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- A Tragic Travelogue

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**The Uselessness of Art**

- 10 Art is a rare form of economic activity that has an impact on every other human endeavour without ever proclaiming its influence. — *T M Krishna*

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Ever since the first issue in 1966, *EPW* has been India's premier journal for comment on current affairs and research in the social sciences. It succeeded *Economic Weekly* (1949–1965), which was launched and shepherded by SACHIN CHAUDHURI, who was also the founder-editor of *EPW*. As editor for 35 years (1969–2004) KRISHNA RAJ gave *EPW* the reputation it now enjoys.

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**MTP during COVID-19**

We, the undersigned, are medical doctors, public health workers, researchers and feminists concerned with the issues of reproductive health, rights and justice.

In the case of *Sama v Union of India and Others*, the honourable High Court of Delhi ruled that the Union of India and Government of National Capital Territory, Delhi

shall work in tandem to make sure that no barriers are faced by pregnant ladies and their family members residing in hot spots during the lockdown. (High Court of Delhi, W.P.(C)2983/2020 & CM APP Nos 10345-46/2020, dated 22/04/2020)

While this is a welcome move, we urge that access to safe abortion is specifically recognised and appropriate services extended to women seeking abortion.

It is completely understandable, and correct, that all non-emergency procedures be suspended at hospitals in these times of COVID-19. Thus, not only elective plastic surgery procedures, but surgeries such as that for inguinal hernia, or thyroid adenomas have to be postponed. This is for two reasons: first, to prevent exposure of people to the novel coronavirus in hospitals; and second, to reduce the demand on health systems overwhelmed in the COVID-19 pandemic.

The situation with medical termination of pregnancy (MTP) is, however, unique and cannot be classified as a “non-emergency” procedure worthy of postponement.

A woman needing an MTP is in an emergency situation. She cannot afford to wait for the pandemic situation in the country to abate. By then, she might well have passed the time frame for her to access a safe and legal abortion. Further, one of the key barriers to access abortion services is the transport ban. Unlike childbirth, women needing abortion services need confidentiality, and may not often share their predicament with their family. Therefore, in lieu of face-to-face consultations, availability of medical abortion drugs in primary level clinics, for example, mohalla clinics, primary healthcare centres, dispensaries or e-prescription by obstetricians/doctors, along with access to a helpline that provides abortion service guidance should be permitted in containment zones where residents cannot go out of the zone. The government's recent directive to test full-term pregnant women from these zones coming for delivery adds to the problem. This directive will add an additional layer of gatekeeping that will further compromise access and needs to be revisited.

As it stands, India bears a huge load of illegal abortions. They are estimated to contribute up to 12% of the unconscionably high load of maternal deaths we have in the country.

We know that in the times of COVID-19, deaths due to hunger-related causes, starvations, tuberculosis, malaria, etc, will increase meteorically as hunger and unemployment increase. Let us not add to this by denying women abortions or

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We have made some changes to the accessibility of journal issues on the *EPW* website.

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There will be no change in the accessibility of articles for existing paid digital/web subscribers.

If you wish to access articles or previous issues from our archive, please take a look at our affordable subscription plans: [www.epw.in/subscribe.html](http://www.epw.in/subscribe.html).

making access even more difficult than it already is.

Jaime Todd-Gher and Payal K Shah note:

Yet abortion services are more essential now than ever. Preliminary reports indicate that states' COVID-19 responses may lead to increased unintended and unwanted pregnancies due to quickly diminishing contraceptive supplies, increased incidence of domestic violence, and rising income insecurity. Compelling continuation of unwanted pregnancies is recognised as a human rights violation in several circumstances, including where there are foreseeable physical or mental health impacts for pregnant persons. Further, pregnancy carries heightened risks during crises and COVID-19 may create new barriers to pregnancy-related care.

It is possible to provide safe abortions in the times of COVID-19, as is being done in several countries such as the United Kingdom, Ireland and France.

COVID-19 cannot be used as an excuse to deny women's right to safe abortion, as the state of Texas has done in the United States.

We urge the government to act forthwith to restore women's access to services directed at the full gamut of reproductive health and rights, including access to abortion.

Mohan Rao, Laxmi Murthy, Imrana Qadeer, Urvashi Butalia, Nivedita Menon, Ayesha Kidwai and 72 others

## Just a Good Human Being, Please

This is an appeal to all parents, present and future, and significant adults in a child's environment. Especially those who are raising boys or looking forward to doing so. Make sure you raise a boy who will grow up to be a good human. Do not raise him to be a man, for our definition of a man is not only skewed but also archaic and misogynistic. The recent incident of the "bois locker room" and all the horrors that are being unearthed daily have been very disturbing. I cannot fathom how these boys were driven to turn into such monsters at such a young age. While we can blame their family, the internet, and other negative influences, deep down, all of us know that we too play a small

but significant part in this. We need to change the narrative. A majority of our society believes that

A man is the head of the family

A man does not cry, he takes out his frustration by being violent and angry.

A man should be served by the women in his house. He need not cook or do household chores, his mother will do that and later his wife.

A man owns his wife and has the right to be violent towards her or his children.

It is in the nature of men to objectify women.

It is common practice amongst gatherings of men to say derogatory things about women.

A man can only be attracted to a woman.

A man cannot help it if a woman is dressed in a certain way. The woman is asking to be raped.

Our constant disregard of certain behaviours, which we often categorise as "boys will be boys," is what has allowed this incident to take place today. Anyone who does not speak up against the problem of 16-year-olds discussing the gang rape of girls on a chat group is equally guilty.

Those who justify this with "Oh, as long as they have not done it, it is not a crime" must be asked if we should wait for young girls to be raped before we address the issue? For how long do we continue to blame women and girls for these atrocities? It is not because of the clothes they wear; it is not because they were walking alone on a street late at night. It is because of the misplaced idea of what it means to be "a man." It is also especially important to raise your girls right. Let them know that,

Girls can work after marriage.

Girls can be loud and speak their minds.

Girls are free to wear what they want.

Girls should be confident of their body, they do not need to look a certain way.

It is not the end of the world if a girl does not know how to cook or do household chores. She certainly does not need to learn it for her in-laws, only for herself.

It is not okay for a husband to hit his wife.

Women do not have to suffer sexual or domestic abuse silently.

Consent is paramount. It is not okay to take/share photos or engage in any physical intimacy without a woman's consent.

Parents/guardians and adults in a child's life must make sure that their male and female children grow up in an environment where they see both parents as equals. Teach them to be respectful of all people, even if they are different. Reprimand unequivocally any form of bullying or violence towards all living creatures. You do not need to swear, make fun of others, or take part in activities you know are wrong to be cool and popular. Teach children to be patient. Let them know that they cannot have whatever they ask for; they need to earn it.

I am fortunate that my grandfather shared the household duties and raised amazing children with my grandmother, and to my father has always spoken about and consulted my mother in every important decision he has taken. And finally, my dear brother is making sure my sister-in-law has hot food and every other comfort when she returns home exhausted, after fighting the COVID-19 pandemic on the frontlines as a doctor. At the same time, I must mention and thank my grandmother, my mother, my aunts and my sisters, all of whom are strong women. They make sure that they are heard and looked at as equals by every man around them. They have shown me what it means to be a woman in this world.

So, even if you are not a parent, but are an aunt/uncle, brother/sister, or a classmate and you see something that does not seem right, point it out immediately. Do not wait for something worse to happen.

Call it feminism, call it activism, or even gender equality. In actuality, it is just about being a good and responsible human being.

Nayantara Deshpande

THANE

## EPW Engage

The following articles have been published in the past week in the EPW Engage section ([www.epw.in/engage](http://www.epw.in/engage)).

- (1) Plight of Legal Aid Counsels at the District Courts of India — *Jeet Singh Mann*
- (2) Smell Matters: A Critical Reading of 'Parasite' — *Lipin Ram and Satish Chennur*
- (3) COVID-19 Crisis: Economic Stimulus Packages and Environmental Sustainability — *Poonam Mulchandani*

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## Ameliorating Rural Distress

*Expansion of the scope and coverage of social safety nets to support livelihoods is the need of the hour.*

The COVID-19 pandemic and the ensuing lockdown that coincided with the rabi harvest season has also adversely affected the livelihoods of the poor and vulnerable sections dependent on the agriculture and its related sectors among other sectors. In fact, the outbreak of the pandemic has compounded an already existing unemployment and distress situation in the country. Although the crisis engendered by the novel coronavirus has an impact that varies across states and regions, the disruptions in the food supply chains have been evenly felt across the states. While the government in one of its several announcements has allowed farm activities during the extended lockdown, much damage has already been done.

This has happened as there was a lack of proper planning before the first announcement of the nationwide lockdown on 24 March to mitigate its immediate detrimental impacts on the economy in general and the livelihoods of the poor in particular. Disruptions in the procurement of foodgrains by the government agencies, limited and staggered operations of the Agricultural Produce Market Committee (APMC) mandis, blockages in the transport of agricultural commodities and the closure of retail markets have caused bottlenecks in the supply and marketing of agricultural and farm produce. The immediate effect has been a fall in farm prices of a range of agricultural and horticultural commodities. The shortage of labour in the farms has also hindered the harvesting of the rabi crop on time as migrant labour returned to their home states amidst the pandemic. This has happened at a time when the acreage under the rabi crop has gone up significantly, compared to the last kharif season. According to government estimates, the acreage under rabi crop increased by 9.5% compared to kharif by the end of January 2020.

However, according to recent research, the dominance of agriculture and allied activities in the rural economy has dwindled, while the contribution of the farm sector to rural incomes has been falling over time. The average monthly income of agricultural households has been slightly higher than that of non-agricultural households. But, it needs to be noted that a substantial part of the income of both types of households is wage income according to the All India Rural Financial Survey, 2016–17.

A range of relief measures, including food and cash transfers has been announced by the government, but given the scale of the problem, whether these measures would be adequate to

provide much succour to the needy remains questionable. With the reverse migration of informal workers to the villages from where they had moved out of low productive activities, the magnitude of the livelihood crisis in the rural areas has intensified. The increase in the number of members in a household without additional incomes to support them could only worsen the food and nutritional security of households.

In such an ongoing crisis, an effective universal public distribution system would be able to ensure food and nutrition security also, and free rations can be instituted for a protracted period to the working poor. Cash transfers to informal workers over an extended period of time would also provide income support. With widespread starvation already reported from across the country due to loss of livelihoods, the government cannot afford to buy time in devising new policies and implementing them on the ground. The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) could act as an employer of the last resort and a significant coping mechanism for the poorest households. For all its shortcomings, MGNREGA is an on-ground institutional mechanism that is well-penetrated into rural India, currently covering 13.67 crore households.

When the availability of agriculture work is generally low, rural labour generally opt to work under the MGNREGA scheme between April and July. Although the government has allowed MGNREGA works to resume from 20 April, work did not commence even until the beginning of May in several parts of the country owing to state-specific restrictions. Usually, the harvesting season for rabi crop comes to a close in April, and the availability of agriculture work reduces thereafter. This time around, however, due to the lockdown, rabi harvesting is still going on in many states, and there is a demand for more workers to attend to the standing crop. But, under the MGNREGA scheme, only unskilled manual work is allowed. Given the demand for farm labour in the current situation, it would serve the government well if restrictions on the type of work allowed under MGNREGA are removed. Not only will this address the need for more labour in agriculture, but would provide employment, including to the return migrants, by widening its coverage to other allied areas, such as food processing and agro-based industries.

Thus, in order to leverage the full potential of MGNREGA and to address rural unemployment, several measures need to be

adopted. These include removing restrictions on the types of works allowed under the scheme by widening its scope and coverage, providing work to those without job cards to absorb returning migrant workers, lifting the ceiling of 100 days of work per household, clearing pending dues, increasing the

budget outlay and paying the recommended national minimum wage of ₹375 to workers. A more inclusive and expanded implementation of social safety nets and public employment programmes can thus help stabilise the livelihoods of the rural poor in these uncertain times.

## COVID-19 and National Disaster Management Act

*The lack of a clear legal framework to deal with epidemics leads to confusion between the centre and the states.*

**T**he swift, global spread of COVID-19 has exposed the failings of societies around the world—even supposedly “developed” ones. India is no exception. As on date, 50,000 cases have been detected in less than two months, and though the mortality rate (less than 4%) compares favourably to Italy or the United Kingdom, the peak is nowhere in sight. Even this picture hides much.

One glaring failure was the lack of preparedness in the Indian state machinery to handle this outbreak. This is despite a two month advance warning as the world media covered the disaster unfolding in Wuhan in China. When the SARS-CoV2 virus arrived on India’s shores, there were not, and probably still are not, enough test kits, personal protective equipment or ventilators to handle the large volume of cases. For a country with an abysmal doctor–patient ratio and number of hospital beds per million population, this was a disaster waiting to happen. Even these initial failures could have been overcome had SARS-CoV2 virus not exposed India’s greatest weakness: the lack of state capacity.

However it is defined, at its core, the state capacity is about the government’s ability to deliver effective governance, and India’s government has been shown up in this respect. Of the many governance failures in tackling COVID-19, two crucial ones stand out, namely the lack of an appropriate legal framework to manage epidemics and an over-centralisation of powers.

The nationwide lockdown was imposed in exercise of the powers given to the union government under the Disaster Management Act, 2005 (DMA). This law, which was supposed to help governments deal with multistate disasters, has proved to be completely inadequate at formulating nationwide measures to address the COVID-19 pandemic. It was meant to be used in a situation where a state government was unable, on its own, to cope with the result of a natural disaster but has been instead used to hamper state-level efforts to manage the situation. It was never meant to be a legal mechanism to control the otherwise functional state governments. A law to tackle epidemics would have concerned itself with not only empowering local authorities to implement and enforce lockdowns in a reasonable manner but would also have created the necessary legislative backing for such invasive measures as quarantining, contact tracing, and created mechanisms to redress grievances of those who are aggrieved by such measures.

Even at the level of the state, no attempt has been made to update and strengthen the Epidemic Diseases Act, 1897; a colonial era law that nonetheless could have proved to be a crucial tool in the hands of state governments, which are required to respond to fast changing situations at the local level. The massive

confusion has added to the misery of a population quickly running out of money, food, and patience.

In addition to the problem of confusion, there seems to be a top-down approach that seems to have been adopted by the central government. Notifications, guidelines, circulars, and clarifications are being issued from Delhi with little coordination or forethought on the implementation or consequences. This asymmetry in power between the centre and the states, which is mediated by the DMA, leaves the states with no manoeuvring space that could be used to design and enforce lockdowns keeping cultural and social norms in mind. This top-down approach leads one to believe that the crisis situation is taken as an opportunity to centralise power.

These failures at the centre have left state governments scrambling to find ways to manage the outbreak and, barring a few exceptions, they seem to have concluded that the best tool to manage the outbreak is the policeman’s lathi. It is deeply ironic and absurd that a country with pretensions of being a global leader and economic powerhouse, finds itself at the literal and metaphorical mercy of six feet of wood and metal.

Nothing illustrates this absurdity better than the fact that major notifications and guidelines relating to COVID-19 are being issued by the Union Ministry of Home Affairs and not the Ministry of Health and Family Welfare. The language used is still one of law and order: “lockdowns,” “curfews,” “fines” and “surveillance.” It is not just the optics and semantics of it—it seems that the police departments of the country and not the health departments have been put in charge of the management of COVID-19.

This has had grave implications. The Indian police force is mistrusted at the best of times, and at a moment when trust in government needs to be at its highest, the framing of the COVID-19 outbreak as a law and order issue is baffling at best. As Kerala and some other states have shown, COVID-19 is best tackled with the cooperation and trust of the citizens—an approach that will not work unless the state moves to build trust and restore faith in its institutions.

If the example of the 1918 pandemic is anything to go by, COVID-19 may have already done its worst long before an effective vaccine is discovered and mass produced. As with the 1918 pandemic, the only thing that will stop it in its destructive path is the ability of the state to marshal its resources and use them efficiently and smoothly to identify vulnerable populations, trace contacts, isolate the infected and treat the most serious. Whatever the failings so far, the governments in India need to get their acts together immediately to avert a bigger catastrophe.

## A Tragic Travelogue

Lakhs of migrant workers for several days have been footslogging on the roads and railway tracks with the hope to reach their place of origin or home town. The journey home does not seem to be smooth as it is filled with suffering, intensified with uncertainty of getting food, water and medical assistance. Footslogging has endangered the very lives of these workers. As has been reported in some of the sensitive electronic media, these workers are forced not only to risk their own lives but that of their small babies and babies about to be born. According to a media report, a woman migrant worker set herself on a journey in an advanced stage of pregnancy and was forced to give birth to her baby by the roadside, while 16 migrant workers were crushed by a goods train near Aurangabad in Maharashtra.

The way these workers' travelling experiences are unfolding, suggests as if the workers are already enacting a common script of tragedy; a narrative which has no thrill, adventure and excitement. The script, therefore, is not tantalising but deeply tragic, which makes an ethical demand on us, the members of civil society, to realise that it is the failure of the governments that has forced these workers to resort to this mode of journey, which might look "clandestine" to some government authorities.

The tragic script, however, has its origin in the ethical failure of the workers' employers and the central government on the one hand and workers' domicile state on the other. Put clearly, if the domicile government had not failed in terms of providing them with adequate opportunities at the local level, they would have had every reason to stay back. The decision to footslog has come from an acute sense of helplessness caused by the calculative, if not callous, approach of the governments on the one hand and the official confusion that has led to the frustration of these workers on the other.

At another and an emotional level, the suffering of workers has taken over the hearts of those who are making philanthropic efforts to help these suffering lots with food and water. However, the cost that the stranded labourers are paying is much higher than the cost that the states will have to pay in sending these workers to their respective destinations. Keeping in view that the lockdown evinced by COVID-19 has devastated the lives of these workers, does it mean that the decision of migration that these workers took at the first instance was a wrong decision?

One will have to answer this question by employing the concepts of want and need. In light of the meaning that separates want from need, one can reformulate the above question. Did these workers "want" to migrate or was there a dire "need" behind this migration? The answer lies in the second rather than in the first.

Want is synonymous with desire, and hence, it is dynamic. The market, in the general context, does create desire that can be materially gratifying. However, in the market economy, want as desire acquires aspirational value in the urban or semi-urban areas, rather than regions that have been kept backward. The concept of want is gratifying, which then suggests something like "dil chahe more," an infinite desire for gratification. Since want is dynamic, it involves ceaseless longing for monetary gratification. Students who had temporarily migrated to different cities for exam preparations and got stranded in those cities during the lockdown arguably belong to the category of want.

But needs, unlike want, are fixed on certain unchanging resources, such as food, water, shelter, health and education. Millions of workers/labourers, who belong to extremely backward regions, find it difficult to satisfy even these basic needs. The workers move out from the villages not to seek gratification but to minimally satisfy these needs. Counterfactually, had their respective governments provided compatible conditions of meaningful survival at the local level, they would not have had the reason to migrate. It is basically a forced and distress migration.

The migrant labourers do not make the wrong decision of migration. If at all it is wrong, it is wrong because they have been wronged by the governments and by their inability to provide the material conditions that would satisfy not only the labourer's minimum needs, but also enable the workers who "want" to exist over and above the sphere of need.

The tragic travelogue of the migrant workers poses the fundamental challenge regarding the reorganisation of the economy that would eliminate the possibility of distress migration. Migrant workers are expected to rewrite the script in such a way as to effectively enter the horizon of political desire for producing the desired economic development.

*Ujjwal Kumar*

FROM 50 YEARS AGO

**ECONOMIC AND POLITICAL WEEKLY**

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GUJARAT

### No Time to Govern

At the time of the split in Congress, many had doubted Hitendra Desai's ability to hold on against the proIndira faction in the State. It was then believed that most Gujarat Congress leaders being, in political thinking, not very different from their

erstwhile colleagues in the pro-PM faction, they would soon be persuaded to join the pro-PM bandwagon — Morarji Desai's pretensions as Gujarat's elder statesman notwithstanding. These expectations were, however, belied and only a handful of Congressmen opted for Congress (R) and these failed to sway the rank and file of the party to any significant extent. Thus Congress (R) failed to get an organisational foothold in the State.

#### FAVOURABLE FACTORS

Moreover, the main opposition in the State, Swatantra, being in alliance with Congress (O)

at the Centre, was undecided then on what attitude to take towards the Hitendra Desai Government. Because of these favourable factors, even the communal riots in Ahmedabad did not pose any threat to the Government. Contrary to feeling outside Gujarat, Government's alleged failure to protect life and property did not diminish its popularity within the State. In fact, Jan Sangh and those who share its attitude to communal sector enterprises, insisted on accepting a Czech design against a locally-designed tractor and handed over Bokaro Steel on a platter to Russian consultants...

ECONOMIC & POLITICAL WEEKLY

# The Uselessness of Art

T M KRISHNA

I had just sent out a few emails to friends, requesting support for the COVID-19 fund we had set up for marginalised artists when I received a probing email. “Are you being parochial trying to take care of just your own ilk?” a friend enquired. “Daily wage earners, labourers, homeless and so many others need help, but you have specifically looked only at the artist community. You speak so often of inclusiveness, a boundary-less society ... are you not drawing lines, especially during a crisis?” he thundered. It is another matter that we were working on a couple of fronts: one that tried to address the needs of migrant workers and another of the artists who required support. But the question still held.

It made me reflect on the instinct that prodded me to look out for artists, and question my relationship with the arts and artists. Truth is, all of us think in concentric circles. The closest and most intimate is our immediate family and the one farthest is humanity as a whole. The circle closest to us is the biggest spur to action. Therefore, thinking about the condition of artists was a natural response for me—an artist. It was important that a friend flagged up this “personal stake”—of this sense of “our community” and the need to protect them first. We have to be alert to this inherent self-centredness because, driven by the need to earn social capital within own kinship, we may act unethically.

Yet, even on normal days, artists are neglected, rarely coming into focus. And in a crisis like the present pandemic, they have been entirely forgotten. This failing is not new—it is born out of a systemic and social lack of concern. So, perhaps, it behoves us to examine what support structures mean for the arts and artists.

## Patronising Art

There is a national discourse about cultural diversity, our richness of art and craft, the innumerable patterns, movements,

tones, shapes, fragrances, and textures that our people conjure up. In the pages of magazines and dailies, we read about design styles, textiles, the music, the dances, and the mythological tales painted on the walls of homes. The list is truly endless. All this would lead us to infer that this is a land that celebrates its art traditions, where artists are at the very centre of the government’s cultural vision. Nothing could be further from the truth. Irrespective of who has been in power, governments have cared very little for the arts or its practitioners. If anything, the latter have survived in spite of sociopolitical apathy.

But how do we, as a society, view art and artists? The upper castes and others from upper sections of Other Backward Class (OBC) communities control cultural ideas and policy in this country. In their mind, art forms that are significant or that need attention have always been those valued by the upper castes (cutting across religions). This control group defines cultural and aesthetic values. It is the arts, crafts, and artists that the upper castes certify as worthy that receive support.

Even here—in what is perceived as the “high arts”—there are limits. In the Indian middle-class, upper-caste psyche, “the making of art is a service, not one from which the artist must economically benefit.” Making money is a mere accident, a by-product upon which the artist must not place importance. Artists belonging to the same social bandwidth have bought into this philosophical tenet. Consequently, remuneration in art has always remained well below that of any other area of economic activity. Art, in fact, is hardly ever referred to as economic activity.

There are, of course, anomalies to this in the form of super-rich painters or performing artists. But you will find that, in many of these cases, the money

came from outside the country or from wealthy businessmen. Individual artists and their art objects become a tool to add value to someone else’s social standing. This results in significant financial gain for an individual, but in no way changes the system. Within the world of art, such artists are accused of having sold their souls. Folktales about artists who refused to succumb to financial offers made by kings are never-to-be-forgotten moral lessons. The lesson being, frugality and limited needs are prerequisites for a sincere, serious artist. The artist is expected to be a quasi-ascetic. Of course, most impresarios, patrons, and aficionados who applaud this trait live a life of relative affluence. If we remove the superstars and the ascending stars from the equation, we will find that a large percentage of artists who practise even privileged art forms live a lower-middle-class or middle-class life, unless, of course, they come from affluence.

If this is how art held in high esteem by the upper-caste cultural policymakers fares, what, then, of art forms that exist on the very rim of society? At the launch of my book *Sebastian & Sons: A Brief History of Mrdangam Makers* (on *mrdangam*<sup>1</sup> makers), Member of Parliament Thol Thirumavalan said something that has stayed with me. The *mrdangam* is an instrument played primarily by Brahmins but made predominantly by Dalits. Thirumavalan asked: “When *mrdangam* makers, whose creations are played by Brahmins on Brahminical stages, have been invisibilised, what will be the socio-economic state of the Parai artists (an instrument made and played by Dalits).”

We have always used artists on the lower steps of the social hierarchy, living with very limited means, as “showpieces” to display the heterogeneity of India. In reality, the state has cared very little about them or their lives. And we must challenge this not merely in terms of economy but also since it is emblematic of India’s jagged and unequal sociopolitical-economic landscape. Most performing arts are geography- and culture-specific, and depend on non-privileged and socially confined audiences. This means that the

survival of these artists depends on how their societies are constructed and evolved. Without engaging with the socio-politics of the region and art form, it is impossible for us to comprehend the struggles that engulf the artists themselves. Many performing arts are bound by caste obligations—a caste duty towards those who may control the concerned temple or social ritual. And, in most cases, the practitioners too have internalised this violent structure.

### Prejudiced Aesthetics

Art associated with the marginalised castes is described as folk, rural, raw and ethnic—words that seem to express appreciation, but simultaneously damn them with faint praise, signifying them as unrefined and inferior artistic expressions. The arts of the upper castes are venerated in the belief that they require greater intensity, discipline, and sophistication by people who have never truly entered the aesthetic spaces of any of the “other” art forms. This condescension is casteism masquerading as aesthetic evaluation and sophistication.

Recently, as a response to *Sebastian & Sons*, a few comments were made about mrdangam makers. The tone and content had callousness written all over. Mrdangam-making, the argument went, was not inherently complex or intricate. Critics claimed that most of what the makers did was a result of trial and error, implying that not much thought goes, or needs to go, into the making. Most of the innovations, it was said, were a result of the inputs given by the mrdangam artists. In other words, the makers were only physically skilled, with little or no mind. Other than being factually wrong, this argument is also deeply disturbing. Only when the privileged shed our intellectual arrogance will we understand the genius in the maker’s work. This inability to wholeheartedly respect and admire their work comes from inherent (even unconscious) casteist tendencies that are buried under the sensitive liberal exterior. What is worse is when this is paraded as objective intellectualism.

In some responses, so-called upper-caste liberals were uncomfortable that the book had created equivalence between

the making of the mrdangam and the artistry involved in its playing. While I have not actually done that, the fact that the book was read in such a manner and that it troubled some readers was revealing. In order to remain liberal yet demolish even a remote possibility of equivalence, they reasoned that it was not necessary to compare the two (making and playing). As long as we respect each activity for what it is, there is no problem, one person said. This is a dangerous argument that cleverly circumvents the reasons for disrespect, marginalisation (social, aesthetic, and intellectual) and surreptitiously establishes upper-caste intellectual superiority.

When this is the cultural attitude of even the liberals among the dominant, how is an artist practising a non-privileged art form to achieve economic comfort or social significance? Their poverty or near-poverty is normalised because it is believed that the art they practice does not deserve any better—no matter that this will never be publicly said. This is exactly why governments pay even mid-level “classical” artists 10 times more than what they pay senior “folk” artists. Their worth is calculated by discriminative powerful minds.

This has led many artists to move into agricultural and daily-wage labour. The nurturing of cultural practices, especially when practised by and among people who are marginalised, requires the state to take proactive action that comes from respect and admiration, and not as

a product of the “saviour” syndrome. The Indian government has only engaged with marginalised art when it is declared to be “dying.” Even in such situations, it has done little to revive local cultural environments in the places where these art forms are cradled.

The area of textiles is an interesting case of how the privileged saviour could queer the pitch. Reviving diverse traditional ways of fabric colouring, designing, and production has been a mission for many individuals and non-governmental organisations. This has led to natural fabric and handmade clothing becoming a symbol of Indianness, elegance, and sensitivity for upper-caste Indians. For this to have happened, activists re-choreographed the designs and texture of these fabrics to suit the taste of the upper-caste elite. This palette of colours and designs is so well-established today that it has become a universal aesthetic aspiration. Keeping cases of exploitation aside, this has definitely resulted in more money in the hands of weavers. Some may still argue that the percentages are skewed towards the big labels and outlets that make them available to people in India and abroad.

But it is another question that bothers me, one related to aesthetic discrimination. We have asked the weavers to alter their sensibilities to suit the “new” market or found ways of making the old contemporary. All this is rightfully

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justified as necessary for capturing the imagination of the moneyed middle- and upper-middle-class urbanites. Weavers and artists have always changed their ways to cater to new customers, but we cannot ignore the fallouts from these specific transformations. First, we have passed judgment on the aesthetic choices of the people who produce these fabrics. We told them that their taste was not good enough or needed a facelift. Second, we have distanced handmade clothing from its home town or village. In many cases, prices have increased, making it unaffordable for the local person. In other words, the cultural environment was sidestepped, even ignored.

When women in small towns, villages, and in the backstreets of cities wear synthetic sarees, we consider it lowly and ugly. We forget that, not long ago, we had embraced synthetic fabrics. Now we have moved back to the handmade because it has been positioned as the new socio-aesthetic stamp of refinement. There is no doubt that traditional textiles, weavers, and dyers needed support. But the question I am posing is about the *modus operandi*. The revival has been

on our (privileged) terms. Handloom fabrics are no longer widely worn in the villages and towns where they are made. Activists will say that synthetics are cheaper, but that is an excuse.

Whether it is homemade textiles, woodcraft, or metalwork, it is imperative that we, as a society, work towards ways of supporting art practices such that they remain grounded in the place where they are made or cultivated—even while all social boundaries are broken. Otherwise, we are inducing another measure of discrimination. Our current methods of engagement toy with the marginalised, making sure their lives remain uncertain and they, eternally grateful.

A lot of this comes from the way we situate art in our society. Art in all its expressions is not considered essential, and artists are viewed as mere entertainers. But art is much more than eye candy. It helps us make sense of our existence, reflect, imagine, hope, change, discover, and reinvent ourselves. The arts are emotional murals. Through art, we give form to all that we receive through our senses and locate ourselves in this world. Without art, we will wither. When

artists create, there is a selfless affirmation of being, realisation of a larger purpose. This is what the artist means when they say the applause, the smile, that one word of appreciation is their reward.

But since we cannot quantify the artist's reward, the audience's joy, and the impact art has on people, we relegate it to the non-economic, low-priority category. Art is a rare form of economic activity that has an impact on every other human endeavour without ever proclaiming its influence. Until we realise that art in all its dimensions and manifestations is indispensable to keeping our society emotionally intelligent and true, we will remain cultural tyrants who control, manipulate, use, and discard artists.

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NOTE

- 1 The root word for *mrdangam* is *mrd* (meaning earth, clay, soil). The sound of the letter “r” in this word is somewhere between “mru” and “mri.” Thus, “mr” rather than “mri” is the appropriate spelling for the instrument *mrdangam*. This is also closer to the way this sound is represented in the diacritic system.

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# Identity of a Disease

## Social Epistemology and Epidemiology in Light of COVID-19

MAYA JOHN

The intersections of class, region and other social dimensions that go into the discovery and identification of some diseases as epidemics while relegating other pervasive and lethal illnesses as “ordinary” are examined. In this regard, the lopsided relationship between epistemology and epidemiology is explored in detail. It is argued that the combination of COVID-19 with other diseases (also referred to as co-morbidity), as well as undeclared silent epidemics of several other diseases, require recognition.

As the spectre of COVID-19 haunts India and harsh extraordinary state measures unleash their impact on the most vulnerable sections of society, it is increasingly imperative to locate the current paranoia within the wider context of diseases and the process by which the scientific community engages with them. Bombarded by the perceived or real threat of COVID-19, the majority of our country’s poor are now paradoxically more aware and fearful of the disease than tuberculosis (TB) and other lethal diseases that already plague them or have much greater propensity to reach them. In this context, it is necessary to explore the skewed relationship between epistemology (ways of knowing) and epidemiology (study of incidence, distribution, and control of diseases).

A popular perception is that there is an incremental progress of science that is based on the relentless labour of scientists, who accumulate scientific knowledge through continuous collection of facts and revisiting of scientific parameters where necessary. It is assumed that such accumulation of data and evidence is an objective, unbiased process. In the case of medical science, for example, the assumption is that anomalies, that is, contradictions between the medical evidence and the classificatory schemes being utilised, elicit interest in particular quarters of the scientific community. Through further research some scientists stumble upon the aetiology of a disease, and hence the need emerges for new classificatory schemes and categories.<sup>1</sup> From there begins a rigorous peer review process that can translate either into the dismissal of findings or, on the contrary, the corroboration of the research, which then leads to further

advancement in scientific knowledge. Such fetishising of science leaves unquestioned the very process of scientific knowledge production. Nothing, of course, unfolds in a bubble.

It is easy to believe that across the board the scientific community is selflessly and single-handedly waging a war against disease, and its corollary, untimely death. However, claims and projections of scientists who stumble upon discoveries and make miraculous scientific innovations in areas like vaccination begin to lose their sheen when confronted by the pervasive illnesses burdening the majority of the poor, who are also succumbing rapidly to several unidentified and undifferentiated communicable diseases.

### The Ordering of Diseases

Class, region and other social dimensions are important to explain the contraction and spread of different diseases. It is precisely these dimensions that facilitate the very identification of a disease and the order of priority given to it. The fact is that many of the illnesses that consume the poor and those spreading in backward regions of the world have not been identified with a definitive aetiology (causation). There is, consequently, a visible non-identification of many diseases, especially for those who are willing to see beyond the list of diseases prioritised by the World Health Organization (WHO 2018).

