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RETROGRADE STEP: THE HINDU EDITORIAL ON GOVERNMENT FACT-CHECKING UNITS

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

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November 04, 2023 12:15 am | Updated 12:15 am IST

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Misinformation and its more malicious variant, disinformation, have been the bane of today's unfettered communication system, especially social media where the necessary filters are rarely applied over the spread of news and views, many of which are based on false information deliberately or ignorantly placed. The [Tamil Nadu government's decision to constitute a fact-checking unit](#) to deal with "misinformation and disinformation pertaining to the State government" emanating from "all media platforms", sounds, on the face of it, a reactive step. This decision follows a similar move by the Karnataka government. But for the governments to deem themselves or units constituted by them as the adjudicator of what is false is a retrograde move as an interested party deciding upon what is factual or not is problematic. Tamil Nadu's move must be seen along with the Centre's notification of the IT Rules earlier this year, which amended the Information Technology Rules, 2021, and allowed the Ministry of Electronics and IT to appoint a similar fact-checking unit. Several parties including the Editors Guild of India, the Association of Indian Magazines and the political satirist Kunal Kamra had challenged the IT rule enabling the unit. During the hearing, the Bombay High Court had raised the issue of the lack of necessary safeguards that will allow fair criticism of the government. It had also remarked that even if the motives for the introduction of such a rule was laudable — to tackle false news — it could be done away with, if its effects were unconstitutional, that is, if it infringed upon freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution.

The verdict is set to be delivered on December 1, but the remarks indicate where courts stand on the constitution of a government "fact-checking unit" to adjudicate on reports and information relating to its functioning. The Editors Guild of India had urged Karnataka to specify the scope and powers of the fact-checking unit, besides suggesting that the menace of misinformation and fake news was best left to independent bodies and that "[a] monitoring network should follow principles of natural justice including giving prior notice, right to appeal and judicial oversight". States have their information and publicity departments that can clarify on news related to them and there are independent fact-checkers who tackle misinformation on social media. It would have made express sense for such units to be set up with the involvement of journalists and other stakeholders, but that has also not been the case with the Tamil Nadu government's decision.

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STPI LAUNCHES LEAP AHEAD INITIATIVE FOR STARTUPS TO GET ACCESS TO INVESTMENT, MENTORSHIP & GLOBAL CONNECT

Relevant for: null | Topic: Important Schemes & Programmes of the Government

In the bid to support and accelerate the success of tech startups across India, Ministry of Electronics & Information Technology (MeitY) Secretary Shri S Krishnan launched the LEAP AHEAD initiative, a joint collaboration of Software Technology Parks of India (STPI) and The Indus Entrepreneurs (TiE) Delhi-NCR, here at the LEAP AHEAD summit.

This initiative will be a game-changer for tech Startups that are in the scaling stage, growth stage, product diversification or planning expansion into new geographical locations. They can benefit through funding support of up to 1 Crore and a comprehensive three-month mentorship program that combines virtual and in-person sessions for a well-rounded learning experience. Furthermore, the initiative will provide start-ups with access to an extensive network and personalized guidance through one-on-one mentorship sessions with seasoned investors and industry experts.

Secretary MeitY, Shri S Krishnan said, "This LEAP AHEAD initiative is very timely in terms of emphasizing the opportunities that lie for entrepreneurship in India. Today, India is no longer known as a BPO destination, it has evolved into a global capability centre and R&D centre. India stands as a leader in digital public infrastructure and this can now be used in multiple ways by entrepreneurs to build successful enterprises. Youth in smaller cities have the hunger to do and achieve more. That's the fire in the belly we need to build on. We would like to also see more women and people from tier 2/3 cities coming as entrepreneurs."

Shri Arvind Kumar, DG, STPI said, "With this initiative, technology startups will gain entry into the market, experience rapid growth and diversify into new horizons. This program is focused mainly on two things – mentorship and co-investment. Besides Delhi, LEAP AHEAD Startup Summit is also planned to be held in Bhubaneswar, Vijayawada and Chandigarh."

