

## Recovering bad loans would require practicality as well as deterrence

The Lok Sabha passed the Fugitive Economic Offenders Bill on July 18. The bill essentially allows for harsh measures such as suspending civil rights claims and confiscation of property in the case of persons accused of high value economic fraud who flee the country to escape prosecution. The provisions under the bill will cease to exist if the accused comes back to the country to face prosecution. It is not very difficult to see the context in which this bill has been passed. Businessmen like Vijay Mallya and Nirav Modi, who are facing cases of bank frauds worth thousands of crores, have fled the country and symbolise the weakness of our criminal justice system in bringing them to book.

The real question, however, is whether the bill can achieve its stated purpose, which is twofold: -- bring back high value economic offenders who have fled the country; and create a strong enough deterrence against such actors in the future. As far as the first objective is concerned, there is not much the bill can do. As long as the host country or its courts do not decide to extradite the concerned person, it will be difficult to get them back to India.

It is also very unlikely that an economic offender who has fled the country will worry too much about his property being confiscated back home. Understanding how modern capitalism works can give an insight into this issue. High value frauds often involve deliberate defaults on bank loans which are extremely unlikely to be backed by realisable collaterals of equivalent amounts. On many occasions, the accusations involve promoters, who later turn into the accused, diverting the loan money into other activities and often their personal coffers. In an age in which companies and high net worth individuals operate through a complex web of international financial transactions, it is possible that a large part of this money is laundered outside the jurisdiction of the country. The fact that high value economic offenders continue to maintain their flashy lifestyles even after fleeing the country and their business supports this argument.

There cannot be any doubt about the fact that India's bad debt crisis requires an innovative and unconventional thinking on the part of our policymakers. The correct approach to do this would be to balance the objectives of punishing wilful economic offenders and making sure that banks recover a good part, if not all, of their loan amounts. It is important that the government uses this new legislation along with other mechanisms to achieve these twin objectives.

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