For the detection of a new disease which has symptoms that are similar to other known diseases, but has a different, definitive aetiology, it is a clinical case or series of clinical cases that trigger the process of its categorisation. As scientists are confronted with medical evidence that contradicts their existing classificatory schemes for pathogens, and it is increasingly evident that a disease with familiar symptoms may have a different aetiology, it is expected that scientists shall proceed further from such a discovery towards a possible cure.

Sadly, this entire process of smooth and neutral discovery of a disease is not what unfolds in the real world. For one,

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a significant number of infected poor and marginalised people do not necessarily report their condition to certified doctors, and they instead fall prey to quacks to whom they often have easier access. Even when infected persons report their ailments to doctors or healthcare institutions, an overburdened public healthcare system often prevents the essential testing of their blood/serum, throat swab, sputum, stool, urine, etc. Moreover, if clinical cases lead to microbiological or cytological investigations, the tendency for pathology laboratories to categorise diseases on the basis of pre-given classification and parameters is so predominant that differentiating and separating pathogens on the basis of variations in groups, subgroups, strains in genotype, etc, is minimal. This way many pathogens are wrongly categorised into existing classificatory schemes.

The resulting non-identification of the definitive aetiology of many diseases means that these illnesses are loosely clubbed together and referred to by generic names like “respiratory tract infections” (RTI), “urinary tract infections,” “acute undifferentiated fever” (AUF), “acute febrile illness” (AFI), “fever of unknown origin” (FUO), etc (Susilawati and McBride 2014). Ironically, some of these undifferentiated fevers, respiratory infections, etc, are not mild diseases and have a high mortality rate. Some like AFI are noticeably on the rise. Current figures showing the pervasiveness of such diseases are alarming to say the least. Per year, acute respiratory disease and severe acute respiratory disease claim approximately 40 lakh lives and lead to lakhs of hospitalisations in developing countries (Rao 2003). Meanwhile, according to the verbal autopsy reports provided by the Government of India for 2017, over 900 lives were lost every day due to respiratory tract infections (Bhatt 2020). Acute lower respiratory tract infection (ALRTI), affecting mostly children below the age of five, infects approximately 3.40 crore persons every year worldwide, and claims roughly 66,000 to 1,99,000 lives (Nair 2010). Ninety-nine percent of these deaths are reported from developing countries, with India reporting the larger share.

The negligence attached to generic terminology is further reflected in the way a number of medical conditions and deaths are associated with malnutrition and starvation. The connection is generally made out to be indirect and even casual, which is far from reality. The problem of malnutrition is known to facilitate an immuno-compromised condition, which in turn enhances the propensity for contracting of infections. It is the labouring poor who are predominantly the victims of malnutrition, and consequently, low immunity and development of infections. In spite of the obvious connection, and the fact that the material realities of this vast majority of people mandate enhanced efforts at analysing the several diseases afflicting them, this is not what exists. The numerous diseases that the poor contract remain under-analysed for most of the time despite high fatality.

This unfortunate reality is closely connected to the growing dominance of vertical health intervention programmes that zero in on a particular health condition, or namely, focus on specific diseases. Typically, the horizontal health programme is based on the interventions provided by a country’s government through a public health system, which focuses on the general health conditions of the population. In contrast, vertical health programmes are donor-driven, disease specific, and do not necessarily sync well with the health system. It is particularly important to recognise that the vertical approach has been seen as responsible for the fragmentation of the health system and a disruption of services in many parts of the world, especially as powerful donors, public-private agencies, and pharmaceutical companies eager to promote certain drugs come to dictate the constitution of health exigencies. The consequence is that governments are steadily absolved of their responsibility towards expansive general healthcare as a narrower focus on specific communicable diseases and the blurring out of other rampant illnesses and the need to address them take root.

Prevailing epidemiology, virology and vector biology are thus driven by half-truths that consciously leave behind a

trace of undifferentiated diseases. It does not matter if these undifferentiated diseases, or more importantly, undeclared silent epidemics of these diseases cause enormous deaths and suffering every year. It is after all the poor who are ailing and dying.

### **Disease Surveillance System**

Once a disease is discovered with a definitive aetiology, its serialised occurrence within a population or a particular region can be ascertained only by a robust disease surveillance system. In India, the Ministry of Health and Family Welfare is coordinating disease surveillance through its Integrated Disease Surveillance Programme (IDSP), which focuses on tracking epidemic-prone diseases. The programme works on the basis of coordination with research institutes and health departments of state governments, but surveillance remains very weak. This is because a locality-wide occurrence does not always culminate in the declaration of an epidemic. In turn, the required channelising of resources towards cure and eradication do not automatically fall into place.

Again, for the declaration of epidemics or pandemics, it is the intersection of class, region and other inequalities that shapes the level of priority which a discovered disease is assigned. In this way, a disease with a serialised occurrence within a section of people/a region draws attention and has the propensity to be identified as an epidemic only when it has a signalling effect for the scientific community. In the majority of instances, it is only when there is a threat of transmission to the well-to-do sections of society or wealthier regions that the disease actually has such a signalling effect.

In the real world, some regions are less important for the consistent focus of medical science. Similarly, diseases which affect a certain class of people are less important and easily fall off the radar of existing surveillance systems. Hence, our cognitive ability to recognise new diseases and to control them cannot rest on naïve notions of the supposed selflessness and self-sufficiency of science. As argued in a speech delivered at the

International Congress of the History of Science and Technology, London, in June 1931, Russian communist, Nikolai Bukharin, rightly argued that we would be wrong to assume

the idea of the self-sufficient character of science (“science for science’s sake”) ... it confuses the subjective passions of the professional scientist, working in a system of profound division of labour, in conditions of a disjointed society, in which individual social functions are crystallised in a diversity of types, psychologies, passions. (Bukharin 1931)

We have continued to ignore such insights to our own peril.

The evidence of the biased nature of scientific investigation and ordering of diseases in our society can easily be found in the skewed funding for scientific research. To a large extent, it is diseases that are of current priority for the WHO that are well-funded and consistently researched. As a major global agency driven increasingly by the vertical model of intervention in healthcare, the WHO has been instrumental in the zeroing down of specific communicable diseases, and the focused promotion of research and mobilisation of resources on them. Private pharmaceutical companies are quick to catch on to such trends and propel them further so as to rake in their own superprofits. As a consequence, medical research and scientists are closely dictated by the funding priorities and profit calculation of the private pharmaceutical industry. In such a scenario, diseases and other medical complications characteristic of the well-to-do sections of the population and of wealthier parts of the world enjoy a disproportionate share of scientific research. Meanwhile, a large number of diseases affecting poorer populations, including those with high mortality rates, are left as undifferentiated categories of disease.

At some point of time, even if the definitive aetiology of an illness is separated out from the category of undifferentiated diseases, it does not necessarily gain the undivided attention of the scientific community. Momentary profits may trigger initial research and upgradation of classificatory parameters. Nevertheless, as the disease evolves but “interest” in it remains fleeting, the differences developing in

the subgroups, strains in genotype, etc, of the concerned pathogen fail to be consistently tracked. Knowledge of the pathogen, and consequently the required disease control soon lag behind.

It is precisely in this context that the scientific community’s ephemeral interest in the family of coronaviruses can be explained. Medical scientists have known about the family of coronaviruses since the 1960s. This family of viruses is the known cause behind approximately 25% of common cold and cough-related illnesses. Given the general neglect of “common” respiratory diseases—usually clubbed under generic names like respiratory tract infections and severe acute respiratory diseases—the SARS-CoV strain of coronavirus came into sudden limelight only when one of its strains wreaked havoc in 2002–04 in southern China and among well-to-do neighbourhoods in Hong Kong, Singapore, Toronto, Ottawa, San Francisco and Eastern Taiwan. Importantly, in recent times, certain studies had been hinting at the fact that the SARS-related coronavirus was to be a likely cause of a future epidemic. In 2016, the WHO itself acknowledged the possibility. Strangely, a vaccine to treat the SARS-related coronavirus has continued to elude us, prompting us to question the process by which some diseases gain momentary attention that is clearly inadequate for the crystallisation of proper disease control (Thiel 2007). Public health experts, for example, have been critical of the constant setting aside of the SARS vaccine research programme as soon as the sense of emergency flitted away, and government funding and pharmaceutical industry development consequently diminished (Hamblin 2020).

### The Question of Co-morbidity

Let us take the case of diseases whose definitive aetiology is being tracked and for which disease control measures are well established. Here too the impact of intersecting social phenomena like class, region, etc, is undeniable. For those who are still trapped by the misconception of neutral scientific investigation and believe that we cannot “possibly” know all that is out there, the current mismanagement of long-standing diseases like TB is

further elucidation of the biases of disease surveillance and disease control.

TB is a bacterial infection that usually affects the lungs, and is highly contagious in its active form. It typically spreads through aerosolised droplets emitted by an infected person and has been known to spread at the rate of one person every 10 seconds! According to the Ministry of Health and Family Welfare of India, the country registered 21.5 lakh new tuberculosis patients in 2018. This figure of 21.5 lakh new notified cases was out of an estimated 27 lakh cases; indicating that some five lakh infected people were left out of the ambit of registration and treatment under the government’s DOTS Programme (*Down to Earth* 2019). The figures can of course be much higher than these. For instance, in its 2018 Global Tuberculosis Report, the WHO criticised the Indian government for under-reporting and under-diagnosis of TB cases.

In spite of under-reporting, India still shows disproportionately high figures every year. The disease is rampant, as reflected in the 2019 Global Report on TB. Herein the WHO highlighted that eight countries accounted for two thirds of the global total of TB cases. India topped this list at 27%, followed by China (9%), Indonesia (8%), the Philippines (6%), Pakistan (6%), Nigeria (4%), Bangladesh (4%) and South Africa (3%). According to public health experts, TB kills up to 1,400 people in India every day and anywhere between four to five lakh people in a year. There is no saying if we will ever win the battle against the infection, considering the crumbling public healthcare system of the country and the dangerous inadequacy of research in the field.

The mortality rate of the disease could be possibly higher if we factor in the inadequate public healthcare services for TB, that is, the lack of TB wards and quarantine centres, due to which many infected people die at home. Moreover, there is need to question the categorisation of deaths that occur in TB and respiratory wards of large hospitals. Indeed, the stigma or pressure that accompanies the high mortality of TB has meant that TB-related deaths are shown as deaths caused by heart failure,

lung collapse, pneumonia, etc.<sup>2</sup> If this practice is avoided, then a much higher mortality figure would directly be assigned to the disease.

TB is principally a poor person's disease. Although the bacterium *Mycobacterium tuberculosis* is said to have infected a quarter of the world's population, it transitions from a latent to an active form, and becomes a disease in conditions of compromised immunity. People living with TB, suffering from malnutrition or diabetes, or people who use tobacco are particularly vulnerable. Expectedly, the disease is heavily concentrated within the labouring poor, who are victims of malnutrition, overwork, unhygienic and cramped living, as well as polluted workplaces.

Given the predominant social profile of TB patients, the disease has at best elicited only periodic interest of private pharmaceutical companies. These companies control the bulk of production of necessary antibiotics. Not surprisingly, an acute shortage of crucial TB drugs is a widespread problem in India. It is nothing short of a crisis, given that treatment of the disease requires the use of multiple antibiotics over a long period of time and is therefore an expensive affair. The most advanced and recently manufactured TB drugs like Bedaquiline and Delamanid that fight drug-resistant forms of the bacteria are limited in supply and not easily available outside designated public sector hospitals. Many are therefore denied requisite treatment, and some give up substitute medication due to overwhelming side effects. While this has prompted some to argue that the private sector be allowed access to such drugs as a solution to the bottleneck, there is no denying that the bulk of TB patients are poor and dependent on public healthcare institutions. Privatised access to vital drugs can in no way substitute the mismanagement of diagnosis and treatment in public healthcare institutions.

### Tuberculosis and Coronavirus

Overall, the current scenario in India testifies to inadequate and overburdened testing facilities in public hospitals, overpriced testing in private hospitals

and numerous instances of ad-hoc treatment. The inaccessibility of treatment and half-baked experimentation with more easily available TB drugs are contributing to the worrying growth of drug resistance in many TB patients. Not surprisingly, India has topped the list of countries with the largest share of the global burden of multi-drug resistant TB (MDR-TB). The cure for even drug-resistant TB exists. However, it simply remains out of reach for the majority. Untreated and rising figures of drug-resistant TB is deeply troubling, considering that such persons remain contagious beyond the usual 2-week cycle of contagiousness attributed to a normal TB patient.

A country with lakhs of people affected by TB should certainly have alarm bells ringing. Unfortunately, such has not been the case. Prime Minister Narendra Modi addressed the country on 24 March, calling for a complete lockdown in the wake of the COVID-19 pandemic. Ironically, 24 March was also World TB Day.

It may appear that in the context of prevalent diseases like TB and many other debilitating, and often, undifferentiated diseases, the threat of COVID-19 is misplaced. In actual terms, we have good reason to fear the novel coronavirus for which we have no established cure. Nonetheless, we have even more reason to fear a combination of COVID-19 with existing medical complications like TB.

To elucidate, several studies have observed that in countries reporting a COVID-19 outbreak, the mortalities have been concentrated among those with pre-existing medical conditions. COVID-19 has proved lethal for the elderly whose age-related medical complications and diseases have made it difficult for their bodies to combat the novel coronavirus. Meanwhile, healthier persons to have contracted COVID-19 have recovered during their quarantine or isolation. And so, emerging research corroborates the fact that the deterioration of health and possible death cannot be attributed only to COVID-19 but to a host of factors. In technical medical terms, this is a situation of co-morbidity; compelling us to ponder whether a line can be drawn between dying of COVID-19 and dying with COVID-19. Clearly, the adversary is

not just the novel coronavirus but the numerous downplayed communicable diseases and medical complications that plague scores of poorer citizens, and with which the novel coronavirus shall join forces to unleash unimaginable havoc.

In this light, what is an appropriate interpretation of the projected threat and high death toll attributed to the novel coronavirus? Despite the current alarm triggered by COVID-19, the most reliable estimates place the transmission capacity or infectious nature of the disease to an  $R_0$  (basic reproduction number) in the range of 1.4 to 2.5. This  $R_0$  value indicates the expected number of cases directly generated by one case in a population where all are taken as susceptible to infection. An  $R_0$  value less than 1.0 indicates a low extension capacity of an infectious disease, while  $R_0$  values greater than 1.0 indicate the need to use control measures to limit its extension. The  $R_0$  values so far prescribed to COVID-19 mean that an infected individual can transmit the disease to approximately 1.4, or 2.0, or 2.2 or 2.5 more persons. In contrast to this, certain studies argue that we have the transmission capacity or  $R_0$  value of 10 for untreated TB (Coffee 2019).

### Limited Testing

Furthermore, several reports, including those of the WHO, have indicated that testing for COVID-19 remains limited across most countries. Selective testing has meant that the recorded fatality rate of such countries shall appear as a high figure. With several people with COVID-19 symptoms not being tested, the denominator is automatically limited to the number of people who come in direct contact with the disease surveillance system; namely those admitted to hospitals on the severe deterioration of their health or those who happened to be tested before their self-isolation and recovery. Against such a limited denominator, the number of infected succumbing to the disease shall tendentiously appear much higher than what may necessarily be the situation on the ground vis-à-vis the number of persons unreported and recovering. In reverse, countries with expansive testing have reported lower

fatality rates for COVID-19, given their larger denominator of persons tested.

In countries reporting a large number of COVID-19 infections, many critical studies reveal that the deaths attributed to the disease are much lower than those caused by similar respiratory diseases prevalent in the general population (Ionnidis 2020).<sup>3</sup> Case studies from Italy as well as the United States (us) highlight that the COVID-19 deaths reported were limited mostly to the same age group, that is, elderly people who usually succumb to influenza (flu), pneumonia and other similar diseases. Thus, it is argued that people who have succumbed to COVID-19 are typically a category of persons who otherwise too would have unfortunately died of a respiratory complication related to age-defined lower immunity. The flu, an infectious disease caused by commonly known viruses of the Orthomyxoviridae family, has taken 68,000 lives in Italy, for example, during epidemics recorded between 2013–14 and 2016–17 (Rosano et al 2019). Per year, that would be more than 22,000 deaths in Italy—a figure way higher than what has been attributed to the COVID-19 outbreak in the country to date.

Flu-related deaths in the us indicate the same high figures, with the Centre of Disease Control (CDC) reporting 12,000 to sometimes even 80,000 flu deaths in recent years (Stobbe 2018). The disease is spread across a wide social, that is, class profile but has obviously been life-threatening to those with fewer resources and access to healthcare. In all likelihood, for a typical flu season, COVID-19 caught the attention of governments in the West because the target population was well-to-do travellers, who returned from their sojourns in infected parts of the world and quickly passed on the infection to close contacts and unsuspecting healthcare workers. If this had not been the case then COVID-19 would have in all probability gone unnoticed as a spike in flu deaths, and the reverse transcription polymerase chain reaction (RT-PCR) test would never have been used to isolate the novel coronavirus the way it has in countries outside China. It is worth noting the renowned Nobel laureate scientist, Michael Levitt's opinion

that the novel coronavirus, SARS-COV-2 is best characterised as “flu with good public relations” (*Haaretz* 2020). Of course, Levitt fails to identify that imperialism, Eurocentrism, and class bias shape the relationship between social epistemology and epidemiology in fundamental ways.

### Conclusions

As critics worldwide hint at a COVID-19 “overreaction,” we have much to introspect about in India. This is more so, given the distressing repercussions of harsh, authoritarian state measures on the country's labouring poor. For one, as studies in Italy and us indicate, there is urgent need for a time series analysis of the outbreaks of respiratory diseases. New diseases require contextualisation, not exaggeration that merely helps the scientific community and governments conceal their systemic erasure of erstwhile silent epidemics and their neglect of the public healthcare system.

Hence, we need a comprehensive assessment of the death toll of recent years for diseases like TB, pneumonia, flu, respiratory tract infections, etc, in age groups (such as 60 years and above and five years and below) that are more prone to the COVID-19 infection. It is this kind of analysis that can compel widespread data collection and closer scrutiny of pervasive diseases by state agencies. It can also help us rationalise the threat of COVID-19 in India, as well as steer clear of a momentary paranoia and vertical intervention which leaves unaddressed the numerous diseases that already consume vulnerable age groups and sections of society. We have much to glean from emerging research that links the “high” fatality of COVID-19 to co-morbidity. Given the established fact that the disease has a debilitating impact on the elderly and people with compromised immunity, it is high time the dominant discourse on COVID-19 engages with the ground realities instead of speaking of the disease in isolation.

For a country that throws up comparatively fewer international travellers than the West, it was highly unlikely for India to come in contact with the dreaded novel coronavirus. However, the virus

entered the country due to the negligence of globe-trotting elites and the government's laxity vis-à-vis quarantining and isolating of foreign-returned travellers. As fears of community transmission surfaced, the country's ruling elites have used the world frenzy as a convenient tool to increasingly resort to authoritarian rule. The immediate impact of this has been felt most acutely by the urban poor.

Ironically, the current lockdown has brought scores of poorer citizens closer to danger not through actual exposure to the novel coronavirus. There are those who exposed themselves to fatigue, weakness, hunger and various infections as they crowded into buses, etc, in the desperate bid to reach their village. There are many more who are battling various diseases but now have little access to major public hospitals in the wake of the lockdown and corresponding reduction of outpatient services. In such circumstances, we can expect an aggravation in existing diseases plaguing large populations of people who are dependent on public healthcare services. Who will answer to a spike in the mortality rate of other diseases? Indeed, investigation of the comparative fatality rates of numerous diseases in the time of COVID-19 awaits future endeavours.

### NOTES

- 1 Aetiology refers to the cause, set of causes, or manner of causation of a disease or condition.
- 2 As per a personal communication with a nursing staff who works in the Respiratory Ward, Super Specialty Block, Safdarjung Hospital, New Delhi, and prefers to stay anonymous.
- 3 John P A Ioannidis is a professor of medicine, epidemiology and population health at Stanford University School of Medicine.

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## Plugging Loopholes in Taxation of Interstate Sales

SACCHIDANANDA MUKHERJEE

States may be hesitant to increase sales tax rates on petroleum products out of the goods and service tax's ambit to cope with the COVID-19-led revenue shock. The risk of revenue loss on account of the interstate purchase of out-of-GST petroleum products at a concessional rate of 2% may not give an opportunity to state governments to enlarge fiscal space and lift the economy out of fiscal shock, given the fall in global price of crude petroleum.

One of the objectives to introduce the goods and services tax (GST) in India was to enshrine the destination principle of taxation in the indirect tax system. However, certain provisions of the new tax regime have created an environment conducive for erosion of tax base of the destination states. States are foregoing revenue on account of interstate purchases of out-of-GST petroleum products by businesses at a concessional rate of 2%. Taxes from petroleum products constitute a significant share in indirect tax collection of union as well as state governments in India. The importance of revenue from the petroleum sector has increased in the GST regime, as fiscal autonomy of the governments (both federal as well as provincial) to augment tax collection through unilateral policy decisions has been curtailed due to harmonisation of the tax system.

The Indian Constitution assigns power to tax interstate sales to the union government. Following the recommendation of the Taxation Enquiry Commission (1953-54), the enactment of the Central Sales Tax (CST) Act, 1956 empowers the union government to make laws related to interstate sales. The main objective behind the introduction of the CST Act,

1956 was to reduce compliance burden of taxpayers dealing in interstate trade. In the same spirit, the Constitution (One Hundred and First Amendment) Act, 2016 introduces Section 246A(2), according to which "Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of interstate trade or commerce" and assigns the union government power to make laws related to interstate trade in the GST regime. Therefore, both under the CST Act, 1956 and the Integrated Goods and Services Tax (IGST) Act, 2017, the union government enjoys the absolute power to make laws related to interstate transactions. Inevitably, it is the responsibility of the union government to take appropriate measures to plug loopholes of the new tax system and help destination states to protect their revenues.

### Definition of Goods

Under Section 13 of the Taxation Law Amendment Act, 2017, the definition of "goods," as laid down in Section 2(d) of the CST Act, 1956 has been amended. According to the amended Section 2(d) of the CST Act, "goods" means petroleum crude, high speed diesel (HSD), motor spirit (commonly known as petrol), natural gas, aviation turbine fuel (ATF) and alcoholic liquor for human consumption. However, except crude petroleum all other items listed under "goods" could be used as final consumption goods and therefore revenue risks borne by allowing interstate trade at a concessional

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rate are very high for such commodities. Though the amendment envisaged to restrict the scope and coverage of the term “goods” as defined in the CST Act, 1956, de facto it has opened up a fertile ground for businesses to purchase highly taxed out-of-GST petroleum products at a concessional rate (at the prevailing CST rate of 2%) over interstate trade and avoid paying any tax to the destination state.

In the GST regime, except the commodities listed under amended Section 2(d) of the CST Act, 1956 all other goods and services attract IGST rate for interstate trade or commerce. In other words, except the listed goods all other goods and services will pay high IGST rate (which is the sum of prevailing CGST and SGST rates for the concerned good or service) for interstate trade. The rationale of preferential tax treatment to highly taxed petroleum commodities in interstate trade is not clear and it is against the equity principle of taxation. The amendment has allowed states to levy CST on interstate sales to only those commodities which are either kept outside the purview of GST (alcoholic beverages for human consumption) or waiting for the GST council’s recommendation for a date on which GST will be levied on them (petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel). This provision has given ample scope to businesses for tax shopping and it is resulting in the erosion of tax base of the destination states.

With restrictions of definition of “goods” in the CST Act, no corresponding changes have been made in Section 8 of the act that allows concessional rate of tax under Section 8(1) (at the prevailing CST rate, that is, 2%) for interstate sales between registered dealers of selected petroleum products (petrol, diesel, ATF), crude petroleum, natural gas and alcoholic beverages. Being high value but low volume commodities, petroleum products and alcoholic beverages are prone to tax evasion through the route of trade diversions, and therefore allowing such goods for interstate trade at a concessional rate is bound to erode tax base of the destination state. This loophole of the new tax system needs to

be attended as soon as possible either by increasing CST rate to at least the level of prevailing tax rate for the respective commodity of the origin state and/or excluding petrol, diesel, ATF and natural gas from the list of “goods,” as defined in Section 2(d) of the CST Act, 1956.

Section 8(3)(b) of the CST Act, as reproduced below, is supposed to restrict the misuse of concessional tax rate provision provided for interstate purchases by limiting the number of businesses that could avail of the concessional tax provision. However, in reality, it opens up the floodgates of misusing the provision of concessional rate of tax for interstate purchases. In the absence of clarity in the tax law and rules, tax provisions become a tool of interpretations before tax administrations and the judiciary and therefore, open up floodgates of litigations and contestations.

The goods referred to in subsection (1) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the central government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power. Section 8(3)(b) of the CST Act, 1956

If there is no definitional difference between “goods” as defined under Section 2(d) of the CST Act, 1956 (as amended under Tax Laws Amendment Act, 2017) and the term “goods” referred to in Section 8(3)(b) of the CST Act, 1956, prima facie the provisions of the Section 8(3)(b) allow manufacturing and processing activities to purchase out-of-GST petroleum products at a concessional rate through interstate purchase. It is not only telecommunication, mining, electricity generation companies, but all manufacturing activities require petroleum products for captive power generation, operating machineries, and transportation. Therefore, if all such companies start purchasing petroleum products interstate, there will be substantial tax base erosion for all state governments.

Through the issuance of a clarification on 7 November, the state tax division of

the department of revenue under ministry of finance confirms that the term “goods” as defined under the CST Act, 1956 and prima facie the term “goods” referred to in Section 8(3)(b) of the CST Act, 1956 will have same meaning as defined and amended under Section 2(d) of the CST Act, 1956 vide Tax Laws Amendment Act, 2017. Earlier, there was confusion on whether the concessional tax provision available for interstate purchases of selected petroleum products to dealers migrated to the GST system. However, after the clarification, there will be a surge in demand for c-forms for interstate purchase of highly taxed petroleum products at a concessional rate of 2%. Any non-allowance of concessional purchase of selected petroleum products will result in tax litigations.

A large number of litigations have emerged in different high courts in India and the decision of the high court has always been in favour of allowing interstate purchase at a concessional rate. The prominent cases where decisions are taken are *Hindustan Zinc Ltd vs the State of Rajasthan* (2018-VIL-233-RAJ) in the High Court of Rajasthan, *M/s Raipur Cement Plant vs the State of Chhattisgarh* (WP(T) No 83/2018) in the High Court of Chhattisgarh, *Carpco Power Ltd vs State of Haryana* (2018-VIL-154-P&H) in Punjab and Haryana High Court, *Usha Martin Ltd vs State of Jharkhand* (WP(T) No 5991/2017) in High Court of Jharkhand, *M/s Ramco Cements Ltd vs The Commissioner of Commercial Taxes, Chepauk, Chennai* (2018-VIL-494-MAD) in Madras High Court, *Star Cement Meghalaya vs The State of Assam & Ors* (2018-VIL-459-GAU) in Guwahati High Court, and *M/s Parijat Vyapar Pvt Ltd vs State of Odisha* (WP(T) No 9071/2018) in High Court of Odisha.

Earlier, the states had an option to impose entry tax on interstate purchases as an equalisation levy to nullify any tax advantage arising due to differences in tax rates prevailing between origin and destination states. However, the Constitution (One Hundred and First Amendment) Act, 2016 scraps the Entry No 52 of Schedule VII of the state list from the Constitution of India, under which entry tax used to be levied. In absence of any

instrument to protect tax base and not having power to make laws in interstate trade, states are foregoing revenue on account of interstate purchases of high value petroleum products at a concessional rate of 2%. The states have incurred revenue loss to such an extent that some states have come out with reduced tax rate provision for intra-state bulk purchase of diesel from the oil marketing companies (OMCs) for certain businesses operating in the state.

### Revenue Losses

Tax rates on petroleum products are relatively higher than other goods and services, and as a result businesses often find it lucrative to purchase these commodities interstate (against c-form) at a concessional rate of 2% to avoid paying high taxes to the destination state. Since central taxes on petroleum commodities are paid at the refinery gates, there will be no impact on union tax collection. Since state taxes on petroleum products are collected from the OMCs, they will pay 2% tax on interstate sales to the origin state, and the destination state will not receive any tax where consumption takes place. The states are incurring revenue loss on account of interstate purchase of petroleum products. A significant share of state's own tax revenue comes from petroleum taxes, and any revenue loss on account of interstate purchase of petroleum products not only erodes state's tax base but also make them heavily dependent on other sources of revenue to finance public expenditures (for example, state GST, state excise, central transfers). Erosion of the tax base makes state finances vulnerable to revenue shocks and therefore increases their rigidity to tax reforms. In the GST regime, when mutual cooperation and coordination between the union and state governments are desirable for stabilisation of the GST system, any revenue loss on account of emerging loopholes of the new tax system may make states averse to cooperate. This will also shrink the space of negotiation between union and state governments. Therefore, it is desirable that the union government will take appropriate measures to plug the loopholes of the existing tax system

and help destination states to protect their revenue.

Consumption of fossil fuels (for example, coal and petroleum products) generates air pollutants. Pollution from internal combustion engines is one of the major sources of air pollution in Indian cities and towns causing morbidity and mortality of Indian citizens. Price-cum-taxation is a market instrument that influences consumer decision (behaviour) and therefore could reduce the dependence on fossil fuels. However, existing loopholes of the present tax system make price-cum-taxation instrument inefficient to control pollution. Except crude petroleum, none of the listed petroleum products require refining and processing for consumption and therefore allowing concessional rate of tax not only erodes the tax base of the destination state, but it is also a potential revenue risk for the origin state to sell such commodities in bulk. The possibility of resale of such commodities within the origin state cannot be ruled out. For the destination state, it is not only eroding substantial tax revenue but also creating an environment conducive for the development of alternative markets for petroleum products. The possibility of adulteration and pilferage of petroleum products cannot be ruled out. Moreover, being highly inflammable, the unauthorised transportation, storage and distribution of petroleum products is a risk.

Allowing interstate purchase of petroleum products at a concessional tax rate for electricity generation—either in captive power generation plant or utilities—not only increases India's dependence on imported crude petroleum, but also stops investment in renewable sources of power generation. Interstate purchase of petroleum products also puts a stop to innovations in alternative sources of energy. India's high dependence on imports to achieve energy security is a cause of concern for running current account deficit. In 2016–17, India's trade deficit in mineral fuels, mineral oils and products or their distillation, bituminous substances, and mineral waxes was ₹474.44 thousand crore, which is 65% of the total trade deficit (that is, ₹728.24

thousand crore) of the year. India's net import of crude petroleum is 218.62 million tonnes of oil equivalent (MTOE), and natural gas is 17.14 MTOE. The total available petroleum products for final consumption are 209.64 MTOE, of which 62.37 MTOE (30%) is consumed by Indian industry, 37.4 MTOE (18%) by transport sector and the rest is for other uses like residential, agriculture and so on.

The high dependence of Indian industry on coal and petroleum products is partly attributable to irregular electricity supply, which compels industries to install captive power generation plants. The installed capacity of such non-utilities has gone up from 24,986 megawatt (MW) in 2007–08 to 50,289 MW in 2016–17, showing compounded average annual growth rate (CAAGR) of 8.42% (CSO 2018). In total installed capacity of non-utilities, 59.4% comprises steam, 25.6% diesel and 12% is gas-based (CSO 2018). Keeping in mind India's objective to achieve low-carbon energy security, it is desirable that Indian industries will reduce dependence on petroleum products over the years. However, allowance of concessional rate of tax on interstate purchase of petroleum products may be counterproductive.

It was envisaged that GST will equalise tax base available for taxation in goods and services between the union and state governments and reduce dependence on inter-government fiscal transfer system to achieve vertical fiscal balance. However, any erosion of the tax base of states will increase vertical fiscal imbalance and therefore increase their dependence on central transfers to meet their constitutional obligations. By design of our Constitution, states are dependent on the union government for issues related to interstate trade or commerce. Therefore, it is an opportune time for the union government to act proactively and make appropriate changes in the existing acts and rules of interstate trade and help states protect their revenue interests.

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# The Mathadi Model and Its Relevance for Empowering Unprotected Workers

MANOJ JATAV, DEEPIKA JAJORIA

The idea of providing comprehensive social security benefits to unprotected workers has still remained an unsolved task for the government due to a number of reasons, from administrative and financial limitations, and scattered and biased nature of social security legislations in the country, to inadequate information available on the unorganised sector and lack of data. The relevance of the mathadi model of social security to casual and other workers in the present context is highlighted and inputs on adopting its good practices in the proposed code on social security are provided.

The term *mathadi* refers to the head-load labourers in the state of Maharashtra. A mathadi labourer is typically a daily wage labourer mostly involved in such work that requires physical labour. Conventionally, these labourers are included in the category of casual labourers by the National Sample Survey Office (NSSO) in its various surveys. So far, the casual wage labourers in both farm and non-farm enterprises are not covered under currently existing social security legislations in India. During 2017–18, it was estimated that a quarter of the workforce (that is, approximately 117 million workers) was usually engaged in casual work.

In a unique case, the mathadi workers in Maharashtra, along with the *hamal*<sup>1</sup> and other manual workers, are organised under the “Mathadi Tripartite Boards,” which were set up in compliance with the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (henceforth referred as the Mathadi Act or the mathadi model). This act was implemented in the state for regulating the employment of unprotected (or casual) manual workers in certain types of employment scheduled in it. There are 14 broad types of employment scheduled in the act in connection with manual operations including loading, unloading, stacking, carrying, weighing, measuring, and other similar works including work that is preparatory or incidental to such operations (GoMH 1969).<sup>2</sup> The overarching objective of implementing the act was to make provisions for adequate supply of manual labour in scheduled employments, appropriate utilisation of available labour, providing better terms and conditions of employment, and assuring welfare, health and safety measures to the workers. Implementation of the

act is monitored by mathadi boards. As of now, there are 36 mathadi boards all across Maharashtra. These boards limit the number of workers to be registered, to avoid the situation of unemployment (Fudge and McCann 2015).