Shri Sushil Pal, Joint Secretary, MeitY, said, "I would like to congratulate STPI for coming up with LEAP AHEAD initiative, which is a part of NGIS. Our startups have been a great success story for our country and have seen exponential growth in the last couple of years."

Dr Saurabh Shrivastava, Chairman Emeritus, TiE Delhi-NCR, said, "Through the collaboration with STPI, TiE Delhi-NCR is not only providing funding but also providing mentoring and market access. These are people who build successful companies and know the mistakes they have made. We will help these companies to scale and grow."

Alok Mittal, President, TiE Delhi-NCR, said, "TiE's mission has always been to foster ecosystems, and this program aligns perfectly with our goals. We'll mentor 75 companies over three months, aiming to secure funding for about 15. We'll also take these showcases to over 30 cities, expanding the impact."

This initiative will enable the startups to establish a product market fit, identify customer segments, grow hacking strategies, business compliance, leadership recruitment and fundraising. With a strong focus on nurturing startups and fostering entrepreneurial brilliance, this event represented the first step in an exciting journey that will extend the LEAP AHEAD Accelerator Program to cities like Vijayawada, Chandigarh, and Bhubaneswar.

The launch was followed by three pivotal panel discussions on Path to a Product Oriented Nation, Accelerating Innovation and Funding Insights: Navigating the Investment Landscape. Esteemed panellists from the industry shared insights with young entrepreneurs in the audience. The event also served as a platform for invaluable networking, connecting entrepreneurs with peers, potential investors, and influential thought leaders within the entrepreneurial ecosystem.

A knowledge report on “From Startup to Scale Up: The Role of Digital India and Opportunities Ahead” was unveiled during the event. The report is a comprehensive resource that showcases success stories of startups that have harnessed the potential of Digital India to create innovative solutions that address societal challenges, while also driving economic growth and job creation. The event also saw seven MoUs exchanged between STPINext and ecosystem enablers, felicitation of Build for Bharat IoT Challenge winners and 20 startups cumulatively received 6.1 crore today from NEXTGen Technology Fund1, the fund established under NGIS scheme with STPINEXT as anchor investor and other investors.

Shri Ashok Singh, Executive Vice President, Investor Relations, Mumbai Angels; Shri Prem Bharthasarathy, Managing Partner, Pontaq Ventures India LLP; Shri Devesh Tyagi, Senior Director, STPI; Shri Subodh Sachan, Director, Innovation and Startups, STPI and Ms Manjusha Chourasia, Scientist ‘E’, MeitY were also present on the occasion.

About STPI:

STPI is an organization under Ministry of Electronics and Information Technology engaged in promoting software exports, nurturing tech startup ecosystem and working for the dispersal of the IT/ITES Industry. STPI has been actively involved in strengthening the startup ecosystem in India through its Next Generation Incubation Scheme (NGIS) and 22 domain-specific Centers of Entrepreneurship innovation by providing requisite support and resources to the startups. For more details, visit www.stpi.in

About TiE Delhi-NCR

TiE Delhi-NCR has continuously taken the lead in creating an increasingly positive ecosystem for entrepreneurs and investors. TiE Delhi-NCR conducts a wide range of programs to help entrepreneurs. These include TiEcon, Startup Expo, TiE Institute, TiE Young Entrepreneurs along with Special Interest Groups (SIGs) across sectors. For more details, visit www.delhi.tie.org.





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1ST MEETING OF THE BOARD OF GOVERNORS (BOG) OF MERA YUVA BHARAT (MY BHARAT) CONVENED ON 2ND NOVEMBER 2023

Relevant for: null | Topic: Important Schemes & Programmes of the Government

The 1st Meeting of the Board of Governors (BoG) of Mera Yuva Bharat (MY Bharat) and other signing members was convened on 2nd November 2023, marking a significant step in the organization's mission to empower youth across India.

Key Points of Discussions were as under:



Notable Insights and Comments:

In a unanimous decision, the board underscored the Ministry's focus on content development for the MY Bharat portal, recognizing its pivotal role in engaging and empowering the country's youth.

Mera Yuva BHARAT (MY Bharat) is committed to fostering the growth and development of India's young population, and the BoG's first meeting is a milestone in this endeavor. The

organization looks forward to a promising future with continuous efforts to engage, educate, and empower the youth of India.

