Bank, WTO and Moody's scare us to the extent that the growth rate could be falling dramatically from above 7% to around 5% in 2020.

What is apparent from India's current slowdown is that there is a deficient sectoral demand, as seen in real estate. With the rise in NPAs, high-handedness and non-delivery by owners/builders, lack of credit, incompetency of the RERA, the sector witnessed a steady collapse of demand. With the fall of real estate demand, supportive sectors also took a hit. Steel, cement and other allied industries found production activities coming to a significant halt—this resulted in layoffs. This structural fall in demand in metropolitan and semi-urban areas created a ripple effect on workers' incomes. The fall in incomes led to a fall in demand across India.

The situation in the construction sector is worse, which employs a large number of informal labour. Those who joined construction activities in metro and semi-urban areas in the last two decades went out of employment because the sector witnessed a slump. Most labour belongs to rural areas migrating to cities. Now they hardly find other employment in cities as they are mostly unskilled. This is forcing them to return home. Their homecoming is adding fuel to the fire, as there is already a serious rural distress with the agricultural production drying up. This additional labour force returning home finds it difficult to be absorbed. The oversupply of labour in the rural economy will put a downward pressure on rural wages, and this will result in a fall in rural demand. The prime indicators of consumption demand in the rural economy for some time have been sales of two-wheelers and consumption of non-durables, and these are witnessing a decline in demand.

So, what can be done? A combination of strategies may be adopted to bail the economy out of this morass. First, it is essential to revive the rural economy. Agricultural activity needs a priority. A substantial amount of agricultural investment needs to be done to help farmers produce more and better. Rural connectivity in terms of physical infrastructure needs to be developed to allow rural agricultural production to be sold relatively at a higher price in semi-urban and urban areas to fetch more incomes for farmers. Micro-credit without collateral for these farmers may be ensured. Agricultural land reforms should be initiated in many states.

Second, it is important to revive real estate, especially construction. Most construction activities are in residential or commercial complexes, not so much in physical infrastructure. This is where rural workforce can find reasonable employment. Employment in cities will generate income for them, which will finally be sent to villages, and that is how the rural economy can be revived.

The announcement by the government to provide a stimulus package to revive the sector may be a good initiative, but not a sufficient condition as consumers lack capital or access to credit. More so, the negative sentiment towards real estate is damaging—many real estate developers are not enthusiastically looking at this market in spite of the reduction in corporate tax. The revival of NBFCs may boost the sector and revive the economy. The Indian economy can perhaps overcome the slowdown through a huge rural demand stimulus.

WE ARE DEEPLY honoured, indeed humbled, to get this prize (Indira Gandhi Prize 2018). Thank you so much for recognising the work of the Centre for Science and Environment. My colleagues and I accept this prize with gratitude, but also with the awareness that so much needs to be done. All our work, all our efforts must add up—we have to make a difference in this increasingly climate change-risked and insecure world. Your recognition will give us courage to persist. But more importantly, it underscores the imperative of action. Urgent action.

We believe Mrs Indira Gandhi brought the environmental concern to national stage in the 1970s... she was the only world leader who went to Stockholm in 1972 to attend the first global conference on environment and development; she brought in the water Act; the air Act; and most environmental legislations that have worked to safeguard us. She saw the need to address this existential crisis, before anyone else environment was not a buzzword for her. It was real. It was urgent. Her foresight, her wisdom is what we need today.

Today, we all understand the imperative and the sheer desperation of the crisis. When every breath we take is toxic, we know that we have a crisis that needs to be fixed. We know also that climate change is not an empty threat any more. It is real. It is happening. The weird weather events that are hitting the world should make us sit up; in India, the monsoon is changing... We are seeing extreme rain events like never before; we go from flood to drought; the intensity and frequency of cyclones has increased; the poor who did not con-

We must rethink our climate plan

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Director general, Centre for Science and Environment (CSE)



tribute to the emissions in the atmosphere are the victims. And remember, this is just the beginning. We are at 1 degree C rise since 1880 and the speed at which the world is pumping greenhouse gas emissions into the atmosphere will be definitely breach the guardrail of 1.5 degree C. Climate change is hitting the poor today, but it will not spare the rich tomorrow.

We must pause and rethink our strategies. When Mrs Gandhi said "poverty is the greatest polluter" (there are many interpretations her statement made in 1972), I believe she spoke about the need for inclusive development. Today we know we cannot have sustainable development and we cannot have peace, without growth that is affordable and inclusive. Why do I say that—

Air pollution is the greater equaliser—

the rich and the poor breathe the same air. Unlike water pollution, where the rich can move to bottled water, here there is no solution. The air purifier is not the answer. If we want our air to be clean, we have to clean the air outside. This means we have to recognise the air-shed is one—the emissions of the woman cooking her food on biomass; farmers burning crop residues because they are poor; or industry using dirty fuel because it keeps them competitive; diesel SUV of the rich all go into the same space—in the same air we breathe.

Therefore, the solutions have to be inclusive. Today, less than 20% of Delhi owns a car or drives; rest take two-wheelers or bus or cannot even afford this and walk or cycle. But cars occupy 90% of the road space; roads occupy 26% of the city's



land area. We are already polluted and congested. Where, then, is the space for the remaining 80% to take a car. But this is also our opportunity. If we can plan and implement a public transport system that is both affordable for the poor and convenient, safe and modern enough for the rich, we can transform mobility, fix our pollution. Inclusive, then, is sustainable.

It is the same with water pollution—most of India is not connected to underground pipeline grid of the rich. My colleagues have done shit-flow diagrams for cities and they show most of our cities are dependent on what we would call septic systems. If we cannot design affordable sanitation systems for the poor, our rivers cannot be cleaned; cost of dirty water in a climate-risked world will be unbearable. It

will make us even more water-insecure.

In an increasingly unequitable and climate-risked world, we must also rethink peace and security... every drought, flood, cyclone takes away the development dividend that governments work so hard to build; it takes away homes, roads, livelihoods; it then costs more to rebuild, to restart from the very beginning... It means that people—however resilient—cannot cope any more. They have no option but to leave their homes, their villages and go in search—no longer of temporary—but permanent new homes, livelihood. We don't know how many are in our cities today because our official counting is always 10 years out of date. But I can tell you that today most Indian cities are growing in the illegal. This suggests massive movement of

people; it will make city governance more difficult... This tipping of the scales of migration means that politics of immigration will and has become even more nasty, more angry, and is feeding insecurity, not just of the poor but also of the already rich.

Our interconnected world has two simultaneous jeopardies—one, it transports climate-altering carbon dioxide emissions from one country to the global atmosphere, and two it transports global news at the speed of mobile telephony. The push and the pull will only increase in this context. This is not the world we want our children to inherit. And this is where Anil Agarwal, CSE's founder, would say: "We have a duty to hope."

We have to work our democracies, build the public opinion on the imperative of change, keep the focus on the possibility (the sheer adventure or audaciousness) of the solution, be bold, fearless and most important ensure that we keep our independence and credibility in all eyes.

This is where we at CSE—my colleagues and our very extended family of supporters and colleagues—will keep ourselves grounded. There is much more to do. When we began our work, we were innocent—it seemed so easy. Now the challenge is massive; daunting even. Every winter in the smog we (I) want to give up. But we can't. We owe it to you the enormous love and respect that we receive from all of you to continue. Be that dog with the bone. Persist and persevere. We have to.

Excerpted from the acceptance speech by Sunita Narain, director general of the Centre for Science and Environment (CSE), which was awarded the Indira Gandhi Prize 2018, on November 19, 2019.