

END THIS ASYMMETRICAL CONFLICT OVER 'FREEBIES'

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

'Social welfare measures (freebies) may differ from State to State or region to region' | Photo Credit: The Hindu

The issue of 'freebies' has bounced back, when the Supreme Court of India on August 3, 2022, [recommended constituting an expert committee](#) comprising representatives of the beneficiaries, Union and State governments, the Finance Commission, NITI Aayog and the Reserve Bank of India to study the issue of 'freebies'.

The Court seems to toe the line of critics that 'freebies' stress States exchequers, drawing them in debt traps. On the other hand, [those in favour of freebies](#) argue that in a stratified society where capital in different forms (intellect, wealth, caste) gets accumulated in the hands of a select few, the poor and the marginalised become victimised. Here, 'social welfare measures' that are otherwise ridiculed as ['freebies' act as a shock absorber](#).

In the famous Reagan tax cuts, or Reaganomics, associated with 'Trickle down economics' there was a maximum cut given to higher income earners and corporations in the expectation that any benefit provided at the top would trickle down to the poor in the form of job creation, higher output, and infrastructure development. While 'trickle down' yielded some positive results, it also widened inequality, diminished inclusive growth, and was criticised by economists such as Nobel Laureate Joseph E. Stiglitz.

In India, neo-liberal schemes of the post-1990s such as the Special Economic Zones (SEZs), Software Technology Parks of India (STPI), and Bio Technology Parks (BTP), (where there were incentives in the form of tax holidays, subsidised power, and waiver of stamp duty), were seen as a result of 'trickle down economics', including the recent cut in corporate tax from 30% to 18%.

However, the World Inequality Report 2022 says that the top 1% of India held 22% of the total national income as of 2021, and the top 10% owned 57% of the income. In another instance, a research paper, 'Wealth Inequality, Class and Caste in India, 1961-2012', states that India's upper caste households earned nearly 47% more than the national average annual household income, thus making India one of the most economically and socially stratified countries in the world. Further, 93% of the top corporate board members and 61.8% of micro, small and medium enterprises (MSME) are owned by upper castes (MSME data March 31, 2022) — so, freebies in the form of incentives benefit the upper caste elites.

The Union government seems to rely more on indirect taxes than direct taxes. While direct taxes such as corporate taxes were slashed from 30% to 18%, indirect taxes have gone up manifold between 2014-21 — these include taxes on fuel and food (rice, milk, cereal) on which the poor spend a major portion of their income, imposing a financial burden on the poor, in turn leading to high inflation and resulting in inequality and lower growth.

States such as Tamil Nadu address this inequality through social welfare measures (derided as freebies). For example, the Tamil Nadu government's free bus pass for women has not only saved families fuel cost but has also encouraged more women to join the workforce, in turn

leading to economically stable families and women's empowerment. Free mid-day meals (now extended to free breakfast) have encouraged socially backward parents to send their wards to school at least for the meals, resulting in keeping the evil of child labour under control and, more importantly, imparting education. These measures have resulted in a higher graduate enrolment ratio for T.N. (at 52%) which is double the national average at 27% and also higher than that of the United States at 41%.

Comment | [Making sense of the 'freebies' issue](#)

A paper published in Oxford University Press' *The Quarterly Journal of Economics* (2009) has lauded the introduction of free colour television in villages as it has resulted in a decrease in domestic violence and also enabled women's empowerment (women, who are largely indoors due to customary practices/household duties, have been able to connect with the outside world through visual media). It has ensured self respect, as women and children are able to watch TV in their houses rather than visit the homes of those who are rich and own TV sets. Further, elitist corporate tax reduction (30% to 18%) has resulted in a revenue loss of 1.84 lakh crore to the Union government for 2019-20 and 2020-21; there is an expected loss of 1 lakh in 2021-22, surpassing the cost of some of the major freebies put together (free colour TV — 750 crore; free bus pass for women — 1,250 crore; mid-day meals for children — 1,823 crore).

India adopts 'cooperative federalism' where the Union and State cooperate to legislate and frame policies in their respective domain. Constitution Benches of the Supreme Court have been consistent in their cautioning courts not to embark on policy matters. In *R.K. Garg vs Union of India* (1981-4SCC 675), and *BALCO employees Union vs Union of India* (2002 2 SCC 333), the Court held that laws relating to economic policies should be viewed with greater latitude and deference, and that the wisdom of economic policies is not subject to judicial review. In *S. Subramaniam Balaji vs State of Tamilnadu* (2013 9 SCC 659) while dismissing the challenge to the much discussed free gifts schemes (colour television, mixer grinder, laptops) of the T.N. government, the Court observed that the distribution of gifts relates to implementation of directive principles of state policy.

The abolition of the Planning Commission in 2014 led to the politicised Finance Commission to become the sole institution for fiscal devolution. This only increased the dependence of States on the Union when it came to fiscal matters. Thus, the committee recommended by the Supreme Court will further accelerate the existing mistrust States have with the Union.

Moreover, in a fiscal federal set up, States or the regions are expected to have autonomy. Social welfare measures (freebies) may differ from State to State or region to region. For example, in the desert regions of Rajasthan it could be free drinking water, in Kerala, it could be fiscal incentives to encourage corporates/entrepreneurs to boost industrial growth, and in T.N., educational/marriage assistance and a free bus pass to help girl empowerment. Thus, it is for the respective legislature/executive to formulate the social welfare measures for that region. By recommending a central committee, the Supreme Court seems to have considered India to be a single administrative unit facing the same set of issues without due consideration of socio-economic diversity. This step would not only be counter productive to the economic freedom of the States but also to the 'Idea of India' as a 'Union of States' — as highlighted in Article 1 of the Constitution of India.

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Therefore, unless the notion that 'incentives' provided to the elites are 'affirmative economic measures' while the same when provided to the poor are 'freebies' is corrected in the minds of policymakers, adjudicators and elites (both are economic/social welfare interventions in different

forms), this asymmetrical conflict will continue to exist.

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