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POLL TIMING: THE HINDU EDITORIAL ON THE EXTENSION OF THE PRADHAN MANTRI GARIB KALYAN ANNA YOJANA

Relevant for: Developmental Issues | Topic: Government policies & interventions for development in various Sectors and issues arising out of their design & implementation incl. Housing

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November 09, 2023 12:10 am | Updated 02:11 am IST

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The Union government's move [to extend the free foodgrains scheme for the next five years](#) is welcome as it will continue to provide food security to large sections of vulnerable people. Based on National Food Security Act (NFSA) entitlements, the scheme, the [Pradhan Mantri Garib Kalyan Anna Yojana \(PMGKAY\), benefits about 80.4 crore](#) people, under the categories of Antyodaya Anna Yojana (poorest of the poor) and priority households. They will continue to receive five kg of rice or wheat or coarse grains a person every month. The provision of free foodgrains was introduced at the all-India level during the COVID-19 pandemic, though in vogue in States such as Tamil Nadu. At the time, the entitlements of NFSA beneficiaries were doubled and the nomenclature of PMGKAY was affixed. Between April 2020 and December 2022, 1,015 lakh tonnes were distributed at a subsidy of 3.45 lakh crore. At the end of 2022, the [Centre announced free grains](#) under the normal entitlements to States and Union Territories for a year while discontinuing the enhanced entitlement.

On the flip side, the way in which the latest move is sought to be implemented raises questions. At an election rally last week in Durg, Chhattisgarh, Prime Minister Narendra Modi made the announcement, which should be viewed as a violation of the model code of conduct as Mr. Modi used his official position to talk about the extension of the scheme (due to lapse at the end of next month). There was no urgency on his part to have made the announcement then, and in an election rally, especially when there was sufficient time to do so even after the declaration of results, scheduled for December 3. The purpose seems to have been to impress voters, and reap political dividends. There is a view linking the PMGKAY's previous avatar to the [Bharatiya Janata Party's victory](#) in the [2022 Assembly election in Uttar Pradesh](#). Even the Congress, which criticised the announcement as an "indication of the continuing economic distress and growing inequalities," did not find anything amiss. The scheme is meant for the entire country and not just the five States facing elections — they account for roughly 17% of the total beneficiaries. On the fiscal front, the extension may not cause serious problems as the food subsidy bill is about 7.5% of the revenue receipts of the Union government. On an average, the economic cost of rice and wheat grew by 5.7% annually over the last seven years. Also, the extension will cost about 15,000 crore more each year, which is manageable. However, governments, Centre and States, should ensure the elimination of leakages in the Public Distribution System so that the benefits of the extension go to the deserving.

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REVAMPING THE CRIMINAL JUSTICE SYSTEM TO FIT THE BILL

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

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November 11, 2023 12:16 am | Updated 09:11 am IST

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'The Bills they provide an opportunity for an overhaul of the laws underlying the criminal justice system' | Photo Credit: AFP

The [Government has introduced three Bills](#) to replace the core laws, i.e., the Indian Penal Code (IPC), 1860, the Code of Criminal Procedure (CrPC), 1973, and the Indian Evidence Act (IEA), 1872, which form the basis of the criminal justice system. These Bills are being [examined by the Parliamentary Standing Committee on Home Affairs](#). (The [Bharatiya Nyaya Sanhita Bill](#) will replace the IPC; the [Bharatiya Nagarik Suraksha Sanhita Bill](#) will be in place of the CrPC, and the Bharatiya Sakshya Bill will replace the IEA.)

As these Bills replace the entire Acts — and are not merely Amendment Bills to fix some gaps — they provide an opportunity for an overhaul of the laws underlying the criminal justice system. This raises the following questions — Do they update the law to reflect the concepts of modern jurisprudence? How do these Bills relate to various special laws? Do they help unclog the criminal justice system? Are various definitions and provisions drafted well without ambiguity?