Prior to the implementation of the Mathadi Act, the employment of mathadi workers was unregulated, and legislators believed that the implementation of standard labour laws to this segment of workers was impracticable (Marshall 2014). In the wake of the growing unrest and dissatisfaction among mathadi workers, the Rashtriya Hamal Panchayat, along with the Mathadi Kamgar Union of Mumbai, organised the trade unions and laid the foundation of the Mathadi Act. The movement for organising the mathadi workers began with the efforts of Annasaheb Patil during the late 1950s in Mumbai. Thereafter, similar efforts were made by Baba Adhav in Pune, and Paranjpe in Dhule to organise the mathadi workers for their rights (NCL-II 2002).

Three committees were formed and they recommended a separate law for mathadi workers, rather than changing the laws that already existed (Deshpande 1999; NCL-II 2002). Since then, the Mathadi boards in Maharashtra have been successful in de-casualising the head-load and other workers to a great extent (NCL-II 2002). After the act was passed by the state government in 1969, it took approximately 11 years to implement due to objections received from the trader community in various market-places in Mumbai.

The act is considered to be greatly beneficial to the mathadi or hamal workers and seen as one of the radical measures undertaken by the state government in order to deliver welfare (Deshpande 1999). Recently, the Rashtriya Hamal Panchayat has succeeded in convincing the Government of Delhi to introduce the Delhi Mathadi, Palledars and other Unprotected Manual Workers’ (Regulation of Employment and Welfare) Bill, 2019 and proposed regulation of mathadi, palledars and other unprotected manual workers in certain types of employments. Apart from that, the Hamal Panchayat has also been putting all its efforts into persuading the union government to

The authors acknowledge the inputs received from Prakash Kumar, General Secretary, Rashtriya Hamal Panchayat, in strengthening the understanding on the Mathadi model.

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replicate the model in all states across the country.

The report of the second National Commission on Labour recommends that the Mathadi model can be adopted for the unorganised sector all over India. Along with that, the report also urges the codification of existing labour laws to be done in stages, as a first step towards a comprehensive and simplified code, based on the Draft Indian Labour Code prepared in 1994 by the National Labour Law Association. This article also seeks to provide inputs for the Code on Social Security, introduced by the union government in the Lok Sabha during 2019. It attempts to highlight the salient features of the Mathadi model and its significance for the proposed code on social security.

### Unique Aspects

The model ensures de-casualisation of mathadi or hamal workers by providing complete employment security, decent income and comprehensive social security, including provident fund, gratuity, bonus, health coverage, life insurance, accident coverage, maternity benefits, paid leaves, financial assistance for education of their children, etc. The model is quite unique in India, where informality or unorganised work is the norm (Marshall 2014). Because of the special features of the act, the International Labour Organization (ILO) also recognised it as a special act providing social security to the unprotected workers by regularising the employment relations with the employers, implementing several social security schemes, protecting their rights, and so on.

An ILO research study identifies the model as innovative and as a strategic form of regulation that was successful in ameliorating “unacceptable forms of work” (UFW) (Fudge and McCann 2015). In 2017, a European Commission-funded project, the “Research, Network and Support Facility” (RNSF), also mentioned the significance of the Mathadi model in its report and recognised it as one of the most efficient social security models for informal workers that exist in the developing world (RNSF 2017). Similarly, in 2017, the findings of a state-level workshop organised by the Human Development

Foundation, Centre for Development Action and Research (HDF-CDAR) based in Odisha, with the support of the ILO, also aim to replicate the Mathadi model to organise and provide social security for the *Dadan* labourers (that is, migrant labourers in distressed regions of Odisha).

The Mathadi model of social security is a unique model for a number of reasons. First, it organises the unorganised, who could not get protection under the current system of labour laws due to the lack of a definite pattern of employer–employee relations in their specified occupations. Second, it is a self-sustainable model that does not depend on the public exchequer with minimum financial requirements for administrative purpose. Third, since both the employers and workers have to register themselves with the Mathadi boards, the labour market is regularised and adequate labour supply is assured. In this way, the model also helps the employers assure the availability of the required labour.

Fourth, it is based on the principles of decentralisation, which simplifies its governance to a great extent and enhances its efficiency manifold. The act lays the foundation of the constitution of district-level Mathadi boards, which are essentially tripartite in nature. A Mathadi board is deemed to consist of members nominated by the state representing the employers, the unprotected workers, and the state government, which ensures the representation of all stakeholders. Also, it ensures equal representation of the employers and unprotected workers in the board, and members representing the state cannot be more than one-third of the total members representing both the employers and unprotected workers. These boards are the primary structure of the Mathadi model wherein employers and workers are registered from scheduled employments, workers are recruited, employers are assigned, terms and conditions of employment are defined, and grievances are redressed. Mathadi boards collect earned wages and levy from the concerned employers, make payment of wages to workers after deducting their contribution to social security, contribute to the social security of the workers

from the levy, administer and manage funds, make reimbursements, etc. Fifth, the model is based on the ILO’s tripartite governing system of boards and grievance redressal mechanisms, and promotes organisation building and collective bargaining for fixation of wages. This certainly created favourable conditions that are considered essential for social dialogue, the fourth pillar of decent work.

Sixth, the model is in conformity with the majority of the fundamental ILO conventions, such as Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87), Right to Organise and Collective Bargaining Convention, 1949 (No 98), Minimum Wage Fixing Convention, 1970 (No 131), Tripartite Consultation (International Labour Standards) Convention, 1976 (No 144), Minimum Age Convention, 1973 (No 138), and Worst Forms of Child Labour Convention, 1999 (No 182). Seventh, it is probably the most comprehensive model in the world providing various types of social security for unprotected casual workers as it takes care of most of their needs. However, there is no provision for old-age pension for the workers in the act.

Eighth, there is a provision for charging and collecting “disappointment money” at the rate of minimum wages from the registered employers in case the concerned employer fails to assign work to the worker. Such a benefit can be considered as a proxy measure of unemployment allowance to be given to the casual worker, which ultimately helps reduce the casualisation of work and guarantees regular income to the worker. This could be considered as the most affirmative innovation in the model. Ninth, there is no threshold enterprise size (that is, the number of workers) required to be able to provide benefits to the mathadi workers under the act. It is observed that the existing labour legislations for organised workers, such as Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 where the threshold is 20 workers, and for Employees’ State Insurance Act, 1948 where it is 10 workers. Tenth, the model protects the interests of employers as well by the way of discharging certain

legal obligations. The boards discharge the roles of formal employers with regard to payment of wages, employees' compensation and maternity benefits, and other similar matters. The board acts as a third party facilitating both the employers and the unprotected workers.

### Replicability

In the present scenario, when the urge for labour reforms is strongly felt in India and is being seriously considered among the policymakers, the Mathadi model has vital significance. Among the four proposed codes on labour, the code on social security is the most complicated one as far as its framing and the practicability of its implementation are concerned. There has been a lot of effort by the union government in order to bring forth the most comprehensive social security legislation in the country.

The proposed code intends to provide universal and comprehensive social security to all sections of the workforce (including casual labourers as well as the self-employed comprising most of unorganised employment) by integrating the various existing social security legislations into one. The first draft of the code on social security was made public in 2017, when the idea of universal social security for all workers has been discussed in a detailed manner. However, it required a lot of improvisation as the disbursement of social security benefits to the workers across the so-called four socio-economic groups in the population mentioned in the draft code was indeed a challenging task as far as identification of the beneficiaries and inclusion of UFWs is unpaid family workers is concerned (Char 2018).

Accurate categorisation of workers across socio-economic groups is a near-to-impossible task, considering the limitations in the existing system of socio-economic data collection. Apart from that, there are other challenges too, such as the set-up of an exclusively new social security organisation (Char 2018). In the revised draft of the code, which was introduced in the Lok Sabha and made public in 2019, there are separate provisions for social security for unorganised workers in Chapter 9, including

gig and platform workers (GoI 2019). However, the challenge of establishing a new organisation for both organised and unorganised workers still remains unsolved.

As far as the relevance of the Mathadi model for the proposed code on social security is concerned, there is scope to apply its various provisions in universalising social security for all types of casual work (that is, both manual and non-manual). In the case of non-public casual work, a self-reliable model will reduce the financial burden on the government for providing social security. In the case of casual works under the public programmes and schemes, the government could play the role of employer. It can also be extended to the agricultural labourers, if the government pays the levy for social security to them, which would help reduce the financial burden of cultivator households.

In addition, provisions given in the model can also be applied for securing welfare and rights of the contract workers in the organised sector by establishing their registration in specified boards at district levels all across the country. This would help minimise the exploitation of workers, which is seen in the contract labour system, by completely abolishing the role of private contractors/middle agencies. By doing so, a number of unprotected sections of the workforce can be benefited, such as construction workers, brick kiln workers, domestic workers, tea plantation workers, fish processing workers, waste collectors, private security guards, home-based workers, and so on. Similar boards can also play a role in regulating contractual and casual employment in the gig and platform economy. Acknowledging all the merits of the Mathadi model, it would be appropriate to say that this model would surely provide a strong base for planning the social security of the various segments of unprotected workers in India.

### NOTES

- 1 The term hamal is used for labourers who lift the weight on their back, while mathadi is used for those who lift the weight on *matha* or head. The term mathadi is popular in the metropolitan region of Mumbai. The terms hamal and palledar are used interchangeably. In the state of Maharashtra, Gujarat and some

parts of Rajasthan, these labourers are called hamals, whereas the term palledar is used in Delhi, Uttar Pradesh, Bihar, Harayana and some other parts of northern India.

- 2 The 14 scheduled employments are: iron and steel market or shops; cloth and cotton markets or shops; docks excluding that falling under the purview of Dock Workers (Regulation of Employment) Act, 1948; grocery markets or shops; markets, and factories and other establishments; railway yards and goods-sheds other than employment under the Ministry of Railways; loading and unloading of goods into/from public transport vehicle; vegetable markets; markets or subsidiary markets established under Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963; *khokha* making and in timber market; salt pans; fishing industry; loading, unloading and carrying of foodgrains into godowns, sorting and cleaning of foodgrains, filling foodgrains in bags, stitching of such bags; onions or onion bags (GoMH 1969).

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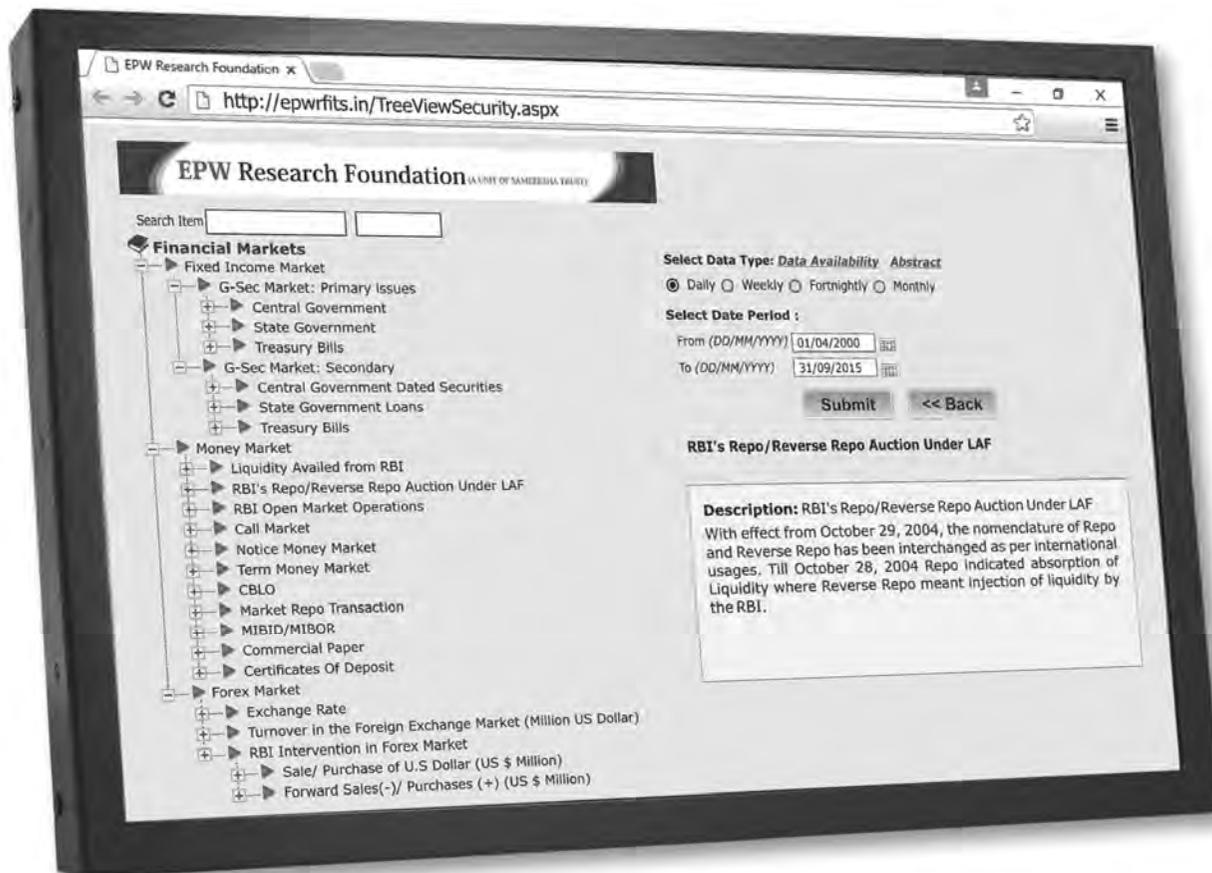
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# Saving Jobs and Averting Lay-offs amidst COVID-19 Lockdown

RAHUL SURESH SAPKAL

Despite unleashing a slew of relief measures, the state is grappling to ensure that employers abstain from imposing lay-offs, pay cuts or unpaid leave during the lockdown. Even if the state mandates employers to pay wages without any lay-offs, then, in this context, there is a need to advocate for wider coverage of labour legislation in India. In the short run, fixing accountability on employers for wages and jobs will provide an interim relief, but, in the long run, we need to take financial viability into consideration and provide stimulus wage subsidy.

The outbreak of coronavirus (COVID-19) has caused a full-blown health emergency leading to rising death tolls, and disrupted trade, mobility, and livelihood of millions of workers around the world. The looming pandemic threatens to disproportionately hit not only the health security in the short term, but also cause a devastating social and economic crisis over the months and years to come in developing countries. The magnitude of its impact shows multiplier effects when it is accompanied by a complete social and economic shutdown through several channels such as weakening of domestic demand, disruption in supply chain, decline in production, and job losses.

As the fifth largest economy, India's nationwide lockdown, the biggest in the world, will be lifted sooner or later. However, the uncertainty of livelihood, wage loss and lay-offs is likely to linger much longer. The lockdown has not only inflicted incorrigible damages on the working lives of migrant, informal and precarious workers, but has induced a slump in activities of all sectors, from production to distribution to consumption. In order to subside its impact on labour markets, a soft law approach has been executed through an advisory from Ministry of Labour and Employment on 20 March 2020 requiring all employers/establishments not to terminate employees and not to cut wages of the workers, including contract and temporary workers (MOLE 2020).

This advisory may provide a partial relief in terms of saving jobs and wage cuts for those workers who fall under the category of regular wage/salary employment and those who can avail an opportunity to work from home in the organised sector. However, it forces more than two-thirds of the informal sector workforce into desperation and economic deprivation. A legal basis of this circular is

profoundly contested from the perspective of employers and workers since it externalises the cost of wages/salaries on employers when the business has receded. Employers would claim that it is legally untenable to justify this advisory as the Industrial Disputes Act (IDA), 1947 does not provide conditionality except those listed in Section 2(kkk) of the said act. Hence, the employers cannot be held responsible for the payment of wages or lay-offs at the time of the pandemic (Gopalan 2020).

On the other hand, the pro-worker argument contends that a legal principle of "no work, no wage" cannot be justified in the present context since neither the employers offer work nor the workers are able even if they are willing to work (Shyam Sundar 2020). Even if the state mandates all employers to pay wages without any lay-offs, in this context, it is pertinent to ask whether all workers would be eligible for these benefits. Second, would the role of workers, collectives and unions be instrumental in the post-lockdown period? And finally, we will discuss the need for coordinated efforts.

## Non-workers and Workers

India's labour legislations have been wedged into two definitional quagmires: worker and non-worker. Section 2(s) of the IDA<sup>1</sup> restricts the definition of worker to any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work, for hire or reward. It excludes persons employed in mainly managerial or administrative and supervisory capacity. In a narrow sense, this definition does not recognise every person in a relationship of employment or employed due to operational skill-based terms like manual, "unskilled," "skilled," "technical," "operational" or "clerical" which are vague and subject to multiple interpretations by the judiciary. Instead it relies on the contractual relationship between the employer and employee and master-servant, as laid down in the procedural rules for legal entitlements and liabilities within the purview of workplace defined under the said act. Due to its restrictive

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approach, the labour judiciary has followed a legal principle of *ejusdem generis* while interpreting the term workman in various judgments that excluded various categories of workers.<sup>2</sup> As a result, a non-workman category of employment has emerged in Indian labour laws that falls outside the purview of labour legislation, and the majority of them are informal workers without any collective bargaining power.

According to the Period Labour Force Survey (2017–18), 238 million workers work as self-employed and around 112 million are employed in the casual labour segment. Only 19 million workers who are regular wage/salary workers and have a contract tenure of more than three years are eligible under the definition of worker in the formal sector. It further excludes 49 million workers among 92 million formal sector workers, working in the informal segment of the formal sector (Kannan 2020). This segment of non-workmen, close to 161 million workers, as construed in various judicial pronouncements are ineligible under the definitional criteria of the act. Lack of consistency and consequent confusion has turned out to be an Achilles' heel for this circular, especially with respect to payment of wages to the category of non-workers. Therefore, when the state mandates employers to pay wages, there is a need to recognise this category of non-workers and their access to legal wage entitlements in the post-lockdown period. Despite its limitations, the Code on Wages, 2019, under Sections 2(f) and 2(z) provides a hope for workers since it provides a wider coverage of the definitions of contract labour and worker, respectively. If these definitions are recognised and enforced effectively then it will provide relief to almost 134 million workers who fall in the category of non-workers.

Presently, the central government has used the power conferred under Section 10(2)(1) of the Disaster Management Act (DMA), 2005 to order all employers to make payment of wages without any deductions for the period their establishments have been shut due to the lockdown. This provision of the DMA, 2005 will have an overriding effect on all other laws, including labour laws, to

the extent that they are inconsistent with the power conferred under the DMA, 2005 (Mehta 2020). In the short run, this provision may provide some assistance to formal sector workers, protecting their jobs and pay cuts. However, in the long run, It could lead to retrenchments and closures of establishments, especially micro, small and medium enterprises (MSMEs) and own account enterprises as the jurisdictional power of the act under the legal principle *functus officio* will expire in the post-lockdown period.

Here, the workers will have a legal recourse to their labour rights provided their employment status is duly recognised under the labour laws. In this case, two landmark cases could be applied for ensuring their legal claims for wages: (i) the landmark judgment of *Sanjit Roy v State of Rajasthan* (1983), that views work, life and livelihood as an integral part of individual worker's fundamental rights under Article 21, thus ensuring effective legal remedy for non-workers even if the existing statutory laws allow for exemptions; and (ii) *Shobha Ram Raturi vs Haryana Vidyut Prasaran Nigam Limited and Others* (2011) where it was held that when the appellant was restrained from working, they were

entitled to back wages. Thus, there is a need to advocate for making non-workers into workers and for wider coverage of labour legislation in India.

### Making Employers Responsible

India's industrial relation systems define industry under the Factories Act, 1948. Just as the non-workers are excluded from the purview of the IDA, 1947 rendering the legal basis of this advisory ineffective, in a similar way, millions of employers, industrial units and establishments have escaped the bite of labour legislation. According to the Sixth Economic Census 2015–16 (excludes union territories), around 24.63 million establishments employ 216 millions workers. Across the employment threshold sizes, 172 million workers (79.85%) work in the establishments that have less than nine workers and 20.1 million are employed in the establishments that have more than 10 and less than 49 workers. Only 17.60 million (8%) work in establishments with more than 100 workers. Except for the large-size firms, all other firms fall under the MSME sector. At present, MSMEs contribute around 6.11% of the manufacturing GDP and 24.63% of the GDP from service activities as well as 33.4% of India's manufacturing output and

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45% of the overall exports. When the issued advisory mandates firms to pay wages without lay-offs, the MSME sector would witness several financial hurdles. Due to the additional wage costs, many units may even go bankrupt since they may not have the capacity to endure these recurring costs.

According to Kannan (2014), MSMEs have the structural weakness characterised by a very large number of poor entrepreneurs. Second, this sector is squeezed between the purchasers of their products and the price-takers in the non-labour input market, compelling them to pay basic wages to labour so as to survive in the market. Considering their financial vulnerability in the present context, if they are mandated to pay wages, it will turn out to be counterproductive. As noted in Kannan (2014), the business registration of MSMEs was found to be positively associated with the maintenance of an employment register and payment of minimum wages. In fact, majority of them comply with mandatory labour laws. This sector has the potential to avert the (in)voluntary lay-offs of 182 million workers provided the state supports them with wage subsidies.

At the aggregate level, the Annual Survey of Industries (2017–18) provisional figures show that the organised factory sector has contributed ₹12,38,12,850 lakh towards gross value added, that is, 8% of total gross value added (GDP). Of that, 47.31% accrues to profit (that is, ₹5,85,69,676 lakh) and only 14.02% goes as wages to workers, that is, ₹1,73,53,716 lakh. The profit share is 4.40%, whereas the share of wages is abysmally low at 1.30% of the GDP, showing the weakening strength of Indian workers. In this case, there is an urgent need to make businesses more responsible and enable them to recognise the moral responsibility to protect the workforce.

### Way Forward

The collectivisation and unionisation of workers would be critical enablers of stability and solidarity that would alone lessen economic hardship of workers in the post-lockdown period. Recently, the Gujarat Chamber of Commerce and Industry has sought to prohibit the formation

of trade unions for a year citing the “resorting of blackmailing the factory owners,” threatening industry with the law,” and not allowing workers to return to work in the post-lockdown period (PTI 2020). This appeal may be counterproductive for the industry.

Since the unions play a key role to promote strong social dialogue and recognise its responsibility in crisis response with other stakeholders, the absence of collective bargaining will expose workers to extreme uncertainty and will force them to work in indecent and adverse working conditions. Second, it will make worker lay-offs easy. To prevent these exploitative practices, the existence of workers’ unions is crucial. Shyam Sunder and Sapkal (2019) note that sectors which have union representation negotiate better wages and working conditions with lower incidence of industrial unrest. The presence of unions also bolsters healthy social cohesion at the workplace to expedite production recovery, including the adoption of a phased multitrack approach implementing coherent and comprehensive strategies for enabling recovery and building resilience (in different areas like employment, income generation, and social protection). In the post-lockdown phase, trade unions will have an opportunity to devise better strategies for organising and engaging workers across industries and type of occupations, including non-workers.

The historic May Day which we celebrate as the eight-hour working rights day is a product of the prolonged struggle of the working class. Over these years, the struggle is continuing for reclaiming those rights as enshrined in the Constitution of India. This pandemic has exposed us to a different level of challenges which require concerted and coordinated efforts from all stakeholders. To minimise the impact in the post-lockdown period, there is a need for recognition of the non-worker category for accessing entitlements of wage subsidy provided by employers. Second, a robust regulatory environment is required for making businesses responsible towards workers. And, finally, the unions need to revive their aggressive enthusiasm for bolstering a healthy social cohesion in the economy.

### NOTES

- Section 2(kkk) of Industrial Dispute Act, 1947 defines “lay-off” (with its grammatical variations and cognate expressions) as the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery (natural calamity or for any other connected reason) to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.
- For instance, a person employed in managerial capacity or administrative capacity is not a workman (*Ved Prakash Gupta vs M/s Delton Cable India (P) Ltd AIR 1984*); an apprentice (*Bhaskaram vs Kerala State Electricity Board 1986 LLN 869*); temporary workers (*Vimal Kumar Kain vs Labour Court, Kanpur & Anrs, AIR 1988 SC 384*); third party agency staff (*Puri Urban Cooperative Bank (M/s) vs Madhusudan Saha & Anr, (1992) 3 SCC 323*); extra departmental workers (*Sub Divisional Inspector of Post Vaikan vs Theyyan Joseph 1996 (8) SCC 489*); teachers (*Ahmedabad Pvt Primary Teachers Association v Administrative Officer 2004*); theatre artistes (*Bharat Bhawan Trust v Bharat Bhawan Artists Association, 2001*) and medical representatives (*H.R. Adyanthaya vs Sandoz (India) Ltd 1994*).

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# Migration and Reverse Migration in the Age of COVID-19

AJAY DANDEKAR, RAHUL GHAI

The notion of the “migrant” in the current capitalist times and the world of migrants in it are explored. The source to destination streams of migrant labour is outlined, and it is then argued that reverse migration will perhaps usher in the greatest crisis in the rural landscape of India, for which we are not yet prepared.

The coronavirus pandemic has triggered a massive reverse migration from the “destination” to “source” in large parts of the country. We witness hundreds of thousands of labourers marching back to their villages in order to find some warmth and empathy more than anything else, as the rest is going to be too hard to come by. This article is about that migration.

The available data indicates a widely differing reality about migrants in India. While, as per Census 2011, the total number of internal migrants would be 450 million—more than 30% higher than 2001—the actual numbers perhaps are higher than what is captured by the census. Field realities do indicate that Uttar Pradesh (UP) and Bihar are the biggest source states of migrants, followed closely by Madhya Pradesh (MP), Punjab, Rajasthan, Uttarakhand, Jammu and Kashmir and West Bengal; the major destination states are Delhi, Maharashtra, Tamil Nadu, Gujarat, Andhra Pradesh and Kerala. Another marked change in the migration pattern in the last decade has been the interstate movement to new growth centres, especially in small and medium sized towns and million plus cities. However, the defining feature of who is a migrant is rather flexible, even in official records. Usually the migrants do get defined on the basis of place of birth or last place of residence and a deviation from it. Hence, such a characterisation puts severe constraint to understand the issue of migrants in this form of definitional context.

Compounding the issue is another limitation in the analysis as the National Sample Survey Office (NSSO) as well as the census fail to capture the short-term seasonal movements, which form a large component of the migration process. Apart from the above, there are other issues too that relate to the problems of data. These are the inadequacies in capturing

the extent of tabulating the migration of children of a particular age group as well as women who would accompany the household heads to the destination points. The data is also inadequate in terms of understanding the very large-scale migrations that occur from tribal areas and of tribal and Scheduled Caste people. We, however, do know that in the last two and a half decades, India has urbanised at a rapid rate, and this urbanisation is built on the labour of the migrant population as well as the services to a rapidly urbanising India. Hence, a very rough estimate would put India's migrant labour, which would include daily wage labour, local migrants, seasonal migrants and long-distance migrants, at a fairly large numbers than what is computed.

## Source and Destination Points

So what are the major streams as well as the sources and destination points of this vast mass of migrant population? First, the major area of work they are engaged in would be agriculture labour, brick kilns, construction sites, services (maids to watchmen to drivers) industrial non-skilled workers, small and tiny road side businesses (tea shops, dhabas, small eateries, hotels, restaurants, etc).<sup>1</sup> This entire workforce falls under the informal sector, which, of course, constitutes 93% of India's total workforce. The total Indian informal sector workforce is calculated at around upward of 450 million as per varying estimates.

Where were the migrant labour deployed in the peri urban and urban locales of the economy? Certain studies on this issue do come up with some major areas. It does appear that the major concentration of the migrant labour in the urban economy was on the construction sites, and brick kilns located at the edge of the peri-urban areas followed by the concentration of unskilled ones who are on daily wages (employed from the daily wage labour markets or the “naka,” which is ubiquitous these days in all our cities). The other major area of migrant labour employment is, of course, the green revolution states of Punjab, etc, and related areas as well as the sugar cane growing areas and the three-crop areas. These were seasonal migrants. Apart from these,

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there were of course the other service sector areas that accounted for migrant labour employment.

There have been issues raised in terms of whether this kind of migration is due to distress or is opportunity-oriented. Given the nature as well as the shared experiences, the so-called source regions are inscribed by low social and economic developmental indices. Large-scale migration induced by greater and greener pastures of economic growth is largely a myth, as most of the migration is for subsistence and survival and falls under the category of distress migration.

Given the diverse realities of expanding of urban settlements in which lives of migrants are embedded, it is important to note that the coping strategy of the migrants constantly vacillates between the inhuman work conditions of urban and peri-urban India on the one hand and the impoverished and destitute

landscape of the rural on the other. The significance of the “source” village in the coping strategy of the migrants differs with the varying stages of the work cycle of migrants. Invariably, the outer limits of these individual or group adaptive strategies are determined by the work opportunities and survival conditions at “source” and “destination.” It is here that region specificity and the possibilities of different contexts assume significance. Such contexts create a characteristic heterogeneity that is fully understood in terms of a sliding scale, “a continuum on which only the extremes on both sides are in sharp contrast to each other” (Breman 2013a: 80–81).

### Failed Development

The so-called source regions that see a large influx of migrants to the destination regions are Bihar, Odisha, Rajasthan, MP, Jharkhand, Chhattisgarh, largely eastern

up, parts of Maharashtra and Gujarat (especially the tribal areas). Invariably, these regions internally also experience chronic drought, have deforested landscapes and devastated agro-ecologies that bear the imprints of tardy implementation of welfare schemes as well as schemes in the arena of agriculture services of soil and water conservation. This failed development contributes to the continuation of poor resource bases and assets of marginal and small farmers, which is accentuated by the persistence of a context of subjugation that perpetuates severe economic deprivation and thrives on entrenched social discrimination—the exploitation of the poor, the landless, and the castes at the bottom of the social hierarchy.

Due to the young male population out-migrating, the source economies are also getting increasingly characterised by the feminisation of agriculture that has

**Table: Source and Destination Streams in Different Regions of India**

Region	Destinations and Duration
Ajmer District, Rajasthan	Long distance (both inter and intra state ranging from six to eight months both single as well with family) to Mumbai; semi-permanent and permanent migrants like shoe makers, cooks and waiters in hotel industry, factory workers, saree industry and textile markets in Ahmedabad, Surat; RCC tile workers, construction labour, hotel industry in Jodhpur, Jaipur, brick kiln workers Devli, Manda and Bhilwara, mining labour in Kota and Bundi. Short distance (from everyday wage hunting to one week to a fortnight) to nearby towns like Bali, Bheem, Jawaja, Beawar primarily unskilled construction workers and masonry; factories in RICO Industrial areas in the neighborhood.
Pratapgarh District, UP	Migrants go to as many as 137 destinations in more than 11 states. The region has been known for supplying fireman for brick kilns in Gujarat, Punjab, Haryana, Bihar, Jharkhand, and Bengal for six to eight months in a year. Almost half of the migrant workforce is these fireman. These are accompanied by other category of unskilled and semi-skilled workforce that has <i>beldars</i> , <i>pathera</i> , <i>dhulva</i> and coal breakers. Most of this migration is single, the male going out and the families are behind. Factory workers are another important group. This is a destination for primarily brick kiln workers, both inter and intra state seasonal migrants come to work in around 80 brick kilns in the region.
Lucknow and Sitapur District, UP	Far distance migrants (duration of eight months to year) to Delhi, Haryana and Himachal Pradesh; inter state migrants like migrants from Khairabad go to textile units in Kanpur, Hardoi, from Parsendi people go to work in plywood factories in Lakhimpur, Rickshaw pullers in Lucknow and Shahjahanpur, hawkers and construction workers in Bareilly.
Ghaziabad	Semi-settled daily wage hunters: unskilled construction workers, porters, loaders, carters, masons, painters; semi skilled workers in industries in Industrial area; permanent migrants like pillow makers, stone workers, garbage sorters.
Bhubaneswar, Orissa	Construction workers, masons, carpenters, plumbers, painter, electrician and others like rod binders, concrete labourers and marble mason. Migrants from inter district source areas like Ganjam, Kendrapara, Cuttack, Puri, Khurdha, Nayagarah, Jagatsinghpur, Kandhamal, Sambalpur, Dhenkanal, Bhadrak, Balasore, Mayurbhanj, Jajpur and Boudh. Interstate migrants from West Bengal and some from Andhra Pradesh.
West Odisha	Unskilled construction workers, masons, daily wage hunters to Bhubaneswar city, short distance migrants as porters, truck driver assistants to Paradeep port, long distance migrants for durations ranging from six to eight months to Surat, Kerala, Jammu and Kashmir to work as construction labour, spinning mill workers, head loaders, masons, plumbers; crane drivers in Mundra port, Calcutta.
Mumbai	Eighty percent from Maharashtra came from the drought prone areas of Marathwada and Vidarbha; brick kiln workers seasonal kathkari migrants most of the migrants from outside the state come from western and eastern and northern parts of the country—short duration majority for three to six months and some for a year; mostly captive labour in private construction sites in Mumbai and Navi Mumbai. Gets internal migrants from more than 10 states.
Udaipur district	Everyday wage hunters primarily construction workers, masons, porters to Gogunda and Udaipur City. Seasonal semi-permanent migrants to work as construction workers, factory workers, hotel workers, porters, semi skilled workers in markets of Ahmedabad, Surat, Rajkot, Mumbai.
Central Gujarat	Migrant brick kiln workers from states like Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Odisha, and construction workers from South Rajasthan and tribal districts of Gujarat.