There are seven issues related to modernising jurisprudence. First, whether these Bills exclude civil law. Usually, criminal law deals with issues that are seen as an offence against the broader society or state while civil law deals with loss to a person. However, the CrPC includes provisions for maintenance of wife and children after divorce. It also allows compounding of some offences by the affected person, which means the accused person is acquitted. For example, a person who is cheated may decide to acquit the accused person. The question is whether such matters should be dealt with under the civil code. The new Bills retain these provisions.

Second, whether these Bills create a reformatory system rather than a punitive system. There is a move towards this by making community service as a form of punishment. However, several minor offences (such as keeping an unauthorised lottery office, which carries a maximum penalty of six months imprisonment) are not compoundable, which means they will go through the process of trial and conviction.

Third, whether maintenance of public order and the process of criminal prosecution should be in the same law. The CrPC has provisions charting out the process of arrest and trial as well as

items such as Section 144 that empower the district magistrate to impose various restrictions. The new Bill retains this structure.

Fourth, whether various directions of the Supreme Court of India have been codified in these proposed laws. The Bill codifies the procedure for mercy petitions. However, there is no codification of various directions related to arrests and bail.

Is there a need to replace the IPC, CrPC and IEA?

Fifth, whether the Bills try to ensure consistency of implementation. Typically, penalties for offences specify a range, with the judge expected to specify the sentence within the range based on the circumstances of each case. However, for some offences, the range may be very wide; for example, the punishment is upto 10 years imprisonment if a person cohabits with a woman whom he falsely convinces that he is married to her. That is, the judge may pronounce a sentence anywhere between one day and 10 years. The new Bill retains such wide ranges.

Editorial | [Rebooting the codes: On the IPC, CrPC and Evidence Act](#)

Sixth, whether the age provisions have been updated for modern norms. The IPC specifies that a child below the age of seven years cannot be accused of an offence. It provides such exemption until 12 years of age, if the child is found not to have attained the ability to understand the nature and consequences of his conduct. The question is whether these age thresholds should be raised.

Seventh, whether gender related offences have been updated. The Bill is in line with the Supreme Court judgment which struck down the offence of adultery. Section 377 of the IPC, which was read down by the Court to decriminalise same sex intercourse between consenting adults has been dropped; consequently, the parts retained by that judgment including rape of a male adult and bestiality have also been removed. The Justice Verma Committee, in 2013, had recommended making marital rape an offence; this has not been done.

The IPC was enacted in 1860 as the principal law specifying offences and penalties. Since then, several laws have been enacted to deal with specific offences. However, the IPC and the Bill to replace it continue to specify some of these offences and the applicable penalties. This leads to duplication as well as inconsistency across these laws. In some cases, the penalties are different; also, a person may face prosecution under different laws for the same action.

In some cases, this has been addressed. For example, the Legal Metrology Act, 2009 states that provisions of the IPC related to weights and measures will not apply; the Bill removes these provisions. However, the Bill (like the IPC) overlaps with several other Acts such as those related to food adulteration, sale of adulterated drugs, bonded labour, and rash driving. Abortion continues to be an offence though it is permitted under certain conditions under the Medical Termination of Pregnancy Act, 1971. The Bill replacing CrPC retains the provision requiring maintenance of a parent though a special Act was passed in 2007 regarding this.

The Bill replacing the IPC provides a person suffering from mental illness as a general exception from being an offender (this was called unsound mind earlier). The definition of mental illness is the same as in the Mental Healthcare Act, 2017. That Act aims to provide medical treatment to persons suffering from mental illness, and, therefore, excludes mental retardation or incomplete development; it also includes abuse of alcohol or drugs. Consequently, the new Bill will provide full exemption to someone who is addicted to alcohol or drugs but not to a person who is unable to understand the consequences of their actions due to mental retardation.

Also read | [New criminal laws will have no bearing on UAPA and MCOCA: official](#)

The three laws had a number of illustrations from daily life to clarify their provisions. Some of these illustrations have become obsolete but have still been retained. These include people riding chariots, firing cannons and being carried on palanquins. It may be useful to update these illustrations to events from modern life.

These Bills will become the basis of the criminal justice system. Parliament should examine them with great care so that they create a fair, just and efficient criminal justice system.

M.R. Madhavan works with PRS Legislative Research, New Delhi

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PM TO VISIT JHARKHAND ON 14TH-15TH NOVEMBER

Relevant for: null | Topic: Important Schemes & Programmes of the Government

Prime Minister Shri Narendra Modi will visit Jharkhand on 14th-15th November, 2023. On 15th November, at around 9:30 AM, Prime Minister will visit Bhagwan Birsa Munda Memorial Park cum Freedom Fighter Museum in Ranchi. Thereafter, he will reach Ulihatu Village, the birthplace of Bhagwan Birsa Munda, where he will pay floral tribute at the statue of Bhagwan Birsa Munda. PM Narendra Modi would be the first PM to visit Ulihatu Village, the birthplace of Bhagwan Birsa Munda. Prime Minister will participate in a programme marking the celebration of third Janjatiya Gaurav Diwas, 2023 at around 11:30 AM in Khunti. During the programme, Prime Minister will launch 'Viksit Bharat Sankalp Yatra' and Pradhan Mantri Particularly Vulnerable Tribal Groups Mission. He will also release the 15th instalment of PM-KISAN and inaugurate, dedicate to nation and lay the foundation stone of multiple development projects in Jharkhand.

Viksit Bharat Sankalp Yatra

It has been the constant endeavour of the Prime Minister to attain saturation of flagship schemes of the government through ensuring that the benefits of these schemes reach all targeted beneficiaries in a time bound manner. In a major step towards attainment of this aim of saturation of schemes, Prime Minister will launch 'Viksit Bharat Sankalp Yatra' on the occasion of Janjatiya Gaurav Diwas.

The focus of the Yatra will be on reaching out to people and create awareness and providing benefits of welfare schemes like sanitation facilities, essential financial services, electricity connections, access to LPG cylinders, housing for the poor, food security, proper nutrition, reliable healthcare, clean drinking water, etc. Enrolment of potential beneficiaries will be done through details ascertained during the Yatra.

Prime Minister will flag off IEC (Information, Education and Communication) vans in Khunti, Jharkhand, marking the launch of 'Viksit Bharat Sankalp Yatra'. The Yatra will start from districts with significant tribal population initially and by 25th January 2024, will cover all districts across the country.

PM PVTG Mission

During the programme, Prime Minister will also launch the first of its kind initiative - 'Pradhan Mantri Particularly Vulnerable Tribal Groups (PM PVTG) Mission'. There are 75 PVTGs in 18 States & UTs living in 22,544 villages (220 districts) having a population of around 28 lakhs.

These tribes stay in scattered, remote & inaccessible habitations, often in forest areas and hence a mission with budget of about Rs 24,000 crore, is planned to saturate PVTG families and habitations with basic facilities such as road and telecom connectivity, electricity, safe housing, clean drinking water and sanitation, improved access to education, health and nutrition and sustainable livelihood opportunities.

In addition, separately, saturation will be ensured for PMJAY, Sickle Cell Disease Elimination, TB Elimination, 100% immunisation, PM Surakshit Matritva Yojana, PM Matru Vandana Yojana, PM Poshan, PM Jan Dhan Yojana etc.

15th instalment of PM-KISAN and other development initiatives

In a step that will showcase yet another example of commitment of the Prime Minister towards welfare of farmers, the 15th instalment amount of about Rs. 18,000 crores under the Pradhan Mantri Kisan Samman Nidhi (PM-KISAN), will be released through direct benefits transfer to more than 8 crore beneficiaries. Under the scheme, till now, more than Rs. 2.62 lakh crores have been transferred to famers' accounts in 14 instalments.

Prime Minister will inaugurate, dedicate to nation and lay the foundation stone of projects worth around Rs. 7200 crores in multiple sectors like rail, road, Education, Coal, Petroleum and Natural Gas.

The projects whose foundation stone will be laid by the Prime Minister include four laning of 52 km stretch of Mahagama - Hansdiha section of NH133; four laning of 45 Km stretch of Basukinath - Deoghar section of NH114 A; KDH-Purnadih Coal Handling Plant; new academic and administrative building of IIT Ranchi.