Source: Interactions with migrants during field work in these areas.

meant the largely distress-induced participation of women. Thus, migration is not a reflection of failed agricultural policy alone. It can be viewed as a risk diversification strategy, and the remittances do contribute a share in household incomes. The issue, however, is the low threshold of such incomes that perpetually keeps families at subsistence levels. Thus, the world of migrants is shaping urban transformations as a captive construction force where each seasonal brick kiln worker, semi-permanent to permanent casual construction worker, loader, carter and carrier, and domestic worker occupies a different niche and provides cheap and often unaccounted human labour that shapes our peri-urban and urban landscape. The Table (p 29) below presents a representative example of movements between source and destination regions in some selected parts of India.

Seasonal migration is circulatory in character, and even for semi-permanent and permanent migrants, “source” continues to be the only social reality they could draw upon. In the narratives of most of the migrants, “source” is equally important as “destination.” In fact, the cash remittances from seasonal migration often complement the meagre agricultural produce from which food security of the household is somehow met. As so many of the migrants testify, cash earned from the destination helps them negotiate the rural economy that is increasingly monetised.

### Old and New Forms of Subjugation

Thus, in the overall context of the ongoing urbanisation and rural industrialisation, what needs to be understood is the manner in which the subordination, exploitation and control of labour takes new forms that are a combination and an ingenuous adaptation of the older forms of control and bondage contextualised to new conditions of capitalism. It is necessary to comprehend the reproduction of “vestiges” of older forms to better understand processes internal to the new conditions of capitalism. The core of labour servitude draws upon older forms of subjugation, thus offsetting the belief propagated by capitalism that

it is based on free labour. Instead, it would be worthwhile to develop a perspective that offers useful insights into the realities of the institutionalisation of labour vulnerabilities through an adaptive system of labour exploitation. In proposing the term industrial serfs, there is an effort to delineate the contours of the “age old contrast between freedom and servitude,” to see “what it received from the past, as if passing it through a prism, and transmitted it to succeeding ages” (Bloch 1962: 279). Mapping the world of the unorganised poor in India clearly shows that “capitalism is not dissolving this matrix of social institutions but reconfiguring them slowly, unevenly and in a great diversity of ways” (White and Gooptu 2001: 89–119, 90).

It is in this context that the term “neo-bondage” suggested by Jan Breman is more appropriate as it captures the experience and fate of “footloose labour” tied to a “cycle of production” that is seasonal and operates in different ways like a combination of “advanced payments and postponed payments” (Breman 2013b: 343–45) Arguing that “labour bondage is not likely to disappear when economic growth is sustained at its current rate of increase,” Breman locates the continuation of this practice in the on-going restructuring of capital and suggests that

the emergence of neo-bondage is strongly connected to the reinforcement of the casualisation ..., informalisation of employment and reflects the increased monetisation of commodity exchanges and of social relationships. (Breman 2008: 83–90, 86)

In labour studies, the aim is to understand and “envisage a crude and primitive world with its moments of tragedy” (Bloch 1962: 264). Being tied to the land and master is the defining attribute of classical (mostly pre-industrial) versions of serfdom. The associated attribute that, by default, grips the serf is the lack of any new opportunities to learn new skills. In modern times, especially after liberalisation, there is a transition to a bondage that is more rooted in the immobility of the structures of capital.

It is in this context that we need to understand the world of farmers, the

agriculture labourers and the nomads who, today, inscribe the world of the migrants. The pauperisation of the habitats of that world has led to the creation of conditions in which labour is being harnessed in a most iniquitous manner by the emerging capitalist system today. The nature of such a process should then, inevitably, lead to a major political and societal crisis, where the edifice of urbanisation, driven by an economy riding on debt, may totter. Perhaps, this is why we see a reverse migration today as the “destination” is soulless and devoid of any other meaning other than deriving profits and cheap labour. However, what is the situation in the “destination”?

### Effects of the Lockdown

The imposition of the lockdown as a measure to contain the exponential progression of the COVID-19 pandemic has hit the unskilled and semi-skilled migrant labourers the most. In the last few weeks, we have all been witness to harrowing, nerve-wrenching and bone-chilling images of the exodus of these marginal and “invisible” drivers of the informal economy of urban India. Indian highways emptied of most vehicles were lined with bedraggled, poor pedestrians, many carrying all their worldly belongings in bundles on top of their heads walking to their home villages, hundreds or thousands of miles away across states. Add to that equally desperate attempts by small distance migrants to somehow reach their destination from medium-sized towns and cities and we have a scenario of crowding back villages that constitute the famished and dried up “source.” Even as this is being written, there are field reports emerging about scarcity of food and water compounding the dried source. The issue of crop harvest for rabi and the sowing of kharif will create some relief in the short run but the source regions cannot be relied upon to take the additional load of the returning sons and daughters of the region. Rough estimates indicate that roughly more than 120 to 140 million are, at the moment, either walking back or are stranded in various camps. This number does not take into account the vast majority of

slums that characterise our cities and house the migrants. The actual numbers wanting to return home would be fairly large. The post-coronavirus recovery of the shattered world of migrants would witness diverse and multiple realities. International Labour Organization estimates are that around about 400 million workers in the informal economy are at the risk of falling deeper into poverty during the crisis. What is the nature of this dried up “source”? What awaits the returning people at the “source”?

### Agrarian Crisis and Migration

The so-called source over the last two and a half decades and more has witnessed an unprecedented crisis in the arena of agriculture. The “source” villages where these migrants have managed to return somehow are passing through an agrarian crisis that gets firmly inscribed in these diverse ecoscapes of India with each passing agricultural season. The majority of them are smallholder subsistence economies reeling under the crisis of falling productivity, water scarcity, crisis of other livelihood options, and competing claims by private capital on natural resource endowments. The lands are now fragmented to such an extent that the bottom 50% are cultivating 0.4% of the total cultivable lands. This is, of course, compounded by low investments in agriculture, negligible capital formation, debt-ridden farming and improper price mechanisms that farmers have to deal with. A combination of these elements over the last two and a half decades has resulted in lakhs of farmers committing suicides and turning the agrarian rural landscape into a barren one. Moreover, the average holdings have drastically reduced to almost 1.13 hectare, and it was this agrarian crisis which, in the first place, induced the migration from the agrarian areas to the rapidly urbanising areas. We must also take into account the fact that Indian agriculture for the last two decades and more is in a terminal crisis, and it cannot hope to sustain this pressure on land and resources in an instant manner. For Indian agriculture to sustain, the new post-coronavirus rural would be the last straw.

Hence, the process of recovery is going to be long-drawn-out and painful for those who would opt for meager options available at source and equally for those who would be looking for opportunities in urban spaces. Due to the diffused nature of India's urbanisation and the phased-out partial manner in which the lockdown is going to be lifted, the contractor-driven labour supply chains are going to take time to get regrouped. Some sectors, especially construction that accounts for a large proportion out of the streams of migrant workers, are not going to recover soon. There is going to be an increased pressure on interstate migration to nearby towns and cities that may not be able to offer much. Overcrowding and cheap supply of labour would have disastrous consequences for collective bargaining, security and entitlements of the labouring classes.

### Need for a Charter of Rights

In such a context where the capability of the “source” is already severely compromised, social kinship ties with their embedded hierarchies are going to compound the crisis of human survival in these regions as they would be stretched out to their fullest limits. The pressure of this reverse migration is going to be felt in the fields of agriculture and allied activity and will put immense pressure on a system that is already broken. We need a complete

transformation of economic and administrative processes, practices and policies to enable the rural to face up to the issues that the coronavirus-induced reverse migration has thrown up. We need a charter of the rights of the working population across the board that ensures the right to livelihood, food, security and above all dignity of labour. Such a charter should become the guiding principle in the post-coronavirus phase of India's polity and economy. A failure to consider the above will result in a calamity.

#### NOTE

- 1 This observation is based on fieldwork on the issues of migrant workers in five states: Odisha, Gujarat, Rajasthan, Uttar Pradesh and Maharashtra. This fieldwork was funded by Sir Dorabji Tata and Allied Trusts.

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# Understanding the Indian Regulatory State

SANJANA KRISHNAN

**T**he rise of the regulatory state is a product of capitalism and democracy, simultaneously concerned with promoting the free market and winning the popular vote. Every country's regulatory framework was born out of and developed in its unique situation and context. In India, the regulatory state emerged as an unavoidable outcome of the economic crisis and international pressures. Against the backdrop of this crisis, in a country with huge inequalities, the regulations were designed to depoliticise certain decision-making processes, maximise welfare, prevent monopolies, and still try to accomplish the unattained goal of distributive justice.

Almost two decades after the watershed 1991 reforms, the book under review, true to its title, undertakes a much-needed analysis of regulation in India and its design, capacity, and performance. In the absence of a comprehensive study of the foundations, and how regulations have evolved and performed over time and in different sectors, this book is the first major study encompassing these aspects and is a critical contribution to existing literature.

Even though there are common objectives for regulations across sectors, they have differed in design (architecture of the regulatory bodies, their jurisdiction, and powers) and in the amount of external influence (such as political interests, judicial interference) they experience, resulting in significant differences in functioning and performance. This is exemplified by Amit Kapur in his chapter, where he observes that there is little in common in the infrastructure sector, as regulations in industries developed in verticals, each evolving its own policy at different stages of market development. The ability to find distinctive features and patterns in the diverse manifestation

## BOOK REVIEWS

**Regulation in India: Design, Capacity, Performance** edited by Devesh Kapur and Madhav Khosla, New Delhi: Hart Publishing, 2019; pp 448, ₹602 (paperback).

of Indian regulations is perhaps one of the biggest strengths of the book. Further, the inquiry into administrative law contributes to our understanding of governance and the underlying principles and context of the regulatory state. Given that this has, so far, received very little attention in scholarship, it is a significant strength of the book.

### Current State of Regulations

The 16 chapters are arranged in four parts covering various themes. Devesh Kapur and Madhav Khosla in the introduction write about the reality of Indian regulations. Their premise is that the study of the regulatory state is necessary to address issues of inequality, accountability, and economic growth because of the legal ambiguities and institutional weaknesses that plague it. Unlike the work of scholars like Chandrashekhar and Ghosh, they do not delve into the run-up to the 1991 reforms or the normative aspects of regulations (Chandrashekhar 2011; Chandrashekhar and Ghosh 2002). Instead, they concern themselves with examining the current state of Indian regulations and their defining and distinctive features.

The authors identify five themes. The first is regarding the doctrinal incoherence and uncertainty of regulations. The chapters on this topic make a case for greater focus to be given to understanding and reforming the underdeveloped administrative law of the country, which forms the basis of regulation. Together, they posit that the judiciary is largely

responsible for this underdevelopment because of their excessive reliance on judicial review, judicial oversight, and their preference for a case-by-case application of common law over systematic legislative reforms. The institutional changes required for an effective regulatory state have not been achieved due to this piecemeal development of regulatory jurisprudence. This observation establishes a foundation to look at the incapacities of the regulatory state, and we can see that this is the sectoral examination conducted in subsequent chapters.

The second theme central to regulations is about their incapacity and structural weaknesses, and the lack of incentives to address it. The authors find several common factors responsible for this: the lack of domain experts, technically incompetent staff and leaders, a large number of vacancies, and inadequate investment in building staff capacity, domain expertise, and infrastructure like laboratories. Every sector faces this problem, be it in relatively successful securities regulation (Securities and Exchange Board of India) or in pollution control where there is woeful incompetence; or in the established regulations in traditional banking or the nascent sector of data protection. The authors observe that this could be because the elected representatives see a little electoral gain in investing in capacity building, or that it is a deliberate strategy to ensure political dominance.

The third theme deals with the independence of the regulators. The design of the regulators' power and structure is ambiguous, and suffers from jurisdictional overlap and turf wars. Often, the state exercises control over regulators' decision-making to give state-run enterprises an unfair advantage, resulting in an uneven playing field and a regulator with no real powers. Further, there is ineffective coordination and fragmentation of power. This can be observed in the electricity sector, with tension at various levels between agencies in the central government, between the centre and states, and between states. With decision-making moving outside the elected legislature

to an unelected regulator, not building in adequate consultative processes and accountability towards its stakeholders is a notable design flaw that keeps out citizens and industries affected by regulations.

The fourth aspect afflicting regulators in India is their inability to deal with new and disruptive technology. This is especially true in sectors like telecom, banking, and big data where regulators are constantly playing catch-up because of rapid changes. With the rise of big tech such as GAFA (Google, Amazon, Facebook, and Apple), their role in retail, food delivery, social media, and internet or even transportation (Uber and Ola) raises multiple issues about competition laws, data localisation, content moderation, algorithmic decision-making, ethical advertising on the platform and more. The cross-sectoral nature of it makes it tougher to regulate. For example, the rise of electric vehicle sharing platforms cuts across sectors of data and technology, transportation, and renewable energy. As the authors have acknowledged, the scope of this problem is not adequately addressed in the book. While this could be due to the lack of existing regulation, discussing these issues in the Indian context and how they are currently addressed along with possible solutions would be a useful addition.

The fifth theme looks at how international regulations have guided the formation of domestic policy. This has particular relevance in Vikramaditya Khanna's chapter on food regulation where he talks about the inadequacies of the Food Safety and Standards Authority of India (FSSAI) and their reliance on global food standards as benchmarks. This becomes problematic considering the regulator's lack of expertise and inability to handle the sheer scale and immense diversity of local food. This theme also emerges from Shibani Ghosh's chapter on environmental regulation where there is a failure to adopt international standards, resulting in unscientifically set standards that fail to control pollution in India.

### Diverse Themes Covered

Apart from this, across chapters, the book engages with several other themes. The conflict between environmental

goods and industrial development comes across in chapters on renewable energy and the environment. Akshay Jaitley writes about the incoherence in policies, where a developing country like ours would like to simultaneously import cheap solar cells with claims of "make in India." There is also the tussle between affordability and viability, as it plays out in the electricity sector where regulators need to have low tariffs and also manage the financial health of distribution companies (discoms). It is from negotiations like this, where regulators face conflicting, and sometimes incompatible objectives of efficiency and distributive justice, that Kapur and Khosla draw the conclusion that regulations in India are "intrinsically political."

The book is especially relevant because the topics it addresses give us a lens through which we can holistically understand several ongoing and pressing issues that continue to arise in the regulatory state. The recent Punjab and Maharashtra Cooperative (PMC) bank collapse exposed the weaknesses of having two regulators: the Reserve Bank of India (RBI) and the government. Cooperative banks are registered under and partially regulated by the Co-operative

Societies Act, 1912 and their management is not supervised by the RBI. Rather they are overseen, rather inadequately, by the government, resulting in oversights (Rebello and Nayak 2019). This issue of multiplicity of regulators in banking is raised by Suyash Rai, and can also be seen in the securities market and the telecom sector. This poses a choice between the dangers of fragmentation versus the dangers of consolidation by a super-regulator.

Ananth Padmanaban and Anirudh Rastogi, in their chapter on big data, note that the expert committee constituted to design the Data Protection Bill in India placed considerable regulator focus on data-breach notifications. If this provision existed and was enforced, the response to the WhatsApp hack targeting journalists and activists in India would have had lesser ambiguity (Bhattacharji 2019).

Susan Ostermann observes that the judicial strategy of imposing bans is a blunt and intentional response to perceived weak state capacity. The recent ban on stubble burning to counter severe air pollution in Delhi and northern India by the Supreme Court reflects this (Ellis-Petersen 2019). However, as Ostermann points out, this reactionary response in

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### Wage Rates in Rural India

The **EPW Research Foundation** has added a module on Wage Rates in Rural India to its online database, EPWRF India Time Series (EPWRFITS).

This module provides average daily wage rates, month-wise, in rupees, for various agricultural and non-agricultural occupations in Rural India for 20 states starting from July 1998 (also available, data for agricultural year July 1995–June 1996). Additionally, it presents quarterly and annual series (calendar year, financial year and agricultural year), derived as averages of the monthly data.

The wage rates for agricultural occupations are provided for ploughing/tilling, sowing, harvesting, winnowing, threshing, picking, horticulture, fishing (inland, coastal/deep-sea), logging and wood cutting, animal husbandry, packaging (agriculture), general agricultural segment and plant protection.

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The data have been sourced from *Wage Rates in Rural India*, regularly published by the Labour Bureau, Shimla (Ministry of Labour and Employment, Government of India).

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extant circumstances does little to build state capacity. Pollution continues to recur every year despite previous bans on diesel vehicles and firecrackers, and stubble burning continues to happen because of the inability of the state to provide alternatives to farmers.

Kapur and Khosla undertake this study by adopting expert opinion as a research method. With a structure in mind, they have carefully selected experts, academicians, and practitioners who have the competence to comment on key substantive areas of regulations. This method has allowed the editors to take a broader look at the topic from different angles, and to use the heuristic knowledge of experts in order to understand the challenges, promises, and limitations of regulations in India. As editors of this book, they bring together 22 experts to write 16 chapters to cover topics ranging from the foundations of the Indian regulatory state to the form of regulation across different sectors to regulation in practice. The book includes contributions

from luminaries such as retired Justice B N Srikrishna, Ajay Shah, and Vikramaditya Khanna, among others.

Capturing a vast and constantly evolving topic like regulation is a challenging task. Kapur and Khosla have achieved this by identifying the key topics and laying the foundation to enable comparison. However, it would be interesting to know more about regulations in social sectors like education, health, media, film censorship, and broadcasting. While judging the performance of regulations, a data-backed discussion on the cost of regulating, cost of complying with regulations, and the cost of misregulation or failing to regulate will also be interesting. This book also makes one curious about the future of regulation in India and the direction in which it would evolve.

Overall, this book provides an excellent overview and analysis of the state of regulations in India, as it is today. The series of chapters by the contributing authors are very informative and rich with examples taken from their domain.

It is a must-read for anyone wishing to get a holistic understanding of the topic.

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unusual punishment and degrading treatment. One can, and should, expand this listing, for example, to the rights of people living with disabilities (Shourie 2018; Dhanda 2007; Baxi 2018).

I avoid the term "higher" judiciary because it constitutes a frontal attack on judicial independence. Though the term "subordinate" courts is most commonly used, and even by the Constitution of India itself, I believe that no judge acting within their jurisdiction is subordinate to any other; the order or decision of a judge may be reviewed within a system, but any consideration of an adjudicative hierarchy must remain foreign to doing justice within the jurisdiction.

That said, the way in which Arghya Sengupta's *Independence and Accountability of the Indian Higher Judiciary* is structured is quite remarkable. It begins with consideration of judicial appointments, and then moves to judicial independence and accountability. I cast the last two as autonomy and accountability,<sup>1</sup> but now add the matter of appointments which begins with autonomy, making the battle of these three 'A's a

## A Battle of Three 'A's Appointments, Autonomy, and Accountability of Appellate Courts

UPENDRA BAXI

There has been much debate among the legal and constitutional elites concerning judicial appointments and accountability, and there is almost a consensus that "something" needs to be done. But, that agreement on what that "something" may be has, so far, proven elusive in intra-constitutional elite debates. The masses of India, in the meantime, have been engaged in the people's struggle for democracy, rule of law, and justice at the grass roots.

This struggle involves at least: (i) expeditious and equitable adjudicative relief; (ii) immunity from arbitrary and often politically orchestrated harassment of ordinary citizens at the hands of security

**Independence and Accountability of the Indian Higher Judiciary** by Arghya Sengupta, *Cambridge, New York, Port Melbourne, New Delhi, and Singapore: Cambridge University Press, 2019; pp xviii + 317, price not indicated.*

officialdom; (iii) access to justice, that is to courts, lawyers, and to other infrastructures of dignity and other human rights; (iv) determined action to end long pre-trial detentions; (v) timely action to lodge first information reports and speedy investigations and trials; (vi) amelioration of horrible conditions in jails and lack of bail; and (vii) expeditious endeavours towards suitable restitution and rehabilitation for wrongful trials, torture, and other acts of cruel and

triangular affair. We follow here the framework adopted by the author, who makes a distinction between pre-tenure, in-tenure, and post-tenure questions (Chapters 2, 3, and 4). These different phases enable the analysis of related but distinct phenomena in terms of independence and accountability.

### Pre-tenure Questions

Whatever may be the initial response, the judicial collegium is now certainly a matter of great concern and commendation among the legal and constitutional elites. Even so, the policy reasons for the transition from the executive-dominated system to the collegium are not fully recognised. It is blithely accepted that almost everyone acknowledges the failings of the collegium system. And “the history of Indira Gandhi’s attempts to browbeat the judiciary provides a good cause to insulate the courts from the executive.” But, there is a caveat sounded by the learned author: “such insulation cannot *sacrifice the constitution itself*” (p 54; emphasis added).

What is the constitution is itself almost a Hegelian question; but prescinding it here, we at least need to attend to two related but distinct concerns. First, do we know enough to say that the respect for the independence of the judiciary notably increases when the executive is in majority or supermajority? Or, does the executive-led appointments system produce more robustly independent justices than the collegium system? If both the systems have drawbacks of major constitutional proportions, what other viable alternatives may be envisaged? In the absence of empirical studies, all we are condemned to live by is an exchange of views and opinions, which will never settle the controversy.

The second set of issues points us to the competition and conflict between independence and accountability. Does increased judicial independence bring with it necessarily the loss of accountability? Or, is it accountability, in some of its forms, that betokens and even escalates the steady erosion of independence? Or, further, is it the case that neither system of appointment made any, or major, difference to independence or accountability of the judiciary?

Sengupta is absolutely convinced about “the infirmities in the current system of judicial appointments” and considers “the collegium method as unjustifiable as a matter of constitutional law” and as suffering from “grave defects in practice” (p 6). This conclusion, sounded very early, is reiterated throughout the work, but stands elaborated more particularly in the 40 pages discussing the landmark Three Judges Cases (pp 22–62).

In effect, Sengupta maintains that it is “logically unsound and constitutionally impermissible in terms of interpretation” (p 29) to import into the Constitution a judicial collegium by interpreting the word “consultation” to mean “concurrence” (signifying the “primacy” of the chief justice of India [CJI] who is the chair of the collegium as well). Giving due weight to the opinion of the CJI was largely followed. The author notes the dissent of Justice Ahmadi (p 31), which pauses to acknowledge that out of 547 appointments, 540 were in accordance with the CJI’s advice, but says that it was at best a “healthy convention,” and not any recognition of “institutional primacy” or “unfettered primacy” (p 29). But, if not about judicial primacy, then, one may ask, what was the convention about? Besides, if constitutional conventions are “healthy,” they are so because these put the primacy principle to work. Presumably, the reverse state of affairs exists when these are “unfettered;” the Constitution frowns upon manifest arbitrariness. Was this “healthy convention” then arbitrary and, therefore, a mere practice, not entitled to the status of a convention?

Sengupta, certainly, on a close textual reading of Articles 124 and 216, adopts the view (first offered by the lamented H M Seervai) that a “unified opinion of the judiciary ... cannot be a literal import” of the words used in the articles (p 30). In other words, there can be no “purposive interpretation” when the language of legal text is clear. But, it is the function of judicial interpretation to say when the text is so obviously clear as to be compelling. The fact is that interpretation is ineluctable; lawyers and judges rarely think that a legal provision or phrases in

the Constitution have a natural meaning beyond interpretation.

What some call misinterpretation is considered sound interpretation by another; this is seen in the judicial practice of dissenting opinions, but also in separate concurring opinions, which often play the role of disguised dissents in India (Baxi 2019). To say that something is a misinterpretation of the Constitution itself is a view held by many media persons, corporate citizens, security forces, and almost unanimously by the political class. But, the legal academic should at least run the full gauntlet of constitutional discipline. A full account of the rival arguments must accompany the constant awareness of the fact that judges have to decide contentions presented before them; in focusing only on a few judges to the complete inadvertence of the lawyer’s arguments is not an adequately reasoned course. The author does not, for example, closely attend to the argument that the government, being the largest litigant, may not have a decisive role in appointing appellate justices. Mere references to comparative positions or merely denying that the one member out of a National Judicial Appointments Commission (NJAC) of six gave the executive a “determinative voice” (p 48) would not substitute for detailed analysis and reasoning.<sup>2</sup>

Maybe a commission along the lines emerging from the NJAC opinions can perform this role? The surprising thing is that Parliament, instead of following a constitutionally permitted role, has chosen a regime of the deferral to the executive and, in some cases, outright denial of complying strictly with the collegium’s recommendations. Through acquiring the power to determine the memorandum of procedure (MoP)—which is still to be finalised—the government has done what it cannot do directly. Only when a collegium decision has been reiterated has it been followed, though after a significant passage of time. Thus, what has evolved (in my publicly stated view) is the de facto system (at times uncomfortable) of constitutional diarchy between the executive and the judiciary. Neither side has got exactly what they wanted, but each side has obtained some

of what they wished. To transcend this constitutional limbo remains the work of a genius. Till then, this uneasy compromise remains perhaps the only constitutionally operative system.

### In-tenure Questions

These relate basically to the processes of impeachment. This is a difficult political process, which has led, during the long process, to some judicial resignations, but to virtually no effective decision on impeachment. I fully agree with the learned author that judicial independence is indubitably compromised and the court “becomes a plaything for political manoeuvring” if and when “decisions on political matters entail the Damocles’ sword hanging over a judge’s head” (p 97). The Constitution “envisaged statesmen deciding on questions of impeachment; instead its working has only thrown up partisan politics” (p 99). Perhaps, in the eyes of comparative constitutional law studies, this is not a distinctive Indian constitutional trait, but rather a global experience; yet, the constitutional norm and expectation prescribe a different threshold.

The question as to whether the matter should entirely vest, and rest, with Parliament or should the Supreme Court also intervene, before, during, and after, impeachment decisions is a vexed one. Sengupta is clearly of the view that the judiciary ought to leave the entire matter first to the statutory committee and then to Parliament (pp 86–93, 97–99). But, even so, both functionally and theoretically, discussion will continue concerning whether and to what extent judicial decisional independence may be said to be affected by the issues of “declining levels of probity in higher judiciary” and “partisan politics” (p 98).

### Post-tenure Questions

“Public clamour” against post-retirement appointments has been on the increase in the recent decades (p 114). The folklore has grown because a few judges seem to have accepted post-retirement appointments even while on the bench, and there is at least one instance where a judge transferred all matters from high courts to a tribunal, which he later

headed (p 115). But, the folklore is unworthy when it attributes motives and brings judiciary as a whole in disrepute. As Sengupta points out, what the Constitution forbids, in the case of Supreme Court justices, is litigation practice, and not post-superannuation appointments. A large number of statutory tribunals require as chair a retired CJ, judge of the Supreme Court or of a high court as chair and as judicial members; and ad hoc justices are not barred from these as a matter of principle (pp 103–10). His own empirical study demonstrates that post-retirement jobs for judges do not affect decisional independence, but do raise certain issues concerning accountability (pp 110–14; Aney et al 2019).

### Accountability and Independence

Chapters 5 to 8 are the most fascinating parts of the book, which develop both the normative concepts and measures for an effective and fair adjudicatory system. Sengupta adopts the five-fold structure of Mark Bovens (2007), who classifies accountability concerns, in terms of subjects, addresses, subject matter, rationale, and mechanisms (p 121), and outlines as three indicators of an “effective judiciary:” integrity, public confidence, and integrated government, consisting of mutual checks and balances (Chapter 7).

The discussion is too rich to warrant any summation, and I suggest a very close reading of these parts that bristle with new thoughts, insights, measures, and methods. Illustratively, I venture here into only one area—that which the author calls “the web of integrated government” (perhaps “governance” would have been a more accurate term). A close reading of James Madison’s notions leads inevitably to the notion of “controlled” government (where each organ of the government checks and balances the other) to the extent that “judicial accountability” becomes the “key to securing the web of integrated government” (p 188).

Making the judiciary accountable is to make it “institutionally accountable” as a “stakeholder in the overall constitutional scheme of checks and balances” (p 196), or what jurists name as the

“separation of powers” doctrine. But, Sengupta is careful enough to stress the need for “a fundamental normative congruence between judicial independence and accountability (p 199), or, in my words, between the two As of autonomy and accountability. This is a sane suggestion and so remains the author’s sensible *Programmschrift*<sup>3</sup> towards this (pp 236–63).

However, all this comes unstuck when there occurs a deep-seated normative, institutional, and ideological contradiction between the will to power and the will to justice. The Indian constitutional development, at many of its turning points, is a product of this sort of clash of wills. In this sort of context, the so-called rule of harmonious construction does not perform the wonders and miracles of legal magic; it fails to work constitutional harmony amidst wholly different world views.<sup>4</sup>

No harmonious construction magic can solve irreconcilable differences, but conflicts can be made hidden (suppressed even for long), or made latent (by deferral); rarely, are these made patent (brought to the foreground). The believers in parliamentary sovereignty are not uniquely inclined to accentuate the doctrine of basic structure and essential features, or any other limitations on the amending powers of Parliament. The patriarchal male and cultural male in the state and civil society is unlikely to welcome or yield to notions of gender equality or justice. Custodians of traditions will always consider constitutional secularism as an arch enemy of essential religious practices and identities. The heterosexual sovereign element in the state and civil society will frown at, or resist, any judicial procumbent giving equal rights to other sexual minorities. And, the lynching mobs, encounter killers, and custodial death inflictors will resist any human rights restrictions based on the dignity of all human beings. Many other examples may be given from the fields of ableism, apartheid, untouchability, migrant and displaced persons, children, discrimination, but I desist here.

In all such matters, judicial independence is not any anti-majoritarian tool or

exercise of counterpower, but rather a simple mechanism of enforcing the power coupled with the duty to uphold the right of every citizen and person to constitutional remedies. This may have the effect of disrupting the “webs” of governmentality, but strong judicial review remedies are provided by the Constitution itself as essential for constitutional liberty and democratic freedoms. Disinterested adjudicatory leadership of the nation (demosprudence), I believe, remains necessary and desirable for reforms in governance structure based inevitably on competitive party politics. The Constitution contemplates a “community of equals,” where the “political” signifies a “moment” of “interruption” of power.<sup>5</sup>

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## NOTES

- 1 At the Conference of Vice Chancellors, North Zone, National Law University, Delhi (2016), I drew this distinction in the context of appointment of vice chancellors and invited attention to Part IV of the Constitution elucidating the fundamental duties of all citizens. This analysis extends even more to justices who have sworn to do justice without fear and favour as

well to remain loyal to the Constitution as by law established.

- 2 The arguments were more complex. The government had the power to appoint two eminent members (and the criteria of eminence were not prescribed) besides the union law secretary who was made the convenor. There was a suggestion that the primacy of the judicial voice and presence may be stifled by other members of the commission. It does not also help much to argue (as the author does) that the power to appoint justices is with the President (pp 29–30). The President, it is settled, exercises the power only on the aid and advice of the cabinet, headed by the Prime Minister.

And, certainly, India does not want to travel the Polish way, where the ruling Law and Justice Party in 2018 allowed the lower house of parliament—which it controls—to choose the members of the council that appoints judges, which the Supreme Court resolved by holding that judges chosen by the new council were “not sufficiently independent, and did not meet the requirements of being a judge under the Polish constitution or EU law.” “Such a person does not have the right to issue judgments,” said Supreme Court president Malgorzata Gersdorf (*BBC News* 2020). Apparently, the Supreme Court ruling enjoys widespread citizens’ support as shown by protests marches in many cities in Poland against “increasing intimidation” of judges.

- 3 A German term, meaning a programme, but more often a plan for it or even a manifesto.
- 4 As we know, Jean Francois Lyotard extended it the farthest when he spoke about “heterogeneity, dissensus, ... the unharmonisable” as the *nomos* and *telos* of all democratic orderings (Sim 2001: 29).
- 5 It was much later that the conception of the political was proposed by Jacques Rancière for whom political is not a mere affirmation of power to rule, but an interruption of that power; studying politics thus means studying

“moments” of this interruption, “moments when ... disturbance of the community provides opportunities for the ‘part without a part’ to gain entrance into the community of equals” (Baiocchi and Connor 2013: 97).

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# Gandhi's Reflective and Dialogical Approach to Search for the Truth

GHANSHYAM SHAH

Gandhi's search for truth with constant self-introspection led him to admit his own misconceptions and errors. His path of self-reflection and dialogue among different views are the need of the time, to find deliberative ways to resolve conflicts.

One's lifeworld is constituted of a consciously or unconsciously imbibed value system about oneself as well as others through socialisation. It is "the reservoir of implicitly known traditions, the background assumptions that are embedded in language and culture and drawn upon by individuals in everyday life" (Cohen and Arato 1992: 427). It is also the source of definitions of the situation; and is the repository of the interpretive work of social thinkers as well as of past generations. Reflective thinking begins with the availability of different kinds of experiences, cognitive knowledge, and interactions with people of different lifeworlds and world views. This provides a possibility to reflect on one's lifeworld assumptions, categories, value system, and also cognitive dissonance. In the process of reflective critical thinking, one begins interrogating one's own lifeworld, gets engaged into dialogue with one's own self and others, including ideologically holding opposite positions on perception and interpretation of reality (present and historical) and normative values. This enables one to be free from dogmatism and get engaged in a search for alternative explanations of a phenomenon, moral principles, and values underpinning one's vision for society and its transformation for common good (Habermas 1984).

M K Gandhi was primarily a man of praxis. He had gradually developed a vision for an ideal non-exploitative society with an individual autonomy embedded in moral principles. Self-introspection in his own lifeworld coupled with reflective thinking based on his experiences and dialogue with himself as well as others had been Gandhi's path to search for the Truth to deal with unfolding contradictions

emerging in a social process (Juergensmeyer 2003). He noted that *atma-darshan* (self-reflection) was a motivating force for his involvement in public activities in South Africa in the early 1890s. His interaction with Christian missionaries and reading of Leo Tolstoy and John Ruskin's books opened a vista to the notion of universal love (Gandhi 1927: 146–47).

His experiments on his own self were his path to discover Truth. He believed that "Caged as we all are in our own exclusive pride of limited truths." In the last paragraph of his autobiography, *My Experiments with Truth*, a self-narrative of experiments (self-searching) with truth, he observed,

Ever since my return to India I have had experiences of the dormant passions lying hidden with me. The knowledge of them has made me feel humiliated though not defeated. The experiences and experiments have sustained me. (Gandhi 1927: 464)

In its preface, he underlined,

I claim nothing (more for the experiments) than does a scientist who, though he concludes his experiment with the utmost accuracy, forethought, and minuteness, never claims any finality about his conclusion, but keeps an open mind regarding them ... *I am far from claiming any finality or infallibility about my conclusion.* (Gandhi 1927: 2; emphasis added)

He was constantly interrogating himself and believed that inward growth was unending even (as a believer of the soul) "with the dissolution of his body" (CWMG, Vol 61, p 24). He declined to be a slave to precedents or practice which he could not "understand or defend on a moral basis" (CWMG, Vol 23, p 467). With such spirit, he often admitted his mistakes and modified views and subsequent actions.

Gandhi's early lifeworld was shaped through his socialisation in the upper-caste milieu in mid-19th-century Saurashtra. He belonged to a *savarna* (upper caste) trading community. His father was a Dewan (chief minister) to princely states. Most of his *jati* members were following the Vaishnava sect. His mother, besides following Vaishnava rituals, was also following the Paranmi sect which has a synergetic belief system of Hindu bhakti and Islam Sufi traditions. Jain monks who

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were often visiting the family also had an impact on him. His family ethos and school education shaped his religious sensitivity and moral values. He was an obedient child, carrying out the orders of the elders, “not to scan their actions” (Gandhi 1927: 6). Popular stories with moral messages—to speak and stand for Truth, be compassionate, be magnanimous, be repentant for mistakes, etc—deeply influenced the young mind. He tried these moral lessons by putting them into practice in everyday life. During his childhood, he introspected several times about his actions, admitted blunders, repented for wrong action and tried to improve his behaviour. In his autobiography, he writes, “one thing took deep root in me—the conviction that morality is the basis of things, and that truth is the substance of all morality” (Gandhi 1927: 29). At a later stage, he reformulated “God is the Truth” as “Truth is God.” His search for truth was both cognitive as fact/reality perceived by himself as well as intuitive as inner voice and experimental in relation to social ethics (Puri 2015: 98).

### Civilisation and Indian Society

During his early ideological formations of the first three decades—the late 19th century—two important public discourses were prominent on the nature of Indian society. This discourse had idealist (that is, primacy to the idea) framework for social analysis, in which culture was the determinant category. One of the discourses was on the hierarchical caste-based social order imposing civil and economic restrictions on lower castes. This was protested by several non-Brahmin and a few Brahmin saints. The Bhakti movement preached the idea of equality before god. In fact, a few saints like Narshinh Mehta in Gujarat were not only against the discriminatory practice, but also intermingled themselves with the communities which were considered as “untouchables.” This milieu made a deep impression on young Gandhi. But, it seems he was not familiar with the anti-Brahmin social movement against the caste system that was prominent in some parts of the country.<sup>1</sup>

During Gandhi’s formative age, there was another discourse. It was on Indian

civilisation in the context of classification of human society in the categories of civilisation. This discourse was initiated by Western intellectuals. It was essentially an Occidental concept placing Western society of the post-Enlightenment as superior to earlier societies or “more primitive” contemporary ones in other parts of the world (Elias 1994: 5). Some administrators and Christian missionaries working in India imagined Indian society to be static and advocated its change. There was a widely prevalent notion among this elite (including self-styled modernist Indians) that it was the white man’s burden to civilise, that is, modernise the Indian natives. Western indologists of that period conceptualised the Indian subcontinent as Hindu civilisation. Some of them and Brahmin elite social reformers projected golden days of Vedic India with its pristine beauty of village society. They romanticised ancient Indian culture.

Gandhi inhaled such Brahminical discourse from his childhood and that had become the core content of his lifeworld. A section of the first generation of Western-educated upper-caste Gujaratis—social reformers and litterateurs—were a carrier of the discourse. Like others, Gandhi from his young age believed that Indian civilisation was unique: “the civilisation that India has evolved is not to be beaten in the world” (1909–39: 60). He believed that not only such culture existed during the golden Vedic period, but it could also be recreated in the present era if each individual becomes morally upright and ethical.

When he went to South Africa in 1893, at the age of 23 to serve as a legal counsel to an Indian merchant, like other Indians he was embedded with his lifeworld with a stereotyped mind about the local natives—*Habshi* as Kaffirs, “savages” or coolies. At that time, he was not a freedom fighter, but a faithful British subject. Having been influenced by European Indologists who placed Africans at the bottom of the hierarchy, Gandhi spoke of the native inhabitants of Africa in patronising and even pejorative language (Markovits 2014). However, his views changed as he experienced humiliating discrimination by white Europeans. He first began to grapple with the notion

of self-respect and later equality. In the process, his views on Africans had undergone changes. In 1939, he asserted that Africans, as well as Indians, needed to be placed on an absolutely equal footing with Europeans. He pleaded for the unity of all the exploited races of the earth (CWMG, Vol 90, 366).

Gandhi also had undergone a change in his views on Western civilisation. Earlier in *Hind Swaraj* (1909), he asserted that Indians have “nothing to learn from anybody else.” Later, he confessed that “I have learned a lot from the West” (Parel 1997: 67). In 1936, he compared London to our Mecca or Kashi. However, the grip of cultural essentialism dominated his worldview throughout his life (Shah 2013). His imagination of Indian civilisation was essentially Brahminical as conceived by European and Indian Indologists. It was largely manifested in his notion of Indian “tradition” embedded in the Varna and caste system. He believed in the Varna system as an ideal social order (Gandhi 1945: 52). “Varna thus conceived is no man-made institution but the law of life universally governing the human family ... Varna reveals the law of one’s being and thus the duty one has to perform, it confers no right ...” (Gandhi 1962: 7). In his opinion, “Varnashrama, as I interpret it, satisfies the religious, social and economic needs of a community (Gandhi 1962: 13–36).” At the same time, he did not endorse scriptures or Puranas as the authority. In fact, he marginalised “the *Sastras* and deprived them of their religious and moral authority” (Parekh 1997).

When he encountered the ground reality on caste and discrimination, he was often uncomfortable to deal with the situation. Till the 1910s, he did not consider inter-caste marriage and dining “essential for the promotion of the spirit of democracy” (CWMG, Vol 22, p 68). In 1924, his views slightly relaxed on the matter of inter-caste marriage because of the rising number of inter-caste marriages. He observed that “this reform cannot be stopped now” (Gandhi 1954: 116). In 1931, he granted inter-dining and inter-marrying relation between “Harijan” and caste Hindus. Later, he pleaded for breaking the barriers of caste and religion

for social relationship (CWMG, Vol 66, p 9). In 1946, he encouraged upper-caste youths to marry "Harijan girls." At the same time, he could not overcome from his faith in the Varna system. He accepted that "we have not witnessed the Varna System practicing equality, but it might be there during the Satyug (Era of truth) of Hindu religion" (Gandhi 1945: 51). He was not sure when "we shall be able to revive true Varnadharmā" (Gandhi 1962: 26). Such a dilemma indicates tensions between his faith in the traditional cultural imaginary of society free from social discrimination and the prevailing unjust social milieu. Despite his immense compassion and concern for upliftment of Dalits, he was unable to see the caste system from below, perpetuating Brahminical hegemony.<sup>2</sup> Emancipation of Dalits did not become his socio-political agenda. Hence, he failed to see caste discrimination as the core ingredient of the hierarchical system embedded in the ideology that received legitimacy from religious practices, norms and social customs coupled with political economy. This could be a reason that even in 1946 he was not supportive of Dalits who were demanding rights. He advised them to do their duties, and rights would follow. He asked them to be patient, though acknowledged "a limit to one's patience" (CWMG, Vol 91, p 318).

In the 1930s, he emphasised a change of heart of caste Hindus for their behaviour towards Untouchables. Having realised that despite his efforts, the mindset and behaviour of the majority of Hindus towards untouchables remained unchanged, he asserted that it was the duty of savarna Hindus of the Harijan Sevak Sangh to resort to satyagraha against Hindus to get justice to the Dalits. He also agreed that "Bhangis had [a] right to strike work to get justice" (CWMG, Vol 91, p 54). His support to legal measures against the practice of untouchability resulted in the inclusion of Article 17 in the Constitution (Hardiman 2003: 134). In 1935, he said that "even if the whole body of Hindu opinion were to be against the removal of untouchability, he would still advise a secular legislature like the assembly not to tolerate that attitude" (cited in Nauriya 2003).

Similar changes are found in his views about modern institutions and technology. In 1909, he considered machinery a great sin. He was against railways and telegram. After a decade, he said he was not in favour of destroying railways or against hospitals and law courts. He granted that without a few industries, agriculture was not possible. In 1921, he wrote,

My views in regard to mills have undergone this much change. In view of the *present predicament* of India, we should produce in our own country all the cloth that we need even by *supporting, if necessary*, mills in India rather than buy cloth made in Manchester. (CWMG, Vol 31, p 399)

He objected to the "craze" for machinery, not machinery per se. He was against machines which are used to "save labour" when "thousands are without work and thrown on the open streets to die for starvation. I want to save time and labour, not for a fraction of mankind, but for all. I want the concentration of wealth, not in the hands of the few, but in the hands of all" (Gandhi 1939: 8).

### Dialogue

His magnum opus *Hind Swaraj* is in the form of a dialogue between the editor and the reader. He always invited criticism on his views and actions. While replying to his critics he rephrased his views, contextualised them, and occasionally conceded the opposite point of view. In 1909, he had dialogues with V D Savarkar and Shyamji Krishna Varma who were champions for the armed struggle for independence. They differed with Gandhi in their imaginary of Hindu religion. Gandhi praised the virtues of pacifist Lord Rama and Savarkar extolled Goddess Durga who eliminates evil (Chopra 2016). Both had "quite opposite" interpretations of *Gita* and *Ramayana* (CWMG, Vol 37, p 82). In fact, Savarkar called himself an atheist. Whereas Gandhi was a religious person who called himself a Sanatani Hindu. He respected all religions and did not believe in superiority of one religion over other. Gandhi however did not close the doors for dialogue with Savarkar. In 1939, he had gone out of his way to win him over, but failed (CWMG, Vol 76, p 403). Both fundamentally differed in

their idea of India. They had a different premise and notion of morality and society. For Gandhi, nationalism was pluralistic, inclusive and universalistic. For Savarkar, it was "racial cohesion" with "common blood of Hindu parentage" that could "dictate terms to the whole world" (Savarkar 1999).

Gandhi had frequent exchanges of views with Rabindranath Tagore on the non-cooperation movement, a boycott of Western education, exclusive advocacy to handicraft and charkha, asceticism, and nationalism. They respected each others' different positions and were open to continuous dialogue. Gandhi had a dialogue with Subhas Chandra Bose and Jawaharlal Nehru on economic policy and programmes, and B R Ambedkar on caste and untouchability. Despite his disagreement with Ambedkar, Gandhi put pressure on the Congress leaders to make Ambedkar a member of the constituent assembly, and later a minister in Nehru's cabinet.

Gandhi being a believer was reluctant to give an interview to Gora (Goparaju Ramachandra Rao), an atheist. However, in the course of the interview, he began to appreciate the latter's perspective and logic. In fact, he conceded, "Though there is a resemblance between your thought and practice and mine superficially, I must own that yours is far superior to mine." He also added,

I can neither say that my theism is right nor your atheism is wrong. We are seekers after truth. We change whenever we find ourselves in the wrong. I changed like that many times in my life. I see you are a worker. You are not a fanatic ... There is no harm as long as you are not fanatical. Whether you are in the right or I am in the right, results will prove. Then I may go your way or you may come my way, or both of us may go a third way. So go ahead with your work. I will help you, though your method is against mine. (Gora 1951: 34)

And, during the communal violence on the eve of independence, while feeling helpless in his efforts in pacifying fanatic mobs, Gandhi wished that the communities turned atheist if that would serve to stop communal hatred and riots (Gora 1951).

Nehru was not in agreement with Gandhi on his ideology of primacy to village economy, small technology, and

anti-modernity, that is, modern science and rationality. As early as in 1928, Gandhi wrote to Nehru that “the differences between you and me appear to be so vast and radical that there seems to be no meeting ground between us” (CWMG, Vol 35, pp 469–70). Though differences on economic policies were not sorted out, Gandhi promoted Nehru as the Congress president in 1928. Later, both were the co-authors in drafting Congress resolutions in the Karachi session in 1931 on fundamental rights, economic policies, including related to industries, etc (Tendulkar 1951: 120–24). It is, however, a puzzle for me as to why Gandhi did not then emphasise his idea of decentralisation and self-sufficient village economy a part of economic policy while preparing the resolutions. Later, however, Gandhi declared Nehru his political heir and chose him as the Prime Minister of independent India. On the eve of independence, however, he wrote a letter to Nehru, reminding him about his idea of India’s development expressed in his *Hind Swaraj*. At the same time, he added and emphasised that he was not opposed to modern knowledge and technology. He wrote:

I can think of many things which will be produced on a large scale. Maybe there will be railways, so also post and telegraph offices. What there will be and what not, I have no idea. Nor do I care.

By that time, Gandhi was in favour of the state’s initiative in restructuring the society and economy; land reform, etc. He reformulated his vision of his village with an industry where “Men and women will live freely and be ready to face the entire world. The village will not know cholera, plague or smallpox. No one will live indolently, or luxuriously” (cited in Sudhir 2013: 45–56). Nehru failed to read *Hind Swaraj* with Gandhi’s new eye. He wondered how to attain a “self-sufficiency of food, clothing, housing, education, sanitation, etc.” He felt that the picture of village society portrayed in *Hind Swaraj* was completely unreal. Nehru added, “In your writings and speeches since then I have found much that seemed to me an advance on that old position and appreciation of modern trends” (cited in Parel 1997: 153). He granted that Gandhi was right

“in saying that the world, or a large part of it, appears to be bent on committing suicide. That may be *inevitable development of an evil seed in civilization that has grown. I think it is so. How to get rid of this evil, and yet how to keep the good in the present as in the past is our problem*. Obviously, there is good too in the present” (Parel 1997: 152; emphasis added). Nehru also reminded that the Congress had never considered and adopted the picture of village society drawn in *Hind Swaraj*. And, Gandhi never asked it to adopt it except certain relatively minor aspects of it. It may be noted that the Report of the Economic Programme Committee largely authored by J C Kumarappa (Gandhian economist) and Nehru, was approved by Gandhi in January 1948 before his death. It worked out “fuzzy compromises,” a synthesis between large and cottage industries (Lindley 2007: 48).

### Moral Principles: Creed and Policy

Gandhi imbibed some of the moral principles from his socialisation, and some he gradually evolved in course of his public life. The most significant is that he himself-practiced steadfastly what he preached. Though he persuaded and exhorted, he did not believe in the imposition of moral principles on others. According to him, these principles needed to be cultivated by one’s conviction. He asked everyone to follow one’s inner voice. His position on moral principles was far from moral smugness. Bindu Puri rightly argues that “Gandhi believed that it is a part of the conception of a human moral conviction that it must admit of exceptions in order to count as ‘moral’” (2015: 92). Ahimsa has been the central principles that he championed in public life, which included not only non-injury to others but also “humility, ego-lessness and a love of all dissenting others” (Puri 2015: 121). It was not without exception. Gandhi allowed the killing of an ailing calf to prevent further suffering. He once said that “taking a life may be duty ... Even manslaughter may be necessary in certain cases. Suppose a man runs amuck and goes furiously about a sword in hand, and killing anyone that comes his way, and no one dares to capture him alive. Anyone who dispatches this lunatic will earn the gratitude of the

community and be regarded as a benevolent man” (cited in Puri 2015: 91).

Gandhi’s concept of non-violent resistance against injustice evolved gradually from experiences. In the very first incident of public humiliation by a white man on a train journey from Durban to Pretoria in Africa, he found himself physically unable to counter the white man, he registered his protest silently. Later, he launched a passive resistance campaign against racial discrimination in general and the Asiatic Registration Bill of 1906, limiting the rights of Indians (Gandhi 2007 [1925]). He then articulated passive resistance as a moral principle of non-violence extended to Satyagraha.<sup>3</sup> He worked out techniques and theorised different components of Satyagraha including disciplinary rules for the participants (Satyagrahis). And, he did not hesitate to withdraw the civil disobedience movement in 1922 because of mob violence in Chauri Chora.

But, in 1942, he declared that he would not withdraw the Quit India movement even if masses resorted to violence (Thakkar and Mehta 2017: 249). While giving a call for the movement, he appealed to people to observe a non-violent struggle against the Raj. At the same time, he clarified that “I want you (people) to adopt ahimsa as a matter of policy. With me, it is a creed” (cited in Thakkar and Mehta: 214). He declared that “Congress would certainly observe non-violence during the struggle (1942), but others were not bound by the rule” (Thakkar and Mehta 2017). A difference between creed for him and policy for collective (organisations) is important. The latter implies a strategy considering one’s strength including an individual’s conviction, sense of discipline for adhering to rules and orientation. Gandhi was increasingly realising that individual conviction for ahimsa called for a long process. In fact, on the eve of independence during communal riots, he expressed his anguish that “now after 32 years, my eyes have been opened. I can see that what passed for Ahimsa for all these years was not Ahimsa; rather it was passive resistance. Passive resistance is employed by one who is without a weapon. We are non-violent on account of our helplessness,

but our hearts were filled with violence. Now British are withdrawing, we are expanding that violence by fighting among each other” (cited in Sudhir 2016: 35). He was feeling helpless.

He sacrificed his life for his moral principles. His anguish and helplessness on the eve of independence do not make ahimsa irrelevant. In fact, it is *sine quo non* as a moral principle or policy for sustainable common good. Violence only breeds violence, suspicion, intolerance to dissent and hatred leading to the self-destruction of all. Several thousand Hindus and Muslims were killed by each other during the 1946–47 communal clashes in several parts of the subcontinent. And, this has continued in the last seven decades at the cost of humanity, endangering democratic values.

Notwithstanding such a pessimistic scenario leading to self-destruction and perpetual disquiet in society, the significance of ahimsa as a moral principle and policy for the common good and humane society has been accepted by sane individuals and social groups everywhere. Gandhian practice in the form of satyagraha had contributed to mass awakening for India's independence. Satyagraha as an innovative system of collective struggles in the form of passive resistance has been increasingly followed not only in India but also in many parts of the world to fight against injustice, for human rights and also to pressurise the state for the protection of individual freedom. Such non-violent passive resistance struggles involve the participation of the affected people in a large number and in process the participants develop enduring consciousness for self-dignity, rights, and justice for all. The proportion of non-violent struggles for attaining their objectives, as empirical studies show, is significantly large (Chenoweth and Stephan 2011; Hardiman 2014). Such a method enlarges the scope for dialogue and sustenance for an open society.

### In Conclusion

Gandhi's search for truth with constant *atma-darshan* led him to admit his own misconceptions and errors. Notwithstanding, he could not overcome his savarna hegemonic mindset, which is indeed difficult for a human being. That might

be a reason that he could not interrogate and reinterpret his idea of a glorified ancient civilisation and Indian tradition. During his lifetime and later he could not prevent the overpowering of his reading of *Ramayana* and *Gita* by a militant version of Rama and Hinduism.

Notwithstanding, Gandhi's path of self-reflection and dialogue among different views are the need of the time, more so in deliberative democratic societies to find ways to resolve conflicts. In that search, we (students of social sciences committed to an open egalitarian social order) need to ask ourselves, as Gandhi would have done: Where have we gone wrong in our conceptualisation, approach and analysis in comprehending a changing social reality? With this open mind, considering that there is no ultimate Truth, we need to interrogate our own lifeworld, received categories and approaches to address the contemporary challenges that human civilisation is facing to build a better social order (Amin 1989; Guru 2002; Connel 2007; Shah 2015).

### NOTES

- 1 This was not even cursorily referred to as news not to speak of comment in Gujarati journals published in the 19th century. In fact many of them were advocating reforms in various fields.
- 2 There are no references in his autobiography and biographies written by others on the non-Brahminical discourse and the struggles of the 19th century. However, we find that in the 1920s, he was critical of the non-Brahmin movement in South India and admonished non-Brahmins for attempting to “rise upon the ashes of Brahmanism” (Vol 23, p 19).
- 3 In 1908, he coined the term Satyagraha, equivalent for “passive resistance” (CWMG, p 80).

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# Examining the Linguistic Dimension of Draft National Education Policy, 2019

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The Kasturirangan Committee's framing of the draft National Education Policy, 2019 seems to be rather ill-informed linguistically. Despite its politically correct rhetoric, most of its recommendations are linguistically unsound and simply unpractical.

The draft National Education Policy, 2019 (DNEP), especially its Section 4.5, titled "Education in the Local Language/Mother Tongues: Multilingualism and the Power of Language" (pp 79–87), celebrates Indian languages in general and Sanskrit in particular. It also celebrates multilingualism (though understands it only as an additive static model that is being increasingly questioned in research) and the three language formula (TLF) that is theoretically unsound and has had a disastrous history. However, Indian languages, including Sanskrit, are best celebrated in theory and pedagogy that is rooted in multilinguality of specific contexts where there is an attempt to empower the languages that have been marginalised by the dominant languages. The issue of education in languages of lesser power needs to be addressed before it is too late (Volker and Anderson 2015).

Before taking up the language issues, I feel compelled to say something about the language of the DNEP itself. There often appear typos and errors which will indeed get fixed in due course. What is non-trivial is the verbosity and repetitive nature of the report. In fact, it may be a good idea to have the report professionally copy-edited; it may become a more readable comprehensive document of about 200 odd pages. It would be simpler to get the copy-edited version translated in all the 22 languages of the 8th Schedule of the Constitution and have a worthwhile national debate. Let me just take one example:

The second part will be an educational framework for three–eight year olds (foundational stage)—intended for parents as well as for Anganwadis, pre-primary schools, and Grades one and two—consisting of a flexible, multilevel, play-based, activity-based, and

discovery-based system of learning that aims to teach young children alphabets, numbers, basic communication in the local language/mother tongue and other languages, colours, shapes, sounds, movement, games, elements of drawing, painting, music, and the local arts, as well as various socio-emotional skills such as curiosity, patience, teamwork, cooperation, interaction, and empathy required for school-preparedness. (DNEP, p 49; 93 words)

This can be modified as:

Part two of the foundational stage will consist of an activity-based challenging programme for literacy and numeracy in local languages; it would also focus on lines, colour, music, and dance and such social skills as cooperation, teamwork, and empathy. (41 words)

One is not claiming that the modification is necessarily better than the original but when you see the same words, lines and paragraphs repeated again and again in the same report, it is a cause of annoyance. For example, the extract taken from page 49 is repeated almost verbatim on pages 47, 74 and 75 at least and in essence at several other places in the report. To take another example, on page 103 of the DNEP, there is a bold coloured line announcing:

Every student has innate talents, which must be discovered, nurtured, fostered, and developed.

What is the point of saying "nurtured, fostered, and developed?" It could easily be: Every student has talents that must be nurtured. It is not difficult to find multiple such examples. Since "brevity is the soul of wit" according to Shakespeare, one would request the esteemed committee to get the DNEP report copy-edited.

## Nature of Language and Writing

Given the scientific understanding of the nature, structure, and acquisition of language, and the relationship between speech and script, one would like to question some of the assumptions, proposals, and claims made by the DNEP. For example, it says:

Indian languages are very scientifically structured, and do not have un-phonetic, complicated spellings of words and numerous grammatical exceptions; they also have a vast and highly sophisticated ancient, medieval, and modern literature in the Indian context. (DNEP, p 81)

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All human languages are scientifically structured at the levels of sounds, words, sentences, and even discourse and unless that were the case, human communication and knowledge construction would be impossible. What is so special about Indian languages that they alone can claim to be “very scientifically structured?”

There is a whole lot to be said about not having “un-phonetic, complicated spellings of words and numerous grammatical exceptions.” Once again Indian languages are no different from other languages of the world in these matters. All languages tend to develop gaps between the spoken and written, as the spoken language changes at a far greater speed than the written, and for a variety of social and historical reasons the written cannot keep pace with the changes in the spoken. The written style is used for all judicial, administrative, commercial, and literary purposes, and in the interest of continuity, the writing system cannot be changed easily.

To prove the phonetic nature of the Devanagari script, comparisons are often made with the Roman writing system as used for English. For example, it is often claimed that English has a dense orthography and contains several hurdles which learners find difficult to negotiate. The standard examples include the cases of small and capital letters and pronunciation and written versions of say “put and but” and “rough and through,” etc.<sup>1</sup> Does it then mean that Hindi is any simpler in terms of its writing system? To the extent Hindi is a part of the environment of a large number of speakers in India, it may be true not because of any inherent simplicity but simply because of familiarity. Children across different speech communities acquire languages and become literate at comparable ages.

The much-celebrated phonetic nature of the Hindi writing system is to be examined critically. How many Hindi speakers and supporters realise that Hindi speech no longer makes a distinction between the palatal श and the retroflex ष. The only difference students are forced to learn is that one is as used in “शान्ति” and the other is as used in “वर्षा.” However, we know that the difference will continue in writing. Similarly, most

people refuse to believe that the difference between the long and short vowels is gradually reducing in speech so that there is a mismatch between Hindi speech and orthography, resulting in students and adults making mistakes in words involving short and long “i” or “u.”

Consider some more examples. In the words: पक/pak/“cooked,” and कप/kap/“cup,” it appears that the words consist of two identical alphabet letters; if the first is represented as “ab” the second looks to be “ba.” However, as any Hindi speaker would gradually realise and as is clear from the corresponding Roman transcription, the “p” of/pak/ has an inherent “a” in it which the “p” of /kap/does not. Hindi has a rule which all children effortlessly acquire without any formal instruction; it says “the word-final “a” of Hindi words is not pronounced.”

Consider another set:

कम/kam/“little”

कमल/kamal/“lotus”

कमला/kamlaa/“Kamla” (name)

The “m” of “kam” and “l” of “kamal” being word-final are pronounced without “a” as predicted by the above rule; however, even in the case of “m” of kamlaa/, the “a” of “m” is not pronounced. This follows the rule that if the following syllable has a long vowel, the “a” of the preceding consonant is not pronounced. These complex rules connect the spoken and the written.

In English too, children without any explicit teaching acquire the rule that the “e” of the set “make, sake, take, fake” is not pronounced. However, the complexities of the Devanagari/Hindi writing system are well-known even though the DNEP committee does not seem to be aware of them. The Roman writing system is linear; it works in a straight line except for some dots, curls, and cuts here and there. On the other hand, the Hindi writing system functions in a multi-dimensional space. And as any second or foreign language learner of Hindi would tell you, this is non-trivial. A Hindi consonantal alphabet can be modified in all directions, left, right, bottom, and top. The letter for “k” could be seen in any of these forms: क कि की कु कू को कौ क्र कृ, etc.

This is not the end of the story. Consider the fact that the short “i” is always written before but spoken afterwards, as in say “किसी” (kisi); consider the number of consonant cluster shapes a child has to master in addition to just “क्ष, त्र, ज्ञ” (three sounds each); these include at least “श्र, द्य, कृ, क्र, र्म, द्र, द्ध ... etc.” Have you ever wondered what rules govern the different orthographic representations of “r” sound in Hindi? It is all over but it is not random. This is very complex and challenging. All children acquire these rules effortlessly without being taught; no teacher or parent can teach them because they do not know them; that is, at a conscious level. What about the rules and orthographic representation of the nasal consonants and vowels—the *anunaasik* and *anusvaar*? How do children learn to speak, read, and write words like संबंध, पंच, ठंड, आंख, अंक, पहुंच, कहीं, etc? Consider that the first dot in संबंध stands for “m” and the second for “n.” All these are rule-governed and acquired by children in speech and writing without any explicit teaching. The spelling system of Hindi is then not uncomplicated and there are many non-transparent aspects in it.

The claim is not that Hindi writing is more difficult or easier than English. The claim is that all children have an innate capacity to crack languages; any language. They crack the structure of spoken language; they also crack the written code, given adequate triggers and exposure in both the cases. All languages are bound to have a complex relationship between speech and writing, although it would be eminently reasonable to assume that all communities would start with one symbol—one sound/idea system. Decoding of such complex representations cannot be done through exposure to individual alphabet teaching; it can happen naturally only through spoken and written texts in contexts. Nobody teaches individual sounds and rules for sound combinations to children; they abstract these from texts in the thin air. Writing is mediated by written texts that can unlike speech be accessed at any time.

What about Indian languages not having grammatical exceptions? If one is

talking about a highly abstract universal grammar we are all endowed with, no language can have any exceptions; they all will have constituents corresponding to nominal and verbal expressions, expressions that would modify them and elements that would show their linkages; all languages also tend to function in terms of constituents rather than just isolated words; all languages allow only certain kinds of sound combinations, etc. Other than these, grammatical rules often have exceptions. All so-called *sandhi* rules have exceptions in Sanskrit and Hindi; plural-making mechanisms in all languages rarely have a single rule; word-formation strategies are different for different sets of words, irrespective of whether it is Hindi, Sanskrit or English. One also needs to note the inherent variability (Labov 1966) of any language which shows that rules are always not categorical, but variable. It all depends on how you define a speech community; defining language and community can often be circular. However, we do know what defines a speech community is a heterogeneity in performance even when we may construct a homogeneous competence level grammar.

Is there anything special about Indian languages having great literary tradition? How about the Greek, Latin, Arabic, Chinese, Latin American, and African literature among others? There is then nothing very scientific about Indian languages; nor are they special in any other way at the levels of sounds, words or sentences or literary heritage. The Kasturirangan Committee needs to reexamine all these claims.

### A Linguistic–Sociolinguistic Area

We do need to celebrate India but for the right reasons; and we need to work out the ways through which we can build on its resources. We also need to think of taking our experiments and conclusions to the rest of the world because they are not fundamentally different; it is just that linguistic diversity (in terms of language families and the number of languages) and its functioning is displayed here in greater relief. We need to appreciate the concept of “super diversity” (Blommaert and Rampton 2011; Vertovec 2007), “translanguaging”

(Canagarajah 2011), “hybridity” (Garcia 2009), “hyperlingualism” (Pauwels 2014) or “multilinguality” (Agnihotri 2006, 2009, 2014) rather than of “a language” and build our theoretical foundations and pedagogical practices on those strengths.

Note that we look at linguistic diversity as multilinguality, and not as a summation of discrete languages as in the case of bi-/multilingualism; it is marked by fluidity, code-mixing, code-switching, nonce formations, and creativity. Irrespective of which term is used, what is shared by all these alternative conceptualisations is the absence of a discrete homogeneous system. García (2009: 128) says:

Translanguaging is the act performed by bilinguals of accessing different linguistic features or various modes of what are described as autonomous languages in order to maximise communicative potential.

It is this fluidity that has resulted in India being characterised as a “linguistic and sociolinguistic area;” the patterns of linguistic and cultural behaviour here are fluid and tolerant. The fluid nature of languages here facilitates rather than hinders communication through variability, in a shared grammar of culture (Pandit 1969, 1972). Several scholars showed the singular unity of India, not only as a “linguistic area” (Abbi 1992; Emeneau 1956; Gumperz and Wilson 1971; Masica 1976; Subbarao 2012) but also as a “sociolinguistic area” (Agnihotri 1996; Pandit 1972; Subbarao et al 1991).

India unlike most other countries has five distinct language families, four of which have very little to do with Sanskrit. The five language families in the subcontinent include Indo–Aryan, Dravidian, Austro–Asiatic, Tibeto–Burman, and Great Andamanese (Abbi 2006). Those like Dravidian and Indo–Aryan that have remained in prolonged contact have borrowed words from each other; others have not even done that. Despite this, all languages of India share certain features, including among other retroflex sounds, subject–object–verb word order, absence of prepositions, full or partial word reduplication, reduplicated verbal adverbs, etc. As a sociolinguistic area, India shares, for example, various politeness strategies, including the use of

three-way honorific forms for the second-person pronoun “you,” use of causatives, and intransitive verbs among others (Subbarao et al 1991). All this has happened not because of Sanskrit but because of translanguaging.

It is this linguistic and sociolinguistic multilinguality that is represented in each of our classrooms that we need to respect. If we are convinced that multilinguality is positively correlated with scholastic achievement, cognitive growth and social tolerance (Agnihotri and Mangla 2012; Cummins and Swain 1986; Jessner 2006), then we need to make all possible efforts to locate our pedagogical practices in this multilinguality and appreciate the specificity of each linguistic and cultural context and learn to refine our theories from classroom practices (Agnihotri 1995, 2006, 2007, 2014; Heugh 2010; Stroud and Heugh 2004; Singleton et al 2013). A shortcut homogenised formula largely located in the languages of power will only perpetuate the status quo and further compound the across the board stunted language proficiency levels and social inequalities in our country (Volker and Anderson 2015).

### Three Language Formula

The DNEP strongly recommends the continuation of the TLF:

The three language formula ... will be continued, *keeping in mind the constitutional provisions and aspirations of the people, regions, and the union*. However, because research now clearly shows that children pick up languages extremely quickly between the ages of two and eight, and moreover that multilingualism has great cognitive benefits to students, *children will now be immersed in three languages early on, starting from the Foundational Stage onwards*. (DNEP, p 83; emphasis added)

It is not clear which Constitutional provisions and aspirations are being referred to here. It is indeed true that children have a great felicity with acquiring/learning languages but the good old plasticity of the brain hypothesis of Penfield and Roberts (1959) has been revised, and the language faculty stays with us all our lives. In fact, except for the “native-like” accents (our jaws tend to lose flexibility with age), an adult is better equipped cognitively to pick up

new languages and performs better than children so far syntax and vocabulary are concerned (Krashen 1982). There should not be any across the board “national policy” to introduce English, Hindi, or classical languages; implementation of multilinguality must be recommended, but how each community/ state decides to implement it should be left to it.

The TLF was first proposed by the University Education Commission in 1948 and was later adopted by the ministry of education in 1968 following a consensus among the chief ministers of different states. The basic idea was that the whole country should learn Hindi and English, and the third language in the case of Hindi-speaking states should be a South Indian language and in the non-Hindi speaking states a regional language. Ever since the constituent assembly debates (Agnihotri 2015), Hindi-speakers have been eager to impose Hindi on the rest of the country. The simple argument is: one geographical tract, one country, one flag, one national anthem, etc, so why not one language and perhaps one religion too? That such a naïve homogeneous equation will never capture the essence of and do justice to the linguistic, cultural, and religious heterogeneity of India is a thought that for obvious reasons is not entertained by those who dream of a colourless Bhaarat *raashtra*.

Had the TLF met even with a modicum of success during the last 50 years, we would have had millions of people highly proficient in at least three languages. It is often difficult to find high levels of proficiency even in one language among most people. There are indeed some who possess critical and “cognitive academic language proficiency” (Cummins 1979, 1984; Cummins and Swain 1986) in even more than three languages, not because of, but despite the TLF. It should be obvious that all human beings inevitably acquire the language of the community into which they are born; they are innately programmed (Chomsky 1959, 1965, 1968) to do so and their survival in the community depends on its perfect acquisition.

It is also true that the human language faculty is equipped to acquire two or three languages, if they are a part

of the community’s essential repertoire. However, why should one learn any other language than the language(s) of their community? Why should small children be immersed in three languages; learn languages of power such as English and Hindi and/or regional language simultaneously or later; learn a classical language and also preferably learn a foreign language? There are indeed cognitive and social advantages of learning another language and there would always be some who would learn languages simply out of a sense of joy. But for lesser mortals, there must be a reason for learning another language (note that in this case even though the language faculty is active, rich comprehensible input is an essential condition; this becomes particularly difficult in formal settings where the second or third language is not at all a part of the social milieu of the learners).

A Bhojpuri or a Bodo or an Angami speaker has to learn Hindi and/or English not because they are a part of their immediate environment and involve questions of survival and identity; they have to learn socio-economically empowered languages because their own languages have been marginalised and disempowered. One may have the integrative motivation (Gardner and Lambert 1972) for learning the languages of one’s community or the languages of social groups one may like to become a part of. For example, a Manipuri speaker may happen to fall in love with a Bengali, and may happily learn Bangla to become a part of the Bengali community while continuing to be a member of the

Manipuri community. Similarly, one may be integratively motivated to learn another language because of interest in its literature and the wish to become a part of the target community.

For other situations that most school students are in, there must be some instrumental reasons (Lukmani 1972; Khanna et al 1990; Agnihotri and Khanna 1997) for learning another language; they must see some light at the end of the tunnel. English in India is one such language that most students give up after dismal teaching of four–five years in schools; they fail to read a simple story or write a short letter in it. No light at the end of the tunnel; no more learning of English. Hindi is their next best bet in North India and they do what they can in that language. That no wonders happen even there is well-established by various studies that show that students of Class 5 cannot read Class 2 books.

There are powerful regional languages such as Tamil, Telugu, Malayalam, Marathi, Bangla, Gujarati, Assamese, Odia among others that dominate in different non-Hindi states. Those who drop out of schools or never get there become farmers, part of the labour force, small shopkeepers, factory workers, etc. Most people with a school or college degree find jobs in their states at different levels. Those who gain proficiency in English become a part of such professions as medicine, engineering, advertising, or architecture or join the judiciary, executive, or mass media or the global corporate world. Where does the TLF fit into this scheme of things? What does it mean to say that small children will be “immersed” in

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three languages? How can you have a one-shoe-fit-all formula for a nation of enormous diversity?

All possible noises, including those in this policy, have been made for education in the mother tongue, but precious little has been done in that area except suggesting and implementing bridge models. Students increasingly see themselves and their languages humiliated in classrooms because voices of multilinguality are ignored. What should be done then? It is time that we should allow each state and often perhaps each district to formulate its own language policy. The present policymakers have no idea of the complexity of multilinguality that obtains in different classrooms in different contexts; this can be used as a resource.

Language is constitutive of us and our social groups. As Wittgenstein (1922) said, “The limits of my language mean the limits of my world.” Different students in any class come from different linguistic and cultural backgrounds even though in many cases these differences may be minimal. But these differences need to be respected and used as a resource. It is insulting to a language and its people to suggest that their language is good enough only for primary language. There is no sanctity about the TLF. The DNEP has a chance to create history. Let us get rid of the TLF. It is not a “formula/ compromise” worth having; it militates against human dignity manifested in language.

### Eulogising Sanskrit

The DNEP spends considerable energy on celebrating Sanskrit and tries to make it a part of the language repertoire of every Indian without realising that there have been anti-Sanskrit movements across the country in modern times. It is also not recognised that millions of students who found a shortcut in offering Sanskrit as a third language hardly learnt anything in or about it. The kind of eulogising of Sanskrit that one notices in this policy document (pp 86–87) makes one feel that the Committee underestimates not just Greek and Latin (which are mentioned and trivialised) but also Chinese, German, French, Russian, Spanish and even our own Tamil, Telugu, etc, which

are mentioned as “also” languages. The DNEP says:

Sanskrit ... possesses a classical literature that is greater in volume than that of Latin and Greek put together, containing vast treasures of mathematics, philosophy ... *Considering the special importance of Sanskrit to the growth and development of Indian languages, and its unique contribution to knowledge development in as well as the cultural unity of the country, facilities for the study of Sanskrit, its scientific nature, and including samplings of diverse ancient and medieval writings in Sanskrit ... will be made widely available in schools and higher educational institutions ... Sanskrit will be offered at all levels of school and higher education as one of the optional languages on par with all schedule eight languages.* (pp 86–87; emphasis added)

Given the above description of India as a linguistic and sociolinguistic area, what indeed is the special contribution of Sanskrit? Tamil is as old as, and perhaps older than, Sanskrit. What has Sanskrit contributed to the tribal Munda or Tibeto-Burman languages of the North East? If retroflex sounds of the टर्वा are common to most Indian languages, then that most probably is a contribution of the Dravidian family. If politeness strategies are shared across languages, how could we owe them to Sanskrit alone? To the best of my knowledge, Sanskrit does not have the pan-Indian partial reduplication such as *khaanaa-vaanaa* “food, etc,” *kursii-vursii* “chairs, etc.” From where do we get these rule-governed forms? That all the languages of the 8th Schedule will be offered on par with Sanskrit is indeed heartening, but is that possible by any stretch of imagination across the country in every school? The new course, called “The Languages of India” that is proposed for all students from Grades six to eight (DNEP, p 86) is implicitly meant for Sanskrit. “All students,” the policy says, “in all schools, public or private, will take at least two years of a classical language of India in Grades six–eight” (DNEP, p 87).

### The Mother Tongue Issue

As with all other policy documents since United Nations Educational, Scientific and Cultural Organization’s (UNESCO) 1953 declaration, the DNEP also recognises the importance of the languages of the learners, that is, their mother tongues.

But like most other policy documents, the DNEP also proposes to do away with the mother tongues by middle if not primary school; it also does not recognise the linguistic variability that obtains in any given classroom. It says

There is a strong need for classes in the early years to be conducted in students’ local languages. (DNEP, p 80)

And adds

When possible, the medium of instruction—at least until Grade 5 but preferably till at least Grade 8—will be the home language/ mother tongue/local language. (DNEP, p 80)

This kind of slashing of terms hides the linguistic complexity no policymaker is willing to confront. We must address the issue of all the languages of learners available in the classroom which can be done only if the decision-making processes are contextualised. That the respect for the home languages of learners is limited is always implicit in the recommendation for a bridge model policy; the assumption is that the languages of the minorities and the underprivileged will never be in a state to become “full-blown” languages to be the medium of instruction and carriers of knowledge systems at the higher levels. They could be used at the primary level after which students must be prepared to switch to the dominant languages of power. That is why even the DNEP says,

Teachers will be encouraged to use a bilingual approach, including bilingual teaching-learning materials, with those students whose home language may be different from the medium of instruction to ensure smoother transition from the home language to the medium of instruction. (p 80; emphasis added)

One is happy that the policy recognises that large numbers of students going to school, drop out of the school system because they do not understand the language of classroom transactions. But a policy document must look into history. It must ask why what it is promising all over again has not happened so far. By 1960, we should have achieved universal primary education. Why is it still a dream? The TLF has not made any headway anywhere. Are we barking up the wrong tree? Why is it the case that most of our students leave schools without any proficiency in any language? Millions of

students opt for Sanskrit as a “third language” and there are hardly any young scholars of Sanskrit around. Why has an increasing demand for teaching in the mother tongue resulted in unparalleled empowerment of the English language?

It seems that the mandate for the commission for Scientific and Technical Terminology will be renewed and expanded to include all disciplines. Do we have any evaluation of its contribution in the past? Is there a debate on whether we should simply assimilate technical words or translate each one of them into highly Sanskritised Hindi and then all the regional languages? In fact, with new paradigms rooted in multilinguality being available, it is now possible to negotiate meaningfully with the multiplicity of languages/varieties available in any classroom.

### Literacy and Numeracy Issue

It is a matter of great joy that the DNEP recognises the importance of Early Childhood Care and Education (ECCE, three to six years; a period that the DNEP suggests

should become a part of the right to education) and wishes to integrate it with the “Foundational Stage” (three to eight years) during which all children must in addition to good health acquire motor skills and ability to deal with their environment independently; they should also gain mastery over literacy and numeracy.

Attaining foundational literacy and numeracy for all children must become an immediate national mission. Students, along with their schools, teachers, parents, and communities, must be urgently supported and encouraged in every way possible to help carry out this all-important target and mission, which indeed forms the basis of all future learning. (DNEP, p 56)

Here, then, is the fundamental dilemma. Acquisition of solid literacy and numeracy by age eight is a national mission and should be; education should be in the mother tongue; children must be immersed in three languages; exposure to the writing systems should be delayed till age four or five; a compulsory course in classical languages will follow soon during grades six to eight; all Indian languages need to be empowered; learning of Sanskrit seems

essential to appreciate the linguistic and cultural heritage of India. High levels of proficiency in English may be desirable for instrumental reasons. How are we going to ever achieve these goals? The past experience holds no hope. But there are recent interventions that help us at least try and negotiate this complex situation.

### Pedagogy Rooted in Multilinguality

We need to abandon the concept of “a language” and appreciate the fact that we are all innately programmed with a potential for multilinguality. We need to put a system in place which is located in multilinguality and where languages of all learners are respected (Agnihotri 2007, 2014; Heugh 2010; Stroud and Heugh 2004). Such pedagogical practices have lasting advantages. First of all, languages of all those present in the classroom are privileged; working with their languages can constitute the basis for first scientific analysis learners would undertake. With a short training of one semester, a teacher can be trained to

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use all the languages available in the classroom as a resource and show it to eight years old that all languages, and not just Hindi and Sanskrit are scientifically constructed.

The advantage with language as the first window to scientific inquiry is that learners have all the data in their heads; they also in fact “know” the rules sub-consciously; it is in the joy of collectively unfolding them in small groups at the conscious level that brings the joy of the application of the scientific method of data collection, classification, categorisation, rule formation, and hypothesis testing. It is eminently possible to do such activities in the classroom (Achmat 1992).<sup>2</sup> Introduction to the methods of scientific inquiry at an early age is just one advantage of a pedagogy rooted in multilinguality. It is in this approach that it is possible to demonstrate easily the fact that there is no inherent relationship between speech and script and all the languages of the world can be written in one script or one language can be written in all the scripts of the world with some modifications.

It is also possible to demonstrate the futility of starting with alphabet letters and begin writing in terms of lines and colours at an early stage. Inter-lingual translation, paraphrasing and creative code-mixing (Agnihotri 1997, 1998) becomes feasible. Learners begin to respect other languages, their respect for other cultures and people is intensified and their levels of social tolerance heightened. Note that this practical pedagogy is rooted in a local multilinguality and not in a TLF or classical languages or languages of power, all of which can certainly become a part of it on equal terms. There are obvious cognitive advantages and welcome additions to every child's lexicon. This is possible only in a paradigm that is rooted in the multilinguality available in the classrooms.

## NOTES

- 1 People often forget that in many parts of the English speaking world “put” and “but” are pronounced with a “u” only.
- 2 For instance, see a National Language Project production directed by Achmat (1992). Also refer to Agnihotri (1995, 2006, 2007, 2014) among others.

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# Developing India's Mobile Phone Manufacturing Industry

SUNIL MANI

In the absence of any major domestic mobile phone manufacturers, increased imports of mobile phones have contributed to a widening of India's trade deficit. An analysis of the policy instruments put in place to incentivise the domestic manufacturing of mobile phones reveals a spike in domestic manufacturing, leading to significant reductions in the imports of mobile phones. However, domestically manufactured phones are dependent on imports of parts. This high import dependence itself is an outcome of the weak innovation capability in the domestic industry.

Over the last several years, the country has been concerned with increasing the size of its manufacturing sector to at least a quarter of its gross domestic product (GDP). This was sought to be accomplished first, through a manufacturing strategy and, specifically, since 2014 through the "Make in India" programme. Nagaraj (2019) has shown that the latter programme, while improving India's ranking in the World Bank's Ease of Doing Business index, has failed to improve the performance of the manufacturing sector or the technological capability as a whole. The widening trade deficit in manufactured good and in technology payments are enough empirical proof to show that the programme is yet to deliver. Further, manufacturing employment has also been a casualty. Our dependence on both multinational corporations (MNCs) and on imported components and parts have increased in the recent past. In fact, since the liberalisation of India's industrial sector, import dependence of the sector has been on the rise (Mani 1991; Chaudhuri 2013). A manufacturing industry where this is clearly evident is in the domestic manufacture of mobile phones. Misra and Shankar (2019) have done an empirical analysis to show that India's consumption-driven imports of fully assembled mobile phones have been transformed to production-induced imports of parts for manufacturing mobile phones domestically. This transformation is then hailed as a desirable outcome of the recent policy attempts to increase the size and content of India's domestic manufacturing industry, especially in electronics products and telecommunications equipment in particular.

## Telecom Market in India

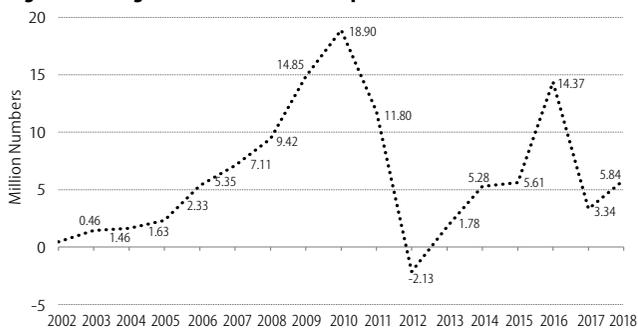
India has become one of the largest markets for telecommunications equipment in the world. The total number of telecom subscribers in the country is 1.16 billion (as on March 31 2019) (TRAI 2019). During 2017–18, on an average, nearly 6 million subscribers were added per month (Figure 1).

This implies that there is a growing demand for telecommunications equipment of various types, such as mobile handsets, transmission towers, Internet gear, etc, in the country. Although India has sought to build manufacturing and innovation capability in telecom equipment domestically, studies have shown that these capabilities are largely in the arena of fixed-line telephones and not in mobile communication equipment (Mani 2012). For the latter, the country has been relying on imports, primarily from China, which have been increasing significantly. Imports of telecom equipment have been rising

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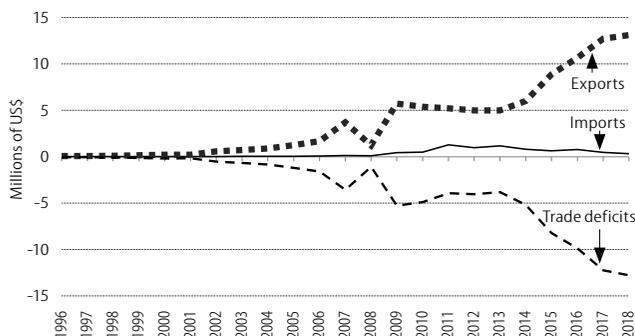
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**Figure 1: Average Number of Subscribers per Month for 2002–2018**

Source: Computed from Telecom Regulatory Authority of India (various issues).

since early 2000 and resulting in an ever-increasing trade deficit (Figure 2). In fact, the trade deficit is almost equivalent to the imports, implying that the country hardly exports any telecom equipment. The growing imports of telecom equipment, especially at a time when demand for it has been growing, reveal two important implications:

**Figure 2: Growing Trade Deficit in Telecommunications Equipment for 1996–2018**

Source: Computed from United Nations Comtrade database.

First, telecom equipment is one of those industries that has been targeted for import substitution right through the period since independence. This policy of import substitution manifested itself in reserving telecom equipment to the exclusive preserve of public sector enterprises. In fact, the state-owned undertaking, Indian Telephone Industries (ITI), was one of the first public sector enterprises established by independent India. This policy received a fillip when the government set up a dedicated stand-alone public laboratory called the Centre for Development of Telematics (C-DOT) to develop a family of digital switching equipment, which was consistent with the usage pattern. This policy of extreme government intervention resulted in some technological capability building in telecom equipment of the fixed-line variety. However, no capability was developed or evolved in mobile communication technology, which took the telecom market like a storm from the late 1990s onwards. The Indian case is in sharp contrast to other Asian countries, such as Korea and now China, both of which have effectively transformed their innovation capability in fixed-line telecom technology to mobile communication technology. Subsequently, both the countries have become important manufacturers of mobile phones in the world.

Second, as could be seen from Figure 1, this was also the time when the market for mobile communications equipment increased quite significantly. Consequent to the lack of technological

capability, especially in the conceptualisation, design and manufacture of mobile communication equipment, was the excessive reliance on imports (from China) to meet this ever-growing domestic demand. In fact, the import of telecommunications equipment is an important item in the overall import of electronic equipment to India that has been responsible for the burgeoning trade deficit of the country. This has necessitated the government to put in place an important policy of hastening domestic manufacturing of electronics hardware, in general, and telecommunications equipment, in particular.

In order to capitalise on this growing market for telecommunications equipment, the government has been trying to establish a domestic hub for manufacturing of mobile phones and parts. The most direct policy towards this end was the National Telecom Policy of 2012, which stated that India should be made a global hub for telecom equipment manufacturing and a centre for converged communication services. Following this, a wide range of explicit and implicit policies were put in place to achieve this goal. The earlier policy on manufacturing strategy and the Make in India programme put in place since 2014 may have resulted in increased domestic manufacturing.

In this context, the purpose of the paper is to study the extent to which the country has become a hub for manufacturing telecom equipment. In the process, we also analyse the policies that were implemented to enable the country to become one.

### Policies Promoting Domestic Manufacturing

In the more recent period, serious attempts at promoting a domestic telecommunications equipment manufacturing industry in the country could be traced to two broad sets of policies. First, is the general policy of liberalising foreign direct investments (FDI) in the telecommunications sector, which seem to have encouraged—among other favourable factors such as the growing domestic market for telecom equipment—a number of leading telecom equipment MNCs to set up manufacturing facilities in the country. Examples of this are Ericsson, Samsung, LG, and contract manufacturers like Foxconn, Flextronics and Elcoteq. Second, are two policy instruments specifically targeted at domestic manufacturing and simultaneously reducing the import content of what is being manufactured domestically. These two are contained in the National Telecom Policy, 2012 and the National Manufacturing Policy, 2012. The recently announced National Policy on Electronics, 2019 has further emphasised this aspect. We will briefly survey these policies.

### Liberalisation of FDI with respect to telecommunications equipment:

Although this policy was directed more towards the firms that distribute telecommunications services, the general policy of incentivising investments by MNCs in India was helpful for a number of telecom equipment MNCs to set up manufacturing facilities in India. MNCs turn their attention to India on account of two reasons: markets elsewhere are nearing saturation, and India has a significant growing market for telecommunications equipment in general and mobile handsets in particular.

**The Preferential Market Access Policy of October 2012 for domestically manufactured telecom equipment:** The policy in its raw form reads,

Any Ministry or Department will procure minimum percentage of their telecom product requirement fulfilling minimum value addition prescribed against each item. For all the Ministries or Departments (except the Ministry of Defence) of Government and the agencies under their administrative control and for all Government funded telecom projects (e.g., and projects funded by Universal Service Obligation Fund like National Optical Fibre Network etc), the list of telecom products indicating preferential market access and criteria to qualify as domestically manufactured product year-wise is has been made. The Preferential Market Access (PMA) and Value Addition (VA) indicated against each year are the minimum and efforts should be made by domestic manufacturers to achieve higher value addition” The formula for calculation of value addition for telecom products shall also be as notified by Department of Electronics and Information Technology from time to time. All the telecom products which do not meet the minimum value addition criterion for that year shall be treated as imported telecom products and dealt accordingly. Further, wherever the domestically manufactured telecom products are procured under this policy by a Government Ministry or Department or an agency thereof or for telecom products, such procurement shall be subject to matching of L1 price and on satisfying technical specifications of the tender. In case of the domestic manufacturer is not lowest bidder (L1), the specified part of the tender would be awarded to the lowest technically qualified domestic manufacturer, subject to matching with L1 price, if such bidder is available. The remaining part will be awarded to L1 bidder. (MCIIT 2012)

It is, of course, not clear whether public procurement will work for mobile handsets as these are not usually purchased by government departments, but by private individuals and institutions. In any case, as Mani (2005a) has shown, the way public technology has been applied to the telecom arena in the past, this policy may not have significant effect in driving domestic manufacturing.

**Phased Manufacturing Programme:** This programme for the manufacture of mobile handsets and related sub-assemblies/components has been implemented with the objective of progressively increasing the domestic value addition for establishment of a robust cellular mobile handsets manufacturing ecosystem (MEIT 2017). Hitherto, local sourcing of components, which account for over 90% of the bill of materials, is very low (Table 1). This means that despite the existence of the Phased Manufacturing Programme (PMP), dependence on imported parts is still quite significant.

**Increased customs duty on imported mobile phones:** In the union budget speech of 2018–19, the customs duty on mobile phones has been raised again from 15% to 20% (Jaitely 2018: 32, para 6o). The rationale for this hike is the increasing local manufacturing of mobile phones in India, as those devices do not come under this duty and can therefore be sold much more cheaply. The government had first announced a duty of 10% in July 2017. Subsequently, it was raised to 15% in December 2017.

**National Digital Communications Policy, 2018:** The policy has a number of provisions for incentivising domestic manufacturing by focusing on technology and innovation. This is to

be achieved by encouraging the insertion of India into the global value chain for mobile phones. The specific policy provisions for achieving this objective are as follows.

First, maximising India’s contribution to global value chains by focusing on domestic production, increasing exports, and reducing the import burden by: (i) rationalising taxes, levies and differential duties to incentivise local manufacturing of equipment, networks and devices to the extent of domestic value addition; (ii) introducing a phased manufacturing programme for identified product segments in digital communication technologies; (iii) attracting and incentivising global original equipment manufacturer (OEMs) and generic component players to set up manufacturing bases in India; (iv) ensuring the availability of essential background intellectual property rights (IPRs) in fair, reasonable and non-discriminatory (FRAND) terms required for promoting local manufacturing; (v) promoting design-led manufacturing in India by leveraging indigenous software/research and development (R&D) capabilities; (vi) incentivising fab and/or fab-less design and manufacturing of chips and system on a chip (soc) for network and devices in emerging technologies; (vii) attracting global talent from Indian diaspora to create best-in-class enterprises; (viii) ensuring strict compliance with preferential market access requirements, which include preferring domestic products and services with domestically owned IPR in the procurement by government agencies, especially for the procurement of security-related products and incentivising private operators to buy domestic telecom products. However, this policy has merely repeated some elements of previous policies.

**Recommendations by Telecom Regulatory Authority**

According to TRAI (2018), “India should aim to achieve the objective of net-zero imports of telecommunication equipment by 2022.” For this purpose, the Telecom Equipment Manufacturing Council (TEMC) should identify and recommend specific areas of priorities. The regulator has also suggested that the Department of Telecommunications (DOT) should monitor the progress of domestic telecom equipment manufacturing and a

**Table 1: Progress of the PMP in Mobile Phone Manufacturing**

Component	Duty Structure under Phased Manufacturing Plan	Duty Implementation Status	Percentage Contribution to BoM (Bills of Material)	Local Sourcing
• Charges/adapter • Battery pack • Wired handset	15%	Implemented	6%	High
• Mechanics and die-cut parts • Microphone, receiver • Key pad • USB cable	15%	Implemented	7%	Low for mechanics, rest is high
• PCBA • Camera module • Connectors	10%	Implemented	62%	Low
• Display assembly • Touch panel/cover glass assembly • Vibrator motor ringer	Likely to be deferred	Likely to be deferred	25%	Not started

Source: Pathak (2019); MEIT (nd).

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dedicated unit should be set up for facilitating equipment design and development.

For promoting research, innovation, design, testing and certification of telecom equipment, the telecom research and development fund, with an initial corpus of ₹10 billion, should be created. Subsequently, the TRAI also recommended the creation of two funds, namely the Telecom Entrepreneurship Promotion Fund (TEPF) and Telecom Manufacturing Promotion Fund (TMPF). Further, it also recommended the establishment of a telecommunication equipment development board (TEDB) under the DOT for faster decision-making on funding and incentives. However, there is no evidence to show that any of the recommendations have actually been implemented.

Admittedly, the policies are of recent vintage and, given the lags in project implementation, it may take a number of years before a clear perceptible picture on increased domestic manufacturing of telecommunications equipment is visible. Nevertheless, based on the data for last seven years at least, we can form an assessment of the outcomes.

### Policy Outcomes

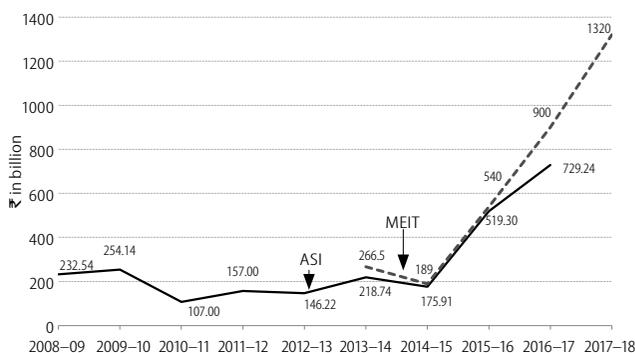
In order to verify whether there is increased domestic manufacturing of telecom equipment, we require data on domestic output of mobile phone handsets and the parts that are used for domestic assembling of these phones. Further, we also require data on imports of mobile handsets and parts. For production data, the most authentic source is the Annual Survey of Industries (ASI), but the data published is only at the 4-digit level (National Industrial Classification [NIC], 2008 Code: 2630) and it refers to the manufacture of communications equipment. For securing data on the manufacture of mobile phones, we require data at the 5-digit level (NIC 2008 Code: 26305), which is not readily available. Data on production of mobile phone is also available for the years 2013–14 through 2017–18 by the Ministry of Electronics and Information Technology (MEIT 2018), although it is not immediately clear as to the original source of this data. In fact, these data are referred to in the new electronics policy of 2019, which stated that,

In 2017–18, the production of cellular mobile handsets reached approximately ₹1,32,000 crore, compared to ₹18,900 crore in 2014–15. Production of cellular mobile handsets in volume terms reached 225 million (22.5 crore) units in 2017–18, as compared to production of 60 million (6 crore) units in 2014–15. As many as 268 manufacturing units for cellular mobile handsets and their parts/components have been set up in the country during the last 3–4 years, resulting in estimated employment for about 6.7 lakh persons (direct and indirect).

Data on imports and exports of mobile phones are available from the export–import data bank of the Ministry of Commerce and Industry.<sup>1,2</sup>

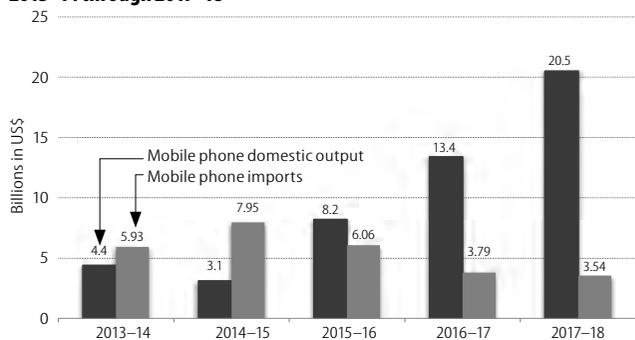
The first step in unravelling the evidence relating to domestic manufacturing of mobile phones is to compare the production data according to the two major data sources, namely the ASI and the MEIT (Figure 3). Both the data are almost exactly similar in both the direction of movement and level. In fact, domestic production has been growing on an average of 69% between 2013–14 and 2017–18. But the leading manufacturers

**Figure 3: Comparison of ASI and MEIT Data on Production of Mobile Phones**



Production in terms of physical units is provided in Annexure 1.  
Source: Central Statistical Organisation and MEIT (2018: 78).

**Figure 4: Trends in Domestic Production and Imports of Mobile Phones, 2013–14 through 2017–18**



Source: Production data is from MEIT (2018) and import data is from Directorate General of Commercial Intelligence and Statistics data.

of mobile phones are all foreign companies with a few domestic players.

This growth in domestic production has led to a significant reduction in the import of fully assembled mobile phones (Figure 4). According to the DOT,<sup>3</sup> there are at least 16 foreign telecom equipment manufacturers besides a few domestic ones as well.<sup>4</sup> In the smartphone category, which now accounts for over 50% of the sales of mobile phones, all the top positions are occupied by foreign companies, three of these being Chinese handset manufacturers. In feature phones, the Indian manufacturer, Jio, accounts for about 47% of the market share, while the remaining shares are accounted for by foreign manufacturers such as Samsung and Nokia (Annexure 2).

Geographically, mobile phone manufacturing in India is spread across three major clusters. These are Noida near the National Capital Region, Sri City and Sriperumbudur near Chennai (Figure 5, p 54). It appears that most of the phones are manufactured by contract manufacturers like Foxconn and Flex. Samsung is one of the few mobile phone manufacturers having its own manufacturing facility in the country. Incidentally, Samsung's manufacturing facility at Noida near Delhi is the world's largest factory for mobile phones with an installed capacity of about 120 million units per year.

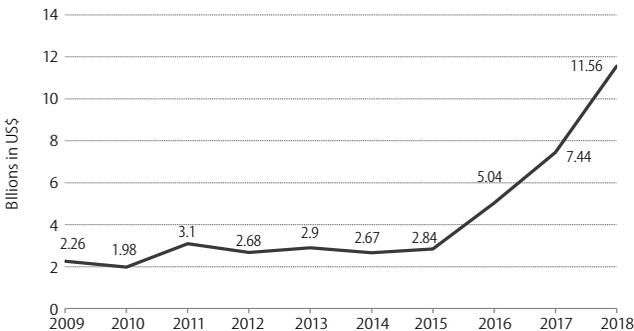
Domestic production has been dependent on parts that were imported from abroad, and these imports have been growing (Figure 6, p 54). Given the fact that production is largely based on imported inputs, the ratio of gross value added (GVA) to gross value of output (GVO) has been declining

Figure 5: Distribution of Mobile Phone Manufacturing Units across India



Source: ICEA (2019).

Figure 6: Imports of Parts of Mobile Phones, 2008–09 through 2017–18



HS (harmonised system) code: 851770.

Source: Compiled from Export–Import Data Bank, Ministry of Commerce and Industry.

sharply, especially during the period when domestic output has been increasing (Figure 7).<sup>5</sup> India has now become the second largest mobile phone manufacturer in the world after China. The fast track task force, a body under the MEIT, has set a target to achieve around 500 million mobile phone production in India by 2019, with a value estimated to be around \$46 billion, although this sounds ambitious considering the output during 2017–18 was \$20.5 billion.<sup>6</sup>

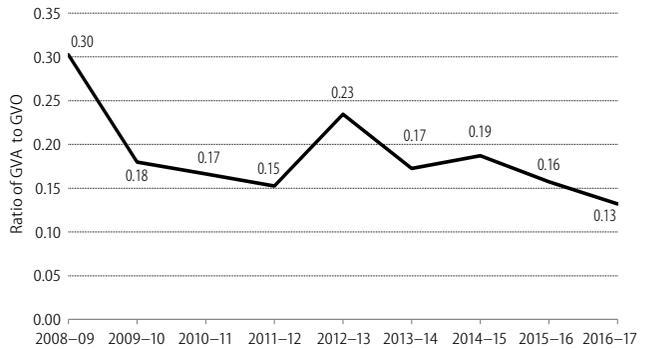
According to the consultancy firm Counterpoint Research, the PMP is running behind schedule as the implementation of customs duties under Phase III, which targets display assembly, touch panel/cover glass assembly and vibrator/motor ringer, have been delayed (Table 1).

**High Import Dependence**

Countries wanting to have a manufacturing position, especially in high-technology products, need to have the requisite innovation capability in those items that they intend to manufacture domestically. This is because possession of such innovation capability enables the firms in the specific high-technology industry to keep pace with the technological changes in their respective domain. Mobile phone technology has been moving very rapidly. Phones are now used not just for communication but as computing devices to serve educational, health, governance and entertainment purposes. Mobile wireless technology, has now progressed to the fourth generation (4G) technology, and 5G is about to be deployed in the country.

The few Indian manufacturers of mobile phones have seen their market shares eroding and the positions vacated by them being taken over by foreign manufacturers, primarily those

Figure 7: Trends in Ratio of Gross Value Added to Gross Value of Output of Communication Equipment



Source: Computed from Annual Survey of Industries.

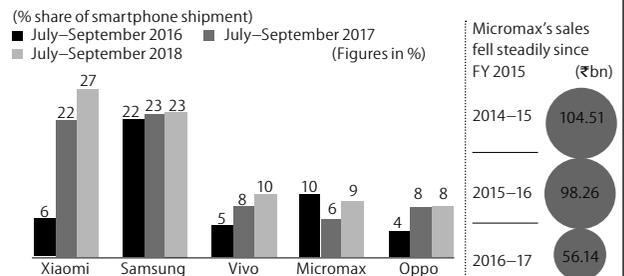
from China. In any case, India did not have any serious manufacturers of mobile phones, except ITI that has not been doing well for quite some time. In fact, ITI, despite its existence for over six decades, has not developed the technological capability to design and manufacture mobile phones, although it does manufacture mobile equipment, such as base transceiver stations (BTS), in one of its manufacturing units. Its technological capability is only in fixed-line telecom equipment, the demand of which has gone down significantly. Even for fixed-line telecom technology, ITI has depended on licencing disembodied technology from abroad and has a poor record of developing domestic capability (Mani 1991). The few domestic manufactures (such as Micromax, Karbonn, Lava, Spice, Intex, etc) that had sprung up, very often assembling mobile phones on the basis of imported parts, have virtually collapsed now (see Box 1).

One of the main reasons for Micromax to lose its market share was its failure to predict and be in command of 4G technologies as over three quarters of its phones were 3G handsets. The firm had virtually no innovation capability in mobile technology and so could not catch up with Chinese manufacturers.

**Box 1: Decline of Domestic Handset Manufacturers**

[In 2014], Micromax’s office in Gurugram was at par with the likes of Google. The multi-storied building had open spaces, rooms aplenty, and even balconies and terraces where parties could be thrown. [In November 2018], the company operates out of a single floor in a common office complex in Gurugram. The once-swanky office now has only a few cabins, far fewer employees, and is quite cramped. Incidentally, in 2014, Counterpoint Research put Micromax at the helm of the booming Indian smartphone market. It even surpassed Samsung and shipped more phones than any other brand in India. In fact, home-grown smartphone brands such as Micromax, Lava, and Intex once cornered nearly 54% of the market share. The same brands have a less than 10% market share in 2018.

**Gaining Ground**



Source: Banerjee (2018), Dutta (2018).

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Despite such a long history of manufacturing and R&D in telecommunication equipment, India has failed to develop innovation capability in mobile communication. This failure could be traced back to the establishment and subsequent destabilising of an interesting experiment in technological capability building in the form of a public laboratory called C-DOT.

C-DOT was established in 1985 to develop a family of digital switching equipment for fixed telephones that were consistent with the usage pattern prevailing in the country. The public laboratory was thought of as a knowledge-generating lab for telecommunications equipment, which will then transfer the generated technology to lone public sector ITI, and a host of private sector firms. The laboratory was very successful in developing digital switching equipment for smaller rural exchanges but suffered time overruns for developing switching equipment of a larger capacity. Despite the fact that its presence made the market for switching equipment contestable, eventually leading to a significant fall in the average price of switching equipment, the laboratory was virtually closed down (Mani 2005b).

A consequence of this destabilisation of the laboratory was that it failed to receive strategic direction in deciding on the technologies that it would concentrate on. The laboratory continued to focus on fixed-line telecom technologies, while the technology frontier itself had moved on to mobile communication technologies. This behaviour of C-DOT is in sharp contrast with another public laboratory, the Electronics and Telecommunications Research Institute (ETRI) in Korea, which had successfully moved to mobile communication technologies in close collaboration with leading telecom equipment manufacturers in the country (Mani 2007). What is most impressive is the fact that it did so by taking a huge risk in committing itself to a lesser-diffused mobile communication standard—CDMA (code division multiple access). So, when mobile phones started diffusing fast not just in Korea but also in the world over, Korean manufacturers had a significant lead. In fact, one of the Korean manufacturers has become the lead player in the mobile phone technology arena.

India, on the contrary, did not have a single manufacturer worth the name with any technological capability in mobile communication technologies. So, when mobile phone subscriptions grew exponentially, the country could not boast having any credible manufacturers of mobile phones. The few domestic manufacturers that have sprung up have been relying on imported parts and, as such, are mere “assemblers” of imported parts. This explains the high import dependence of the industry that is expected to continue in the foreseeable future, as the intellectual property right in the form of patents in several mobile communication technologies is held by MNCs that have successfully been able to protect their patents in India. In fact, an examination of the applications for patents in mobile communications technologies before the Indian patent office shows that almost all the applicants are from abroad. (Annexure 3). Of the approximately 23,500 total patents identified by Contreras and Lakshané (2017), a total of only 18 patent applications, but no issued patents, were held by

three Indian firms (Spice Digital, HCL, and Videocon). Further, majority of the patent holders in the latest mobile technologies such as 4G and 5G are also either Chinese or Western telecom equipment manufacturers forcing Indian manufacturers to depend on Chinese and Western companies (Table 2).

**Table 2: Major Patent Holders in 4G and 5G Mobile Technology** (% shares)

Patent holders	4G	5G
Huawei Technologies (China)	12.54	15.05
Nokia (including Alcatel Lucent) (Finland)	9.47	13.82
Samsung (South Korea)	11.54	12.74
LG Electronics (South Korea)	8.38	12.34
ZTE Corp (China)	4.77	11.70
QUALCOMM (US)	8.65	8.19
Ericsson (Sweden)	6.72	7.93
Intel Corp (US)	2.30	5.34
China Academy of Telecommunications Technology (China)	4.48	5.28
Sharp Corp (Japan)	3.69	4.53
Guangdong Oppo Mobile Telecommunications Corp (China)	0.33	2.00
Fujitsu Limited (Japan)	1.81	0.19
Inter Digital Technology Corp (US)	2.95	0.17
Sony Corporation (Japan)	1.33	0.14
Media Tek (Taiwan)	0.43	0.13
Apple (US)	1.34	0.12

Source: Tanaka (2019).

This lack of internal R&D in mobile communication technologies has forced Indian manufacturers into patent litigation with Western telecom equipment manufacturers, and the existence of numerous patents by Western MNCs in India have acted as a strong barrier for the entry of Indian manufacturers as well. There have been patent infringement cases against three of the leading domestic mobile phone manufacturers by one of the foremost telecom manufacturers in the world, Ericsson of Sweden. The case has finally reached the Competition Commission of India (CCI) as the patent litigation was curtailing the degree of competition in the market for mobile phones.<sup>7</sup> The Indian mobile phone manufacturer Micromax alleged that Ericsson was demanding unfair, discriminatory and exorbitant royalty for its patents regarding GSM (Global System for Mobile communication) technology. The royalty demanded by Ericsson was excessive when compared to royalties charged by other patentees for patents that were similar or comparable to the patents held by Ericsson. The CCI issued a preliminary order finding evidence that Ericsson had abused the dominant position created by its standard essential patents and ordered a full investigation by the director general. Similar competition claims against Ericsson were brought by two other domestic manufacturers, Intex and iBall. The new communications policy of 2018 has a provision to ensure that royalties charged for standard essential patents be on FRAND terms.

### Conclusions

There is evidence to show that domestic production of mobile phones has registered some significant increases since 2015–16. However, these are largely by MNCs based on imported parts. As such, no domestic production or innovation capability has been created or is in the offing in the foreseeable future. This dependent development has led to India's technology trade deficit increasing on account of increased royalty and licence

fee payments, besides dividends and profits being repatriated abroad. The findings of this paper reveal that while we have started making mobile phones in India to reverse the growing trade deficit in telecommunications equipment, this is leading to increased imports of parts and a worsening GVA to GVO ratio. So, domestic manufacturing does not seem to be an antidote to reducing the growing trade deficit in the merchandise account of India's balance of payments. The telecommunications revolution is leading to a dependent form of development. A stricter monitoring of the PMP may go some way toward reducing this otherwise undesirable trend.

India's dependence on foreign technology and imported parts for establishing a mobile phone manufacturing industry is the result of the policy failure to strategically direct its dedicated public R&D programme towards developing capability in mobile phones technology. Here, the lesson to be learned is from Korea and China, both of whom assiduously built up much internal innovation capability in mobile phone technology, and when demand for mobile phones grew in their respective domestic markets as well as foreign markets, both

countries had telecommunications companies that were able to service not only their domestic markets but also the export markets. In fact, both the countries have telecommunications firms that have become the leading players in the world in mobile phone technology.

Given the state of affairs, what could possibly be the way out? Instruments such as the the PMP may reduce the extent of imports of parts and components, thereby improving the domestic value added to value of output ratio. However, given the lack of innovation capability, the dependent form of development that we are currently forced to follow is likely to continue. The only way that this can be reversed is for the country to make a wholehearted attempt at reviving the public laboratory, C-DOT to focus on recent trends and innovations in mobile communication technology. In fact, a consortium approach should be adopted in order to link the laboratory with domestic manufacturing firms so that the fruits of R&D can immediately be transferred. Without such a strong fillip to domestic R&D efforts, innovation capability can neither be maintained nor improved upon.

## NOTES

- 1 See: <https://commerce-app.gov.in/eidb/default.asp>.
- 2 The HS Code 851712 refers to telephone for cellular networks.
- 3 Please see list of 16 telecom equipment manufacturers listed on the DOT website: <http://dot.gov.in/telecom-equipment-manufacturing>.
- 4 In a statement in the Lok Sabha, the government has claimed that there are 127 units manufacturing mobile handsets in the country. See Annexure 1 for details.
- 5 The unit-level ASI data reports data for 11 mobile phone manufacturing units (NIC 2008 Code: 26305). Based on this dataset, the ratio of gross value added to gross value of output for mobile phones has actually declined from 0.16 in 2008–09 to 0.07 in 2014–15.
- 6 This claim is made by the Indian Cellular Association (*Economic Times* 2018).
- 7 Details of this specific case can be found in CCI (2013) and Contreras and Lakshané (2017).

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### Annexure 1: Manufacturing of Mobile Handsets in India

According to the government, 127 units are manufacturing mobile handsets in the country, and all of them are operating from the domestic tariff area (DTA). As per information received from the Department of Commerce, Flextronics Technologies (India) Pvt Ltd and Pertech Exports Pvt Ltd have been granted letter of approval for manufacture of mobile handsets in special economic zones (SEZs).

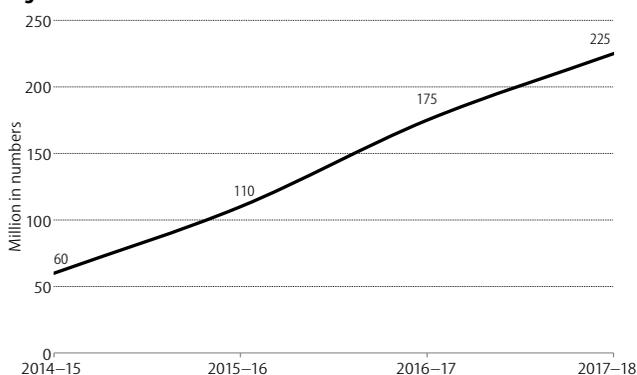
As per information received from the MEIT, the mobile handset manufacturing operations in DTA are governed by the applicable duty structure. The benefits available to manufacturers of mobile handsets include rationalised tariff structure and a PMP and their sub-assemblies, parts, availing capital expenditure benefits under the modified special incentive package scheme (M-SIPS), 100% FDI permitted for manufacture of mobile handsets and their sub-assemblies, parts, export incentive of 4% of FoB value of export under the merchandise export from india scheme (MEIS), and specified capital goods for manufacture of mobile handsets are permitted for import at "nil" basic customs duty (BCD).

Benefits available to the units under the SEZ Act, 2005 and SEZ Rules, 2006 include duty free import and domestic procurement of goods for development, operation and maintenance of SEZ units, 100% income tax exemption on export income for SEZ units under Section 10AA of the Income Tax Act for the first five years, 50% for next five years thereafter and 50% of the ploughed back export profit for next five years, exemption from the goods and service tax, and supplies to SEZs are zero rated under Integrated Goods and Services Tax Act, 2017 and exemption from other levies as imposed by the respective state governments.

The MEIT has received representations from industry, industry associations, including Samsung India Electronics Pvt Ltd in respect of the PMP for 2019–20. The MEIT has informed that its proposal to defer PMP for cellular mobile handsets, its sub-assemblies and parts, sub-parts, inputs of the sub-assemblies thereof has been accepted by the department of revenue, Ministry of Finance.

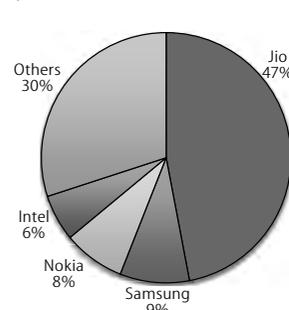
Source: PIB (2019).

**Figure A1: Mobile Phone Production in Numbers**

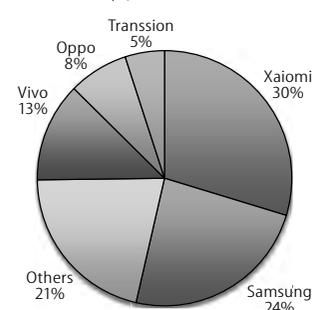


### Annexure 2: Market Shares of Feature and Smartphone Manufacturers

(a) Market Share of Feature Phones, Quarter 2 of 2018



(b) Market Share of Smartphone Manufacturers, Quarter 2 of 2018



Source: ICEA (2018: 19).

### Annexure 3: Cumulative Number of Patents Issued to Foreign and Indian Manufacturers in Mobile Technology, 2000–15

Assignee	Nationality	Patents applied
Qualcomm	United States	5,954
Ericsson	Sweden	1,843
Samsung	South Korea	1,827
Nokia	Finland	1,744
Microsoft	United States	1,557
Philips	Netherlands	1,460
Sony	Japan	1,235
Alcatel Lucent	France	971
Motorola	United States	842
LG	South Korea	791
RIM/Blackberry	Canada	782
Panasonic	Japan	537
NTT Docomo	Japan	523
Huawei	Japan	470
Siemens	Germany	366
Intel	United States	331
ZTE	China	303
InterDigital	United States	288
Apple	United States	256
Hewlett-Packard	United States	225
NEC	Japan	209
IBM	United States	203
Cisco	United States	165
Google	United States	132
Fujitsu	Japan	89
Canon	Japan	87
Hitachi	Japan	84
Yahoo	United States	70
Oracle	United States	59
Toshiba	Japan	36
AT&T	United States	23
SAP	Germany	22
ETRI	South Korea	21
Broadcom	United States	17
Nortel	Canada	17
Texas Instruments	United States	12
HCL	India	11
Spice Digital	India	6
Videocon	India	1

Source: Contreras and Lakshané (2019).

## EPW Index

An author-title index for *EPW* has been prepared for the years from 1968 to 2012. The PDFs of the Index have been uploaded, year-wise, on the *EPW* website. Visitors can download the Index for all the years from the site. (The Index for a few years is yet to be prepared and will be uploaded when ready.)

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# Child Marriages in Haryana

## Challenges in Implementing PCMA, 2006

TRUPTI JHAVERI PANCHAL, SUMATI THUSOO, VINITA AJGAONKAR

Child marriage continues to prevail in Haryana despite preventive laws. The state government's policy of conditional cash transfers aimed at eliminating child marriage has failed in incentivising parents to not get their daughters married off before they turn 18. The role of child marriage protection officers who have been given the power to prevent and prosecute solemnisation of child marriages, and create awareness on the issue is examined. In order to draft a macro-level policy pertaining to child marriages, it is important to understand the gaps in the implementation of the existing policies along with grassroots realities and the challenges of implementing them.

The occurrence of child marriages in South Asia is a widespread phenomenon. Out of 60 million marriages that include girls under the age of 18, approximately 31 million are in South Asia alone. Not only is it a grave violation of child rights, but it also directly has an impact on other aspects of a child's overall well-being, especially of young girls, such as their education, health, and psychological well-being (Nour 2006). Child marriage is part of the patriarchal traditions that reduce the role of young girls to wives and mothers to their maternal bodies and reduce their experiences of being (Stith 2015).

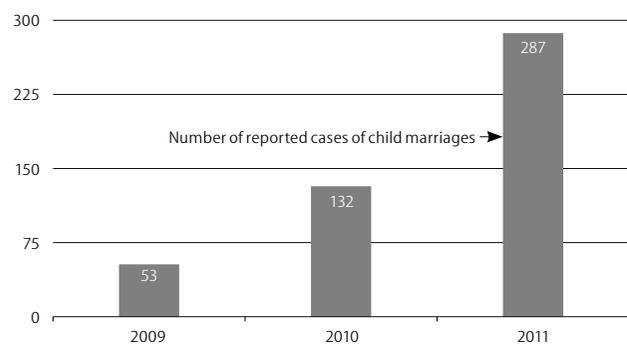
In India, the Prohibition of Child Marriage Act, 2006 (PCMA) came into effect in November 2007 replacing the Child Marriage Restraint Act of 1929. The PCMA defines child marriage as a marriage in which either of the contracting parties is a child. Furthermore, a child is defined as a person who, if male, has not completed 21 years of age and, if female, has not completed 18 years of age (PCMA 2006). This act mandates state governments to establish structures including that of child marriage prohibition officers who are empowered to prevent child marriages.

Haryana has one of the lowest sex ratios (834 per 1,000 males) in India and child marriage is quite common. The Haryana government has initiated a conditional cash transfer (CCT) programme called *Apni Beti Apna Dhan* (ABAD), or "Our Daughter, Our Wealth" to address this issue. This scheme, aimed at ending child marriage along with ensuring that girls attended schools for longer, was one of the first CCTs targeting girls. A study conducted by the International Centre for Research on Women (ICRW 2014) to evaluate the same scheme showed that girls who were beneficiaries of the CCT attained higher levels of schooling, were more likely to continue their education, and less likely to drop out than non-beneficiary girls. The study also found that CCT programmes with immediate or protracted benefits needed to interact with behavioural change, and financial incentives alone cannot trigger effective change without systemic changes in values and aspirations.

In this article, we look at child marriage as a form of violence against women. Child marriage affects girls disproportionately compared to boys (UNICEF 2009). Due to the young age of child brides, they have little or no power of negotiation in their new home and are vulnerable to domestic abuse (Human Rights Watch 2011). Furthermore, the practice has far greater negative implications for health, education, autonomy and

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**Figure 1: Year-wise Distribution of Reported Cases of Child Marriage (n = 472)**

Source: Resource Centre for Interventions on Violence against Women (TISS 2015).

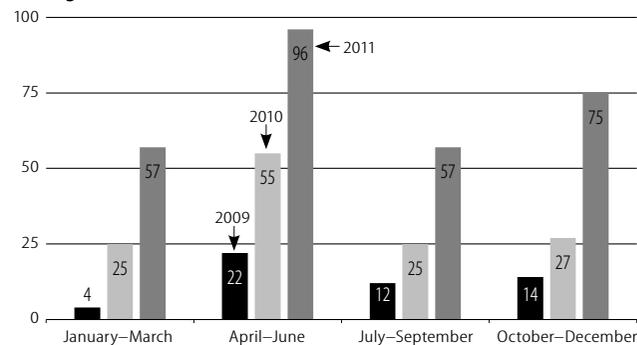
well-being of girls than boys (Sagade 2005; Raj et al 2012; Speizer and Pearson 2013).

As a multi-agency response to child marriages in Haryana, the Haryana government began implementing special cells for women and children in all the districts of Haryana to provide a coordinated, coherent and in-depth response to the issue of violence against women.<sup>1</sup> The special cell for women and children is an initiative of the Tata Institute of Social Sciences' (TISS) collaboration with state governments, especially the criminal justice system, to end violence against women. These special cells have the mandate to implement the PCMA, 2006 and the Protection of Women from Domestic Violence Act, 2005. Under this provision, social workers at the special cells are authorised to work as protection-cum-prohibition officers (PPOs) to end child marriage in Haryana, prevent and prosecute solemnisation of child marriages, and create awareness on the issue.

Given that child marriages have a higher rate of occurrence in rural areas than in urban areas (Ministry of Health and Family Welfare, Statistics Division 2011), it is important to understand the sociological reasons for the same and determine the solutions accordingly. With this objective in mind, this article aims to analyse the reasons for child marriages and the challenges faced by PPOs in Haryana. In the next section, the methodology of the article has been discussed. The sections after that present the findings of the study, highlight reasons for child marriage and state the procedural challenges faced by the PPOs. Then, the article presents the way forward in tackling child marriage and ends with concluding remarks.

### Methodology

The article is based on an exploratory study using a mixed methods approach. The data collection involved three different data sets: (i) office data for quantitative analysis, (ii) in-depth interviews with families, and (iii) interviews and focus group discussions with special cell workers. The secondary data included records of child marriage cases that were prevented by the PPOs and were obtained from the complaint registers maintained in special cells. The complaints used for analysis were registered between January 2009 and December 2011 from 20 districts of Haryana. Primary data was collected by selecting 20 cases from the total number of cases. Interviews and focus group discussions with the PPOs were conducted to gain a

**Figure 2: Quarterly Break-up of the Number of Reported Cases of Child Marriage (n=472)**

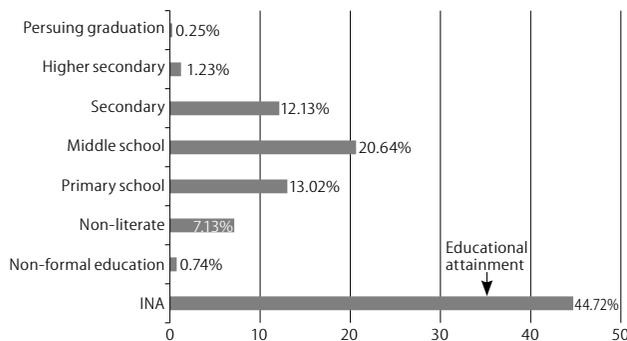
Source: Resource Centre for Interventions on Violence against Women (TISS 2015).

deeper understanding of their role in preventing child marriages as well as the challenges faced by them. Interviews were also conducted with the children rescued (now adults) from child marriages and their families.<sup>2</sup> The first set of data (office data) was coded and analysed using qualitative analysis software. Descriptive analysis and bivariate tables were used in the analysis. Data sets 2 and 3 were qualitative in nature and were obtained through interviews.

### Increase in Reporting Child Marriages

From January 2009 to December 2011, a total of 472 cases of child marriage were registered with the PPOs across 20 districts of Haryana. Since the time of implementation, there has been a steady and significant increase in the number of registered cases (Figure 1), which does not necessarily mean an increase in the incidence of child marriage cases, but reflects an increase in the reporting of such cases—a likely effect of growing public awareness of the law. Thus, it may be seen as an indicator of the effectiveness of the PPOs' work.

Section 16(3) of the PCMA states that it is the duty of child marriage prohibition officers “to create awareness of the evil which results from child marriages” and “to sensitise the community on the issue of child marriages” (PCMA 2006). Apart from the awareness campaigns that were also supported by local media, it was found that a single incidence of child marriage prevented in one village generates enough publicity in that village, thus, raising awareness about the implications of PCMA and the work done by the PPOs. This results in more people coming forward and reporting such cases. Hence, the figures shown in the graph are consistent with the observations made by all the PPOs that the reporting of child marriage cases increased because of growing awareness. However, the reporting of child marriages was not uniform throughout the year. There was a greater incidence of child marriage cases in the April to June quarter across years (Figure 2), as this was when the harvesting season gets over and people are free to take care of other household responsibilities. Akshaya Tritiya (annual spring time festival), also known as Akha Teej that falls during this period is a holy day for Hindus, considered especially auspicious for weddings. The number of reported cases in this quarter had doubled in numbers, a fact also verified by the PPOs.

**Figure 3: Educational Attainment of Girls as per Office Records (n = 472)**

Source: Resource Centre for Interventions on Violence against Women (TISS 2015).

The number of child marriage cases recorded in different districts were influenced by the socio-demographic characteristics of each district. For example, Sirsa had the maximum number of registered cases (17.2%). Sirsa is the western-most region of Haryana that borders Punjab and Rajasthan; Rajasthan has one of the highest incidence of child marriages after Bihar (Young Lives and NCPDR 2017). It was also noted that there were fewer cases of child marriage in substantially more urbanised and industrialised districts, such as Faridabad (0.4%), Panchkula (0.4%), Ambala (1.7%), and Yamunanagar (1.7%). This is broadly in line with previous evidence suggesting that the incidence of child marriage is inversely proportional to the level of development in the locality, literacy levels, and industrial development (Sagade 2005).

### Education and Child Marriage

A strong association was found between educational attainment and girls' age at the time of marriage (Figure 3). While the data on educational attainment of girls was not available in nearly half (44.72%) of the cases, the data presented in Figure 3 indicates that girls begin to drop out after middle school. There were fewer girls who were able to complete secondary school, that is, Class 10 (1.54%); a majority of them dropped out of school by then. Similar findings were reported in studies carried out by the ICRW (2011) in Bihar and Rajasthan.

Education is seen as a three-fold threat to traditional society. First, the crossing of the boundary of the private sphere to physically traverse to the school is an attempt to indulge in the outside world and public participation. Second, ideas and concepts learnt in school empower a girl and make her more aware of the world, which is detrimental to the existence of an orthodox society. Third, the fear of interaction with the opposite sex leads to loss of control over female sexuality. The desire to control women and their sexuality manifests itself in the form of khap panchayats (caste courts) that mete out death penalties for elopement and inter-caste relations (Rajpurohit and Prakash 2015). There is a symbiotic relationship between educational attainment and child marriage, wherein the obstacles preventing the education of girls are expectations of domesticity, safety, and infrastructural barriers (Kelly and Bhabha 2014).

The study attempted to dive deeper into the reasons that prompted families to get their children married before they attain adulthood. Although the records of the reported cases of child marriages did not always mention the reasons for the marriage, they were discussed during the interviews with the PPOs and the families.

### Traditional Practices and Child Marriage

In 23.3% of the cases, economic compulsions emerged as the most cited reason for child marriages as per the office records. All the trappings of a socially acceptable wedding ceremony in Haryana (a tent, decorations, music, food and clothes) require substantial funds (Bloch et al 2004). Even though these expenses are borne mainly by the girl's family, the groom's family also has to incur considerable expenditure. Even if a marriage is held in a temple or a gurudwara, the wedding itself is an expensive affair. Marrying off siblings together is an acceptable method of saving costs even when the siblings are below the legally permissible age of marriage. However, some of the PPOs claimed that while poverty is definitely a reason, most parents want to get over with their "liabilities" as soon as possible. Another study in Malda district in northern West Bengal found that even though poverty was apparently identified as the major reason for child marriages, a closer look revealed that parents who were well placed economically also followed the practice, which was influenced by patriarchal values such as the notion of family honour as linked to a girl's chastity and caste endogamy (Ghosh 2011).

The custom of child marriage, as some PPOs pointed out, is so deep-rooted and widespread in certain communities that it has become a traditional practice. Earlier studies have also reported traditional beliefs and practices as one of the reasons for early marriages (NIPCCD 2008). As recounted by the PPOs, among certain castes such as Gujjars and Ahirs, there is a tradition of getting underage girls married. Gujjars of north-western India, who have ethnic affinities with the Rajputs, Jats and Ahirs, were once a nomadic pastoral community practising monogamy, community endogamy and clan exogamy. They practise both child marriage followed by *gauna*<sup>3</sup> as well as adult marriage. Junior and senior levirate and junior sororate marriages are recognised (Dabral and Malik 2004).

It was revealed in the discussions with the PPOs that it has become rather difficult to find a wife, compelling people to marry at an early age. The connection between child marriage and low sex ratio is illustrated in the following case of the marriage of a minor boy by one of the PPOs:

The boy was 19 years old, but the girl was above 18 years of age. The father of the boy was aware that his son was below the legal marriageable age. But he was having difficulty in finding a bride for his son and so he wanted to get his son married whenever a suitable match could be found. The family was upset when the marriage was prohibited. They were also apprehensive that the girl's family would get her married elsewhere and their son would find it very hard to get a wife.

During discussions with PPOs and the families, the practice of *atta-satta*, in which the daughter of one family is given in marriage to another family on an agreement of the other family to give their daughter in return, was prevalent. Sometimes

three families are involved in this exchange. In this system, boys can get married only if there is a girl in the family whom they can give in marriage to a boy in the bride's family. If no girl is available within the family, a suitable girl has to be arranged from another family. Low sex ratio has strengthened the system of *atta-satta* among many caste groups.

### Prevalent Patriarchal Norms

Chowdhary (1997) while drawing a connection between caste and endogamous marriages states that ensuring caste endogamy is essential to ensure perpetuation of the caste system. As marriage provides the structural link between kinship and caste, a closer surveillance is accorded to marital alliances. Second, selection of one's life partner shows independence which in the local perception presages a disruption of family ties or break-up of the joint family system and a loss of authority suffered by senior members of the family. Third, in case a woman makes an alliance within the village, and since theoretically all people in a village are related (Mishra and Azeez 2014) such a decision introduces a rank outsider into the family who can and may claim the property on behalf of his wife. Location of a married daughter within the natal village also spells danger to patrilineal inheritance as it facilitates and could lead to assumption of land inherited by her. A girl is, at her most vulnerable between the onset of puberty and marriage. Marriage has to be carefully controlled in a caste society concerned with the maintenance of boundaries (Dube 1988). The tightening of restrictions on marriage practice emphasising village exogamy and caste endogamy is to negate the progressive fallout of the inheritance enablement law on female population (Chowdhary 1997).

The men in the family are considered to be responsible for the girl's safety (and chastity) for as long as she is unmarried, which, by means of marriage, is passed on to someone else. This compulsion makes parents ignore the fact that neither does marriage ensure their daughters' safety nor her well-being. There were other parents who reiterated the same emotion with a slight difference. They discussed the consequences of any animosity that is taken out on a girl's body to dishonour the family as the girl's chastity is seen as a symbol of a family's status and honour (Chakravarti 1993). Violating it is a means of extracting revenge in cases of family vendetta. In order to prevent anyone from dishonouring the family, many families felt that marrying them off early was a simple solution.

Although child marriage is seen as a way of protecting a girl from sexual abuse, ironically, far from protecting her, the marriage of a minor exposes her to sexual exploitation from the male members of the marital family as well. Thus, the same marriage, which is looked at as a way of protecting a girl from sexual abuse, exposes her to sexual exploitation from the male members of the marital family as well (Chaudhari 2015).

### Other Reasons

As per office records maintained with the PPOs, ignorance of the law was also cited as an indirect reason for child marriages (27.12%). However, during their interviews, PPOs felt that it

might be an excuse given by the families. One PPO narrated her experience:

We got a complaint that three minor children were being married together in one village. This was going to happen in a former sarpanch's (village head) family. We applied for an injunction order. I went to the venue with the Station House Officer. The family was summoned to the court. They pleaded ignorance of the law, and promised to cancel the marriage.

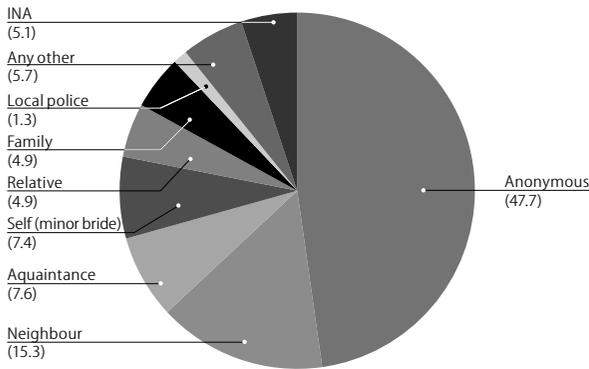
From the interviews with the family members who were prevented under the law to have their underage children married, it was evident that they were aware of the law but lacked clarity regarding its details and legal repercussions. One of the parents of an underage boy kept on insisting that they were unjustly wronged, "Hamara bachcha to balik hai (our boy is an adult)." This confusion could have occurred as the legal age for adulthood for both boys and girls is 18 years, but the legal age under PCMA is 21 years. One parent vehemently stated the inadequacy of efforts on the government's behalf to spread awareness about the law.

Sometimes families feel pressured to get their children married and "settled" because of illness of a family member, even though the children are underage. This is evident from the interviews. One PPO spoke about such a case where the father of the boy had cancer. The girl with whom the marriage was arranged, was underage and the marriage had to be prohibited. Another respondent who was herself married years after attaining majority was involved in getting her underage sister married to her underage brother-in-law only because her father-in-law was terminally ill and wanted to see his son married before his demise.

A family member also alleged that the girl was being married off by her mother for the purpose of child trafficking. Other reasons also included instances where girls wanted to get married by choice and were not willing to wait till the legal age of marriage. Many girls brought up in a restrictive and repressive atmosphere, deprived of the opportunities of education and independence, and encouraged by media portrayals of a happy life with a self-chosen partner, start looking at marriage to a partner of their choice as a way of escaping their oppressive households.<sup>4</sup> In a few cases, kidnapping and sexual assault were mentioned as reasons for getting a girl married before she was of legal age. These could be the case where a minor girl elopes with a self-chosen partner and the girl's family registers a complaint of kidnapping and rape against the boy.

### Procedural Challenges Faced by the PPOs

Among many reasons, procedural challenges faced by the PPOs were also examined. When a report is made to the office of the PPO regarding an impending child marriage in the district, the PPO first tries to verify if the persons getting married are actually underage. They visit the village, verify the age, mediate with the family and the community, and also explain the provisions of the PCMA. The objective is to convince everyone concerned about the illegality of child marriages and persuade them to postpone the wedding. Some PPOs go with an injunction order from the court prohibiting the marriage, some obtain the order later only if they feel the necessity, and others rely on written

**Figure 4: Complaints Received from Office Data (n=472)**

Source: Resource Centre for Interventions on Violence against Women (TISS 2015).

assurances given by the concerned families that the marriage would not take place till the child is of marriageable age. The process is far from smooth, and the PPOs have to negotiate many challenges in the course of their work.