The projects that will be inaugurated and dedicated to nation include new campus of IIM Ranchi; new Hostel of IIT ISM Dhanbad; Petroleum Oil and Lubricants (POL) depot in Bokaro; several railway projects viz doubling of Hatia-Pakra Section, Talgaria - Bokaro Section, and Jarangdih-Patratu section. Further, the achievement of 100% of Railway Electrification in Jharkhand State will also be dedicated to the nation by the Prime Minister.

DS/SKS

Prime Minister Shri Narendra Modi will visit Jharkhand on 14th-15th November, 2023. On 15th November, at around 9:30 AM, Prime Minister will visit Bhagwan Birsa Munda Memorial Park cum Freedom Fighter Museum in Ranchi. Thereafter, he will reach Ulihatu Village, the birthplace of Bhagwan Birsa Munda, where he will pay floral tribute at the statue of Bhagwan Birsa Munda. PM Narendra Modi would be the first PM to visit Ulihatu Village, the birthplace of Bhagwan Birsa Munda. Prime Minister will participate in a programme marking the celebration of third Janjatiya Gaurav Diwas, 2023 at around 11:30 AM in Khunti. During the programme, Prime Minister will launch 'Viksit Bharat Sankalp Yatra' and Pradhan Mantri Particularly Vulnerable Tribal Groups Mission. He will also release the 15th instalment of PM-KISAN and inaugurate, dedicate to nation and lay the foundation stone of multiple development projects in Jharkhand.

Viksit Bharat Sankalp Yatra

It has been the constant endeavour of the Prime Minister to attain saturation of flagship schemes of the government through ensuring that the benefits of these schemes reach all targeted beneficiaries in a time bound manner. In a major step towards attainment of this aim of saturation of schemes, Prime Minister will launch 'Viksit Bharat Sankalp Yatra' on the occasion of Janjatiya Gaurav Diwas.

The focus of the Yatra will be on reaching out to people and create awareness and providing benefits of welfare schemes like sanitation facilities, essential financial services, electricity connections, access to LPG cylinders, housing for the poor, food security, proper nutrition, reliable healthcare, clean drinking water, etc. Enrolment of potential beneficiaries will be done through details ascertained during the Yatra.

Prime Minister will flag off IEC (Information, Education and Communication) vans in Khunti, Jharkhand, marking the launch of 'Viksit Bharat Sankalp Yatra'. The Yatra will start from districts with significant tribal population initially and by 25th January 2024, will cover all districts

across the country.

PM PVTG Mission

During the programme, Prime Minister will also launch the first of its kind initiative - 'Pradhan Mantri Particularly Vulnerable Tribal Groups (PM PVTG) Mission'. There are 75 PVTGs in 18 States & UTs living in 22,544 villages (220 districts) having a population of around 28 lakhs.

These tribes stay in scattered, remote & inaccessible habitations, often in forest areas and hence a mission with budget of about Rs 24,000 crore, is planned to saturate PVTG families and habitations with basic facilities such as road and telecom connectivity, electricity, safe housing, clean drinking water and sanitation, improved access to education, health and nutrition and sustainable livelihood opportunities.

In addition, separately, saturation will be ensured for PMJAY, Sickle Cell Disease Elimination, TB Elimination, 100% immunisation, PM Surakshit Matritva Yojana, PM Matru Vandana Yojana, PM Poshan, PM Jan Dhan Yojana etc.

15th instalment of PM-KISAN and other development initiatives

In a step that will showcase yet another example of commitment of the Prime Minister towards welfare of farmers, the 15th instalment amount of about Rs. 18,000 crores under the Pradhan Mantri Kisan Samman Nidhi (PM-KISAN), will be released through direct benefits transfer to more than 8 crore beneficiaries. Under the scheme, till now, more than Rs. 2.62 lakh crores have been transferred to famers' accounts in 14 instalments.

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SAME-SEX MARRIAGES: A GRAVE ERROR IN THE LAW

Relevant for: Developmental Issues | Topic: Government policies & interventions for development in various Sectors and issues arising out of their design & implementation incl. Housing

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Students at the Delhi University's North Campus in New Delhi protest against the Supreme Court's verdict on same-sex marriage. File | Photo Credit: ANI

In a long-awaited judgment in *Supriyo*, on October 17, the [Supreme Court held](#) that [same-sex couples do not have the right to marry under the Special Marriage Act](#). In doing so, the court not only laid down a fundamentally wrong interpretation of the Constitution but also overlooked its own precedents.

The petitioner's argument on the right to equality was simply this. Article 14 guarantees equality and equal protection of the law and Article 15 prohibits discrimination on grounds including sex. The Supreme Court has already held in *Navtej* (2018) while decriminalising homosexuality that 'sex' under Article 15 takes in 'sexual orientation'. When the state refuses to recognise marriages of homosexual couples, solely on this ground, it violates the constitutional guarantee of non-discrimination.

The majority judgment justifies the exclusion of the Special Marriage Act by saying that the object of the statute was not to discriminate against same-sex persons. Further, it is stated that absence of a law (to regulate same-sex marriages) does not amount to discrimination.

Both these arguments are misplaced. The doctrine of indirect discrimination, which simply means that the discriminator cannot escape the constitutional obligation by relying on the intent or object, has been now well established in Indian jurisprudence. Instead, the court must look at the impact of the law on a particular group (*Col. Nitisha v. Union of India, 2021*). Also, to say that mere absence of a law is not sufficient to claim discrimination misconceives the core of the issue raised by the petitioners. The claim is not that there is a right for the petitioners to have a law enacted by the state in the abstract. For instance, if ours was a marriageless state, no argument would arise premised on the privileges and benefits arising out of marriage. The argument is that the state has chosen to refuse to recognise one set of marriages on the ground of sexual orientation alone — and this is not pointedly met by the Bench.

The minority judgment, in fact, does not address the issue at all by holding that "this Court cannot either strike down the constitutional validity of SMA or read words into the SMA because of its institutional limitations". This simply puts the cart before the horse. It is precisely the institutional purpose of a constitutional court to examine whether the legislation in question is constitutional. Now to say that it will refuse to undertake this exercise because the exercise is

complicated runs counter to the established system of constitutional adjudication. Therefore, according to the court, even if a law were plainly unconstitutional, as long as there are difficulties in moulding the relief, that would be a sufficient reason to retain the unconstitutional law. This position of law, fortunately not accepted by the majority, is dangerous since this might simply mean the Parliament can avoid constitutional scrutiny by drafting laws in a way that requires the court to undertake a complex interpretive exercise.

This is, of course, not to say that the court must exceed its institutional role of that of an adjudicator. There are, of course, various policy matters for which the legislature is institutionally designed and possesses the necessary expertise. However, to conceive the issue of equal rights associated with marriage as entirely that of policy is problematic.

It is also curious to have this observation come from a court that has, in the past, issued guidelines and, in fact, resorted to judicial legislation. In *Visakha v. State of Rajasthan* (1997), the court, in the absence of a law for protection against sexual harassment, laid down detailed guidelines for how institutions must deal with complaints of sexual harassment. In *NALSA* (2014), the court directed recognition of the rights of 'third gender persons' and issued elaborate directions for the protection of transgender persons. Therefore, to stop short of constitutional examination, especially when a plausible interpretive exercise would have allowed the court to grant relief to the petitioners, does not fit well in our constitutional history.

Moreover, reading the Special Marriage Act so as to take in marriages of queer persons did not require the court to legislate. A creative interpretation of the law would have allowed the court to locate the right of marriage in the law, without having to take up the role of the legislature. Various interpretive techniques and solutions were suggested to the court which simply went overlooked.

Constitutional courts are significant in any democracy for they hold the executive and the legislature accountable for their actions. Their chief role is not to make suggestions to Parliament but to adjudicate instances of rights violations. In one of the directions of the judgment, the court records the submission by the Union government that a committee be chaired by the Cabinet Secretary to decide the entitlements of queer persons. This delegation is where the court simply abdicates its role. When a complaint of fundamental rights violation is brought before the judiciary, referring the question back to the alleged discriminator is simply irrational. It turns a question of rights into one of benevolence.