In almost half the cases (47.7%) the complaint was lodged through anonymous calls or letters (Figure 4). The office data also suggested that majority of the cases were reported through a phone call (51%) or a letter (43%), which ensured the anonymity of the person making the complaint. In-person reporting by visiting a PPOs office was rare (4%).

The experience of the PPOs has been that anonymous complainants are usually neighbours or acquaintances who bear a grudge against the family. Since interruption or prohibition of an impending wedding on legal grounds translates into a grave social insult as well as economic loss to the family, such complaints are made as a way to take revenge against the family. Relatives or family members may also report a child marriage out of spite. If a family rejects a proposal from one family and fixes the marriage elsewhere, the rejected family may complain. Girls who want to choose their marriage partner may themselves lodge complaints if their families forcibly try to get them married to another person or their boyfriends may do so. One of the reasons that came forth in the discussions was that boys from landholding families, who sexually exploit girls working in their farms, would report their victims' marriage to continue abusing them without any repercussions. In some cases, neighbours and acquaintances had identified themselves (15.3% and 7.6%) while registering the complaint. Relatives or family members themselves (4.9% each) had complained against the marriage because the girl had eloped, or if the alliance was arranged by some other members of the family without their approval. Very few girls (7.4%) seemed to have come forward to make a complaint. Even when the identity of the complainant was known, PPOs go to great lengths to keep the identity a secret to ensure the safety of complainants. However, this practice renders the system open to abuse by people who mislead the system by giving false information out of spite.

### Time of Intervention by PPOs

The time at which intervention takes place affects the process of intervention as well as its effect on the family and the child. Records of the marital status of the child at the time of

(%) intervention is maintained. In a majority of the cases, the intervention was done when the wedding was in progress (72.5%). In very few cases (8.9%), the impending child marriage was reported immediately after the engagement ceremony and the PPOs were able to intervene well in time. In some cases (11.6%), the marriage was already solemnised before the case was reported to the PPO, or before the intervention could take place. In more than half of these cases, gauna was also performed, that is, the girl was sent to her marital home. There were some instances when the information given to the PPO was inaccurate; there was no marriage taking place as reported (2.8%). According to the PPOs, reports of child marriage are invariably received so late that they have no option other than to stop the wedding at the venue. In cases of complaints that are done out of spite, the timing of the complaint is deliberate so that the family is humiliated publicly. When the PPOs receive information about a child marriage at the eleventh hour, they have to go to the venue directly to stop these marriages which is awkward for the family as well as for the PPOs. The venue for the wedding may be in a remote village and reaching the place in time may itself be a difficult task, especially in view of the fact that PPOs do not have an official vehicle to commute to neighbouring villages. Sometimes on auspicious days, such as Akshaya Tritiya, many marriages are scheduled on the same day, and reaching all the venues becomes a difficult task for the PPOs. At such times, PPOs are forced to take help of the local police by asking them to go to the venue. However, as one PPO said, "60% of the times I reach the venue before the police. Even if the police do reach the venue first, they usually chit chat with the villagers, and wait for me to start the proceedings." There is no time to take an injunction order, which further handicaps the PPOs.

### Difficulties in Verifying Age

As mentioned earlier, all the complaints that come to the PPOs have to be verified by obtaining proof of age, before engaging in any other intervention, except in cases where there is no marriage taking place as reported. A large number of PPOs admitted facing problems at this stage (40%). Office records indicated that in very few cases (7.84%) birth certificates were available as the proof of the age of the girl. According to one PPO, families do register the birth of a son, as they are aware that he may need the birth certificate later for his further education or employment. But they may not register the birth of a girl. Even when certificates are available, families are unwilling to show them. If possible, the PPOs obtain birth records from the local civil hospital or the village anganwadi worker. School leaving certificates were obtained as age proof in 37.92% of the cases and in some cases, ration cards were accepted as age proof (6.99%). However, the PPOs were of the opinion that the ration card was not an acceptable document for verifying their age because it was usually issued without checking. It was only after a successful mediation with the family that the family members accept in writing that the child was a minor (31.99%). In the absence of any document to

verify their age, some PPOs asked the family to give an affidavit, which was sometimes endorsed by the village panchayat members.

When the intervention takes place at the last minute, the task of age verification becomes even more difficult. As one PPO said, "In a house where a wedding is taking place, you cannot expect anyone to produce a birth certificate. Nor is it possible to call the anganwadi worker at 8.30 in the night. And if I want to order a "medical" for the girl, how do I do it?" Ossification tests to determine the age was conducted in a few cases (7.41%) as shown in the office data. The problem with the ossification test is that it does not pinpoint the exact age, but indicates an age span of two years. One PPO said that, "If the test says that the age of the girl is between 16–18 or 17–19 years, there is a problem. We have to submit the ossification test report to the court and accept the court's decision. In a majority of the cases the court decides the girl to be a major."

### Other Concerns

There was a divided opinion on the necessity of injunction orders. One of the PPOs justified this approach saying,

It is necessary to take an injunction order in every case. If you just counsel the family, there is no guarantee that the marriage will not be performed later. The family can take the child to another place in another district, and get him/her married there. In Haryana, you can procure documents showing false age certificate. Families, after giving assurance letters, may do that and slap a case of mental harassment on the PPO. If an injunction order is taken from the district magistrate, you can lodge a first information report (FIR). Then, the family is also scared of reprisal. If there is a child marriage in a village, and if we go with an injunction order, it acts as a deterrent and there will not be another child marriage in that village.

Data showed that even where child marriage was proven after verification, the PPOs did not try to obtain an injunction order except in a few cases. The injunction order was not taken because there was no time to take an injunction order when complaints were made at the last minute. Some of them had experienced that the court was unwilling to give injunction orders due to reservations from the judges as they came from the same society and have similar values. Some PPOs said that they asked the court for an injunction order only when they felt that the counselling was going in vain.

Some of the PPOs also admitted to having faced a moral dilemma while stopping child marriages. A few of them reportedly felt remorse after preventing marriages in such cases where the marriage was being solemnised because a parent was critically ill. In cases of destitution where the child was orphaned, or the family was extremely poor or led by a single parent, prohibition of the marriage is a major financial loss. However, as one PPO said, "you cannot let a girl's life be ruined because of economic reasons." Another PPO said very firmly, "there are many types of dilemmas. There is pressure on us from political leaders, local leaders, society, caste, culture, etc. But in spite of that, I am focused and always function according to the law." In some cases the dilemma was not easily solved. One PPO shared a difficult case:

The family was extremely poor. When we went to stop the marriage, the "baraat" (wedding procession) had already arrived. The villagers opined that the family didn't even have enough to eat and it would be a crime to stop the wedding. After a long meeting, a solution was found. A girl of marriageable age from the extended family was married off to the same groom. The baraat did not go back empty-handed. However, I felt that though we had succeeded in preventing a crime against one girl, we had committed one against another, because the girl who was married that day was totally unprepared for it, and was suddenly pushed into marriage.

### Possible Interventions

Changing age-old and deep-rooted societal attitudes is a herculean task. This can neither be achieved by, nor be entrusted to a single agency. It is only through the combined, persistent and widespread efforts of the government machinery, non-governmental organisations working for women and children, community-based organisations and media that such a change can be hoped to be achieved. Just like any other sociocultural evil, it is important for all the stakeholders to converge to find a multi-pronged approach to not only tackle child marriages but to also change age-old patriarchal mindsets that manifest in gender-based sexual violence.

Local bodies such as gram panchayats should be made accountable for reporting such cases. They should also make it mandatory to register births which will help in establishing a child's age. It is also important to ensure a wide dissemination of information about PCMA and related laws such as the Protection of Women from Domestic Violence Act, 2005 and Dowry Prohibition Act, 1961 through various mediums to build capacities of the communities to exercise their constitutional rights. Apart from building capacities of the communities where child marriage is found to be rampant, it is also important to sensitise lower levels of judiciary and other stakeholders in the criminal justice system for them to be guided in a rights-based approach. Mass marriages act as a garb for child marriages, and therefore, pre-marriage registration of couples with age proof should be made mandatory in such cases and the PPO should be intimidated.

Multiple agencies should be imparting gender-sensitive education in schools and colleges using media to disseminate ideas about female foeticide, dowry and extravagant expenditure on weddings to sensitise young minds. Also, there should be financial assistance that would enable girls to study further and reduce their chances of getting married earlier. Transport facilities and hostel facilities in institutes for learning are also important for girls to continue their education. Strict laws against sexual harassment and other forms of harassment against girls are a must to ensure empowerment of women. Educational opportunities and viable job opportunities go hand in hand to ensure economic growth and stability.

The Haryana government has taken cognisance of the need for additional staff, specifically counsellors, responding to demands by PPOs. The demand for separate vehicles is justified if one takes into consideration the urgency with which they have to respond to information or complaints of child marriages, the distances they have to cover, and the caseload during peak

marriage season. Clear procedural guidelines should be laid down to file cases of nullity, to lodge FIRs, and to cater for individual variance in cases. PPOs also need to improve the quality of documentation with regular inspection by a nodal agency.

### Conclusions

This article explores the issue of child marriage in Haryana through a gendered perspective. The PCMA, aimed to prohibit and eliminate the tradition of child marriage, provides for PPOs who are tasked with prohibiting such marriages and creating awareness about the consequences of child marriages.

### NOTES

- 1 The Resource Centre for Interventions on Violence against Women was started in 2008 under the Centre for Equity for Women, Children and Families, School of Social Work at TISS, Mumbai. The experience of engaging with survivors of violence, through the Special Cell for Women and Children led the faculty of the institute to realise the need for a centre that would steadily engage with the issue of violence against women. The RCI-VAW nurtures effective interventions with different stakeholders through training and research to enable deeper understanding of the issue and interventions to stop violence against women.
- 2 Since the information sought from the girls interviewed was of a personal and sensitive nature, such as reasons for marriage and feelings after the marriage was prohibited, it was difficult to get them to open up. Their reticence was understandable since some of them were also intimidated by their parents and this added to their trauma.
- 3 Gauna is a North Indian custom, and involves a ceremony associated with the consummation of marriage usually of a child. The ceremony takes place several years after the wedding depending on the age of the couple. Before the ceremony, the bride stays at her natal home. The marriage is consummated only after the gauna ceremony.
- 4 In a 2002 study, Chris Segrin and Robin L Nabi found that the unrealistic portrayal of marriage in the media is a cause for high divorce rates in the United States. This concept has been applied to the Indian context as one of the contributing reasons to child marriage.

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Through the PCMA, the state aims to eradicate child marriages and thus provide a better future for children, especially vulnerable girl children.

Due to rigid notions that surround child marriages, the PPOs who work to prevent them are often faced with hostility from the community and work with the help of the local police. While such efforts are invaluable to the process of empowerment for women and girls, they need to work in tandem with other efforts such as better access to educational institutions, better public infrastructure, family planning initiatives and other social welfare policies that will prevent related socio-economic factors that have a significant correlation with child marriages.

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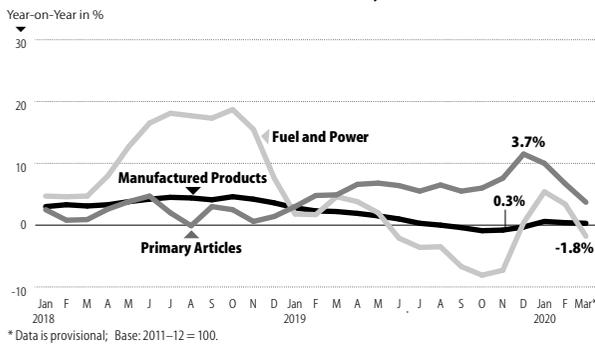
**Wholesale Price Index**

The year-on-year (y-o-y) WPI inflation rate decreased to 1.0% in March 2020 from 3.0% a registered a year ago and 2.3% a month ago. The index for primary articles decreased by 3.7% compared to 4.9% reported a year ago and 6.7% a month ago. The index for food articles decreased by 4.9% compared to 5.2% recorded a year ago and 7.7% a month ago. The index for fuel and power declined by (-)1.8% against 4.6% and that for manufactured products decreased by 0.3% compared to 2.2% a year ago.

**Consumer Price Index**

The CPI-inflation rate increased to 5.9% in March 2020 from 2.9% registered a year ago, but was lower than 6.6% reported in February 2020. The consumer food price index rose by 8.8% against 0.3% reported a year ago, but was lower than 10.8% a month ago. The CPI-rural inflation rate stood at 6.1% and the urban inflation rate at 5.7% compared to 1.8% and 4.1%, recorded a year ago. As per Labour Bureau data, the CPI-inflation rate of agricultural labourers (CPI-AL) increased to 9.0% in March 2020 from 4.2% registered a year ago while that of industrial workers (CPI-IW) decreased to 5.5% from 7.7% reported a year ago.

**Movement of WPI Sub-indices January 2018–March 2020**

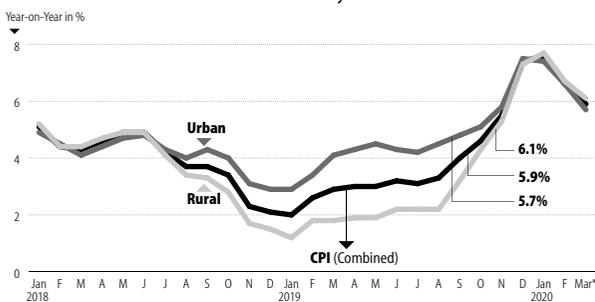


**Trends in WPI and Its Components March 2020\* (%)**

	Weights	Over Month	Over Year	Financial Year (Averages)		
				2017–18	2018–19	2019–20
All commodities	100	-0.9	1.0	2.74	3.10	1.00
Primary articles	22.6	-2.5	3.7	0.87	4.91	3.72
Food articles	15.3	-2.1	4.9	-0.22	5.24	4.91
Fuel and power	13.2	-3.1	-1.8	4.70	4.59	-1.76
Manufactured products	64.2	0.0	0.3	3.12	2.16	0.34

\*Data is provisional; Base: 2011–12=100; Source: Ministry of Commerce and Industry.

**Movement of CPI Inflation January 2018–March 2020**



\* March 2020 is provisional; Source: National Statistical Office (NSO); Base: 2012=100.

**Inflation in CPI and Its Components March 2020\* (%)**

	Weights	Latest Month Index	Over Month	Over Year	Financial Year (Avgs)	
					2018–19	2019–20
CPI combined	100	148.7	-0.3	5.9	3.4	4.8
Consumer food	39.1	147.8	-1.3	8.8	0.1	6.7
Miscellaneous	28.3	143.8	0.1	4.4	5.8	4.4

**CPI: Occupation-wise**

Industrial workers (2001=100)	326.0	-0.6	5.5	5.4	7.5
Agricultural labourers (1986–87=100)	1007.0	-0.3	9.0	2.1	8.0

\* Provisional; Source: NSO (rural & urban); Labour Bureau (IW and AL).

**Foreign Trade**

The trade deficit narrowed down to \$9.8 bn in March 2020 compared to \$11.0 bn reported a year ago. Exports declined by (-)34.6% to \$21.4 bn and imports by (-)28.7% to \$31.2 bn from \$32.7 bn and \$43.7 bn, respectively. Oil imports were lower by (-)15% at \$10.0 bn and non-oil imports by (-)33.8% at \$21.2 bn from their respective values of \$11.8 bn and \$31.9 bn registered a year ago. During the financial year 2019–20, cumulative exports declined by (-)4.8% to \$314.3 bn and imports by (-)9.1% to \$467.2 bn from \$330.1 bn and \$514.1 bn, respectively.

**Index of Industrial Production**

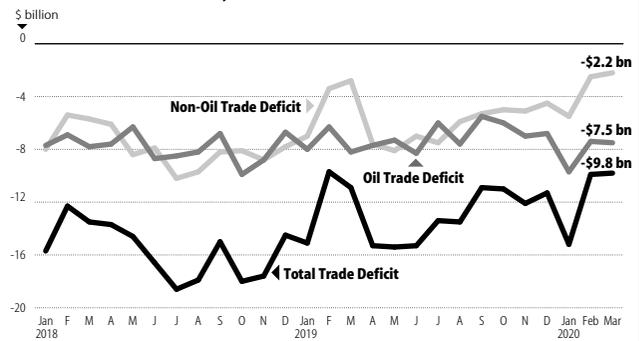
The y-o-y growth rate of IIP increased to 4.5% in February 2020 from 0.2% registered a year ago. The index of eight core industries declined by (-)6.5% in March 2020 against 5.8% reported a year ago. Growth rate of crude oil production declined to -5.5%, natural gas to -15.2% and refinery products to -0.5% from their respective growth rates of -6.2%, 1.4% and 4.3% registered a year ago. Production of steel dropped by (-)13.0%, cement by (-)24.7%, fertilisers by (-)11.9% and electricity generation by (-)7.2% against 11.5%, 15.7%, 4.3% and 2.1%, respectively, reported a year ago. Coal production decreased by 4.0% compared to 9.1% recorded a year ago.

**Merchandise Trade March 2020**

	March 2020 (\$ bn)	Over Month (%)	Over Year (%)	April–March (2019–20 over 2018–19) (%)
Exports	21.4	-22.6	-34.6	-4.8
Imports	31.2	-16.9	-28.7	-9.1
Trade deficit	9.8	-0.9	-11.3	-16.9

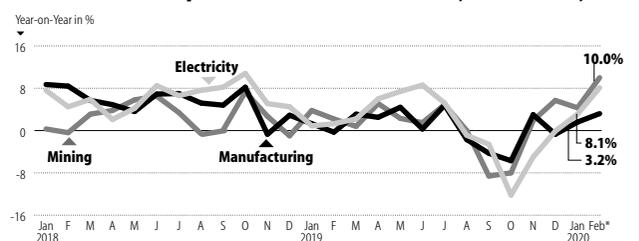
Data is provisional. Source: Ministry of Commerce and Industry.

**Trade Deficits January 2018–March 2020**



Oil refers to crude petroleum and petroleum products, while Non-Oil refers to all other commodities.

**Movement of Components of IIP Growth January 2018–February 2020**



\* February 2020 are quick estimates; Base: 2011–12=100.

**Growth in Eight Core Industries March 2020\* (%)**

	Weights	Over Month	Over Year	Financial Year (Avgs)	
				2018–19	2019–20
General index #	100	-2.8	4.5	4.4	3.6
Infrastructure industries	40.27@	1.6	-6.5	4.4	0.6
Coal	10.3	22.7	4.0	7.4	-0.5
Crude oil	9.0	12.4	-5.5	-4.1	-5.9
Natural gas	6.9	2.9	-15.2	0.8	-5.7
Petroleum refinery products	28.0	5.0	-0.5	3.1	0.2
Fertilisers	2.6	-8.8	-11.9	0.3	2.7
Steel	17.9	-6.1	-13.0	5.1	4.2
Cement	5.4	-18.9	-24.7	13.3	-0.8
Electricity	19.9	-3.4	-7.2	5.2	1.0

(Base: 2011–12=100); # February 2020; \*Data is provisional; @ The revised eight core industries have a combined weight of 40.27% in the IIP. Source: NSO and Ministry of Commerce and Industry.

ECONOMIC & POLITICAL WEEKLY

## India's Quarterly Estimates of Final Expenditures on GDP

	2017-18				2018-19				2019-20		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Private final consumption expenditure	1769688 (9.3)	1750056 (5.5)	1911901 (5.3)	1948174 (7.7)	1889908 (6.7)	1903853 (8.8)	2046415 (7.0)	2068781 (6.2)	1983491 (5.0)	2010993 (5.6)	2166235 (5.9)
Government final consumption expenditure	362769 (21.6)	367882 (7.4)	319547 (10.5)	293024 (8.9)	393709 (8.5)	407780 (10.8)	341988 (7.0)	335088 (14.4)	428390 (8.8)	461585 (13.2)	382338 (11.8)
Gross fixed capital formation	958859 (0.7)	967190 (5.9)	1014300 (8.8)	1120846 (13.7)	1082670 (12.9)	1077942 (11.5)	1130201 (11.4)	1170154 (4.4)	1129470 (4.3)	1033344 (-4.1)	1071887 (-5.2)
Change in stocks	49996 (61.7)	54050 (75.8)	52497 (78.3)	59252 (79.6)	64131 (28.3)	66159 (22.4)	63999 (21.9)	70126 (18.4)	66411 (3.6)	66732 (0.9)	64668 (1.0)
Valuables	62905 (80.1)	46317 (25.0)	39512 (11.2)	43927 (1.5)	41080 (-34.7)	44629 (-3.6)	39252 (-0.7)	44773 (1.9)	49519 (20.5)	49919 (11.9)	41824 (6.6)
Net trade (Export-import)	-137041	-85422	-128661	-125231	-122238	-141491	-104580	-51925	-117247	-76415	-50489
Exports	627176 (3.9)	639543 (4.5)	646620 (4.4)	688438 (5.0)	686695 (9.5)	719352 (12.5)	748505 (15.8)	767991 (11.6)	708771 (3.2)	703973 (-2.1)	707407 (-5.5)
Less imports	764217 (21.8)	724965 (10.5)	775281 (14.1)	813669 (23.6)	808933 (5.9)	860843 (18.7)	853085 (10.0)	819916 (0.8)	826018 (2.1)	780388 (-9.3)	757896 (-11.2)
Discrepancies	69397	132000	105705	151721	10803	73679	-17242	52683	7482	61000	-11460
Gross domestic product (GDP)	3136572 (5.1)	3232072 (7.3)	3314801 (8.7)	3491715 (7.4)	3359162 (7.1)	3432553 (6.2)	3500033 (5.6)	3689678 (5.7)	3547516 (5.6)	3607157 (5.1)	3665003 (4.7)

## India's Overall Balance of Payments (Net): Quarterly

	2018-19 (\$ mn)				2019-20 (\$ mn)			2018-19 (₹ bn)				2019-20 (₹ bn)		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Current account	-15803	-19054	-17752	-4647	-14417	-6512	-1417	-1059 [-2.3]	-1337 [-2.9]	-1279 [-2.7]	-328 [-0.7]	-1003 [-2.0]	-459 [-0.9]	-101 [-0.2]
Merchandise	-45751	-50037	-49281	-35214	-46182	-38085	-34625	-3065	-3510	-3552	-2482	-3212	-2682	-2466
Invisibles	29947	30984	31529	30567	31765	31573	33208	2006	2174	2272	2154	2209	2224	2365
Services	18676	20256	21678	21331	20076	20444	21880	1251	1421	1562	1503	1396	1440	1558
of which: Software services	18605	19286	19895	19868	20998	21064	21455	1246	1353	1434	1400	1460	1484	1528
Transfers	17031	19331	17424	16160	17964	19952	18693	1141	1356	1256	1139	1249	1405	1331
of which: Private	17216	19511	17558	16317	18224	20188	18932	1153	1369	1265	1150	1267	1422	1349
Income	-5760	-8603	-7573	-6925	-6275	-8822	-7364	-386	-604	-546	-488	-436	-621	-525
Capital account	4787	16604	13770	19241	28208	12283	22355	321 [0.7]	1165 [2.5]	992 [1.2]	1356 [2.7]	1962 [4.0]	865 [1.7]	1592 [3.1]
of which: Foreign investment	1427	7612	5199	15856	19041	10389	17802	96	534	375	1117	1324	732	1268
Overall balance	-11338	-1868	-4296	14162	13984	5118	21601	-760 [-1.7]	-131 [-0.3]	-310 [-0.6]	998 [2.0]	973 [2.0]	360 [0.7]	1539 [3.0]

Figures in square brackets are percentage to GDP.

## Foreign Exchange Reserves

	2018-19 (\$ mn)				2019-20 (\$ mn)			2018-19 (₹ bn)				2019-20 (₹ bn)		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Excluding gold but including revaluation effects	3386955	442985	391871	3344616	1899	51113	5058	218620	25300	353270	68050	668976		
₹ crore	442985	1215	58860	443645	-4691	83458	99860	16297	10160	53217	-14168	56831		
\$ mn														

## Monetary Aggregates

	Outstanding 2020	Over Month	Over Year	Variation				
				Financial Year So Far		Financial Year		
₹ Crore				2019-20	2020-21	2017-18	2018-19	2019-20
Money supply (M <sub>2</sub> ) as on 10 April	16991626	465060 (2.8)	1571050 (10.2)	-11491 (-0.1)	191695 (1.1)	1170657 (9.2)	1469480 (10.5)	1367864 (8.9)
Components								
Currency with public	2391299	82987 (3.6)	305694 (14.7)	33395 (1.6)	41583 (1.8)	495583 (39.2)	292497 (16.6)	297506 (14.5)
Demand deposits	1601947	25912 (1.6)	118260 (8.0)	-142825 (-8.8)	-135745 (-7.8)	86962 (6.2)	142800 (9.6)	11180 (6.8)
Time deposits	12958954	352909 (2.8)	1135509 (9.6)	101841 (0.9)	284938 (2.2)	585266 (5.8)	1026348 (9.6)	952412 (8.1)
Other deposits with RBI	39426	3251 (9.0)	11586 (41.6)	-3902 (-12.3)	919 (2.4)	2817 (13.4)	7835 (32.8)	6765 (21.3)
Sources								
Net bank credit to government	5331924	293126 (5.8)	801815 (17.7)	141620 (3.2)	425341 (8.7)	144799 (3.8)	387090 (9.7)	518094 (11.8)
Bank credit to commercial sector	10991984	195498 (1.8)	741478 (7.2)	-132213 (-1.3)	-46660 (-0.4)	802225 (9.5)	1169004 (12.7)	655925 (6.3)
Net foreign exchange assets	3839237	77772 (2.1)	752455 (24.4)	15941 (0.5)	40335 (1.1)	364065 (1.2)	148546 (5.1)	728061 (23.7)
Banking sector's net non-monetary liabilities	3197835	101337 (3.3)	725125 (29.3)	36840 (1.5)	227321 (7.7)	140995 (6.8)	235395 (10.7)	534644 (21.9)
Reserve money as on 24 April	3019674	-37686 (-1.2)	251571 (9.1)	-2379 (-0.1)	-10000 (-0.3)	518300 (27.3)	351702 (14.5)	259192 (9.4)
Components								
Currency in circulation	2522926	83618 (3.4)	342945 (15.7)	43210 (2.0)	75647 (3.1)	494078 (37.0)	307423 (16.8)	310508 (14.5)
Bankers' deposits with RBI	457178	-122697 (-21.2)	-103284 (-18.4)	-41507 (-6.9)	-86710 (-15.9)	21405 (3.9)	36444 (6.4)	-58081 (-9.6)
Other deposits with RBI	39570	1393 (3.6)	11910 (43.1)	-4082 (-12.9)	1063 (2.8)	2817 (13.4)	7835 (32.8)	6765 (21.3)
Sources								
Net RBI credit to Government	1214517	120383 (11.0)	371708 (44.1)	40858 (5.1)	222325 (22.4)	-144836 (-23.3)	325987 (68.5)	190241 (23.7)
of which: Centre	1213497	121287 (11.1)	370712 (44.0)	42312 (5.3)	223756 (22.6)	-145304 (-23.5)	326187 (68.8)	189268 (23.6)
RBI credit to banks & commercial sector	-426396	-162045 (61.3)	-498070 (-694.9)	-81177 (-53.1)	-225503 (112.3)	372643 (-120.5)	89478 (0.0)	-353744 (0.0)
Net foreign exchange assets of RBI	3661602	115669 (3.3)	740522 (25.4)	72493 (2.5)	71200 (2.0)	363571 (15.2)	87806 (3.2)	741815 (26.0)
Govt's currency liabilities to the public	26315	0 (0.0)	404 (1.6)	23 (0.1)	0 (0.0)	572 (2.3)	236 (0.9)	427 (1.6)
Net non-monetary liabilities of RBI	1456364	111693 (8.3)	362993 (33.2)	34576 (3.3)	78022 (5.7)	73650 (8.8)	151805 (16.7)	319547 (30.2)

## Scheduled Commercial Banks' Indicators (₹ Crore)

	Outstanding 2020	Over Month	Over Year	Variation				
				Financial Year So Far		Financial Year		
(As on 10 April)				2019-20	2020-21	2017-18	2018-19	2019-20
Aggregate deposits	13714927	375838 (2.8)	1184764 (9.5)	-43608 (-0.3)	147435 (1.1)	668390 (6.2)	1147721 (10.0)	993721 (7.9)
Demand	1481652	24145 (1.7)	113429 (8.3)	-143064 (-9.5)	-135351 (-8.4)	88843 (6.9)	141004 (10.3)	105716 (7.0)
Time	12233275	351693 (3.0)	1071335 (9.6)	99456 (0.9)	282786 (2.4)	579547 (6.1)	1006717 (10.0)	888005 (8.0)
Cash in hand	85170	3644 (4.5)	5695 (7.2)	4598 (6.1)	-2090 (-2.4)	-1295 (-2.1)	14812 (12.7)	12383 (16.5)
Balance with RBI	401621	-149399 (-27.1)	-103079 (-20.4)	-61007 (-10.8)	-103510 (-20.5)	16906 (3.3)	40021 (7.6)	-60576 (-10.7)
Investments	3925665	130652 (3.4)	484425 (14.1)	60184 (1.8)	232095 (6.3)	287494 (9.5)	62602 (1.9)	312514 (9.2)
of which: Government securities	3924509	137493 (3.6)	484311 (14.1)	61197 (1.8)	239592 (6.5)	287657 (9.5)	61594 (1.9)	305916 (9.1)
Bank credit	10339299	198806 (2.0)	694512 (7.2)	-126936 (-1.3)	-31562 (-0.3)	783965 (10.0)	1146298 (13.3)	599138 (6.1)
of which: Non-food credit	10285226	205125 (2.0)	676369 (7.0)	-121256 (-1.2)	-33872 (-0.3)	795906 (10.2)	1146677 (13.4)	588985 (6.1)

## Capital Markets

	30 April 2020	Month Ago	Year Ago	Financial Year So Far		2019-20		End of Financial Year			
				Trough	Peak	Trough	Peak	2017-18	2018-19	2019-20	
S&P BSE SENSEX (Base: 1978-79=100)	33718	-13.6)	28440	39032 (11.0)	27591	33718	25981	41953	32969 (12.1)	39714.20 (9.4)	29816 (-21.8)
S&P BSE-100 (Base: 1983-84=100)	9951	-16.2)	8356	11868 (6.4)	8180	9951	7683	12456	10503 (11.5)	12044.07 (12.1)	8693 (-25.2)
S&P BSE-200 (1989-90=100)	4140	-15.8)	3483	4915 (4.1)	3416	4140	3209	5185	4433 (12.0)	4986.55 (7.1)	3614 (-25.1)
CNX Nifty-50 (Base: 3 Nov 1995=1000)	9860	-16.1)	8281	11748 (9.4)	8084	9860	7610	12362	10114 (11.0)	11922.80 (11.1)	8660 (-24.3)
CNX Nifty-500	8013	-17.1)	6749	9664 (1.8)	6638	8013	6243	10119	8912 (12.6)	9805.05 (5.3)	7003 (-26.3)

Figures in brackets are percentage variations over the specified or over the comparable period of the previous year. | (-) = not relevant | - = not available | NS = new series | PE = provisional estimates

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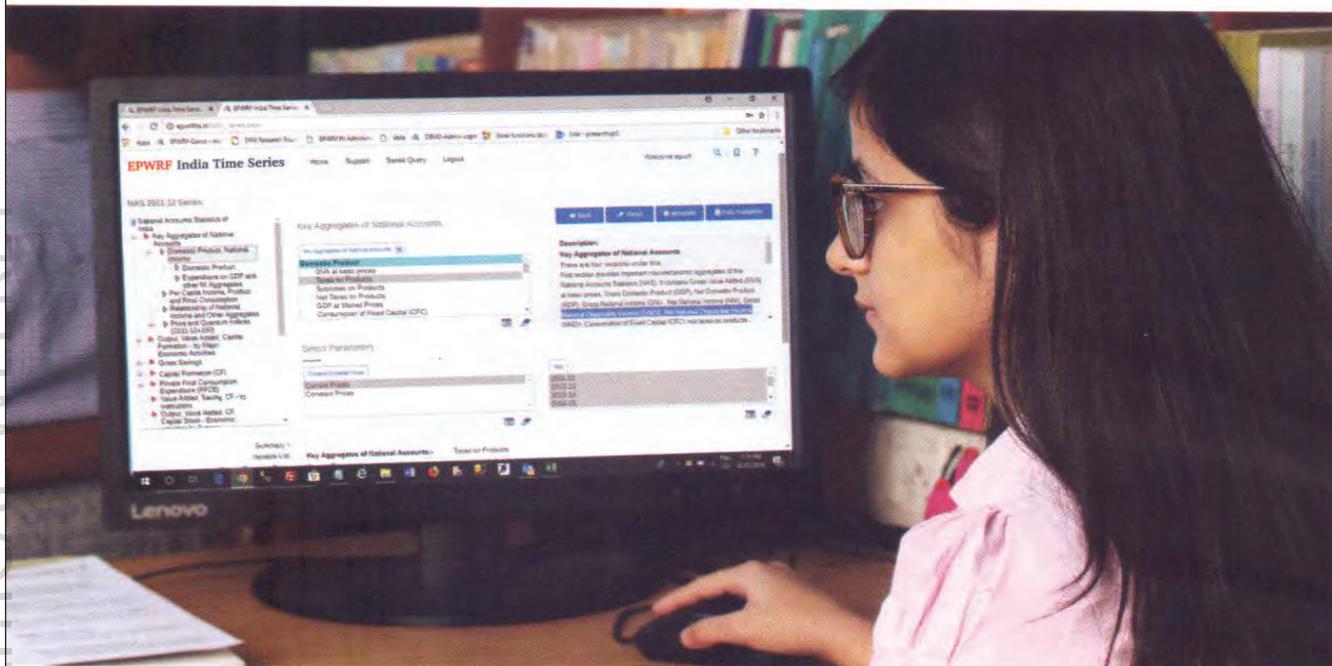
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