In *Baker v. Nelson* (1971), the United States Supreme Court, while declining to hold that same-sex marriage is protected under the Constitution, said: "This historic institution manifestly is more deeply founded than the asserted contemporary concept of marriage and societal interests for which petitioners contend. The due process clause of the Fourteenth Amendment is not a charter for restructuring it by judicial legislation." Then, 44 years later, the court remedied this mistake and overturned this judgment in *Obergefell v. Hodges* (2015), where it repelled the argument on the need to approach Parliament and said: "It is of no moment whether advocates of same-sex marriage now enjoy or lack momentum in the democratic process. The issue before the Court here is the legal question whether the Constitution protects the right of same-sex couples to marry." This is precisely what our Supreme Court got categorically wrong in *Supriyo*. Now, India needs to desperately wait for its *Obergefell* moment.

Thulasi K. Raj is a lawyer at the Supreme Court of India

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SHOULD ELECTIONS BE STATE FUNDED?

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

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November 17, 2023 01:48 am | Updated 08:41 am IST

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File photo of a shop selling flags of political parties, in Thiruvananthapuram. | Photo Credit: The Hindu

A Constitution Bench headed by the Chief Justice of India, D.Y. Chandrachud, recently reserved its judgment on petitions challenging the validity of the electoral bonds scheme. The proceedings focused on arguments pertaining to the voters' right to information vis-a-vis the right to confidentiality of donors. Transparency in election funding has become the central issue here. Should elections be state funded instead? **Jagdeep Chhokar** and **Sanjay Kumar** discuss the question in a conversation moderated by **Sreeparna Chakrabarty**. Edited excerpts:

Can state funding of elections bring in transparency in the poll process?

Jagdeep Chhokar: First, calling it state funding of elections is a misnomer. It should be called public funding of elections. I say this because in India, we unfortunately have a notion that whatever the state does is free. If there is such funding, it will be public money that the state will be giving for elections. So, if we call it public funding of elections, my sense is that people will feel that it is their money, which is the truth.

Also read | [Challenging the Electoral Bond Scheme](#)

Public funding of elections can certainly bring transparency in the poll process, but it depends on how it is done. If public money is given to political parties and candidates, and let's say they are also welcome to get money from wherever they like, then there are serious issues. Public funding in principle is a good idea, but the mechanics of it need to be fleshed out.

Sanjay Kumar: I think it would be a welcome step, but I'm not sure whether it will bring about transparency in the electoral process because we need to look at the nitty-gritty of how this is going to be worked out, we need to look at what state funding means.

Also read | [Election Commission not in favour of State funding of elections: Anurag Thakur](#)

It would certainly be better than the existing system where candidates and political parties spend from their own pocket and a lot of black money goes into election campaigning. State funding of elections will help bring some transparency. But I'm not sure whether the entire electoral

process will become transparent with state funding of elections alone.

Four reports have looked into the viability of state funding of elections. The Indrajit Gupta Committee Report, the Law Commission of India Report of 1999, the Report of the Second Administrative Reforms Commission in 2008, and the National Commission to review the working of the Constitution Report of 2001. The first three said that state funding is desirable to an extent. Is it viable for the Indian economy?

Jagdeep Chhokar: We can discuss viability provided we agree that public funding is desirable, which I think it is. You mentioned four reports. If you read the Indrajit Gupta Committee Report, which is most often quoted in support of public funding of elections, it says state funding should be done only in kind and not in cash. It also says that state funding of elections would be a waste of public resources unless it is accompanied by factors such as democratisation of political parties and decriminalisation of the political process. It says unless there is internal democracy in political parties, state funding of elections will be a waste of public money. So, it lays down conditions under which public funding of elections can be, and should be, considered, and not necessarily adopted. State funding is viable only if parties are internally and demonstrably democratic in their functioning, transparent in their financial affairs, and there is a reliable mechanism of ensuring that parties and candidates do not accept money from other sources.

Also read | [Opaque political financing could cost democracy dear](#)

Now, if there is public funding of elections, how much provision should we make for that? If an amount is to be set aside for public funding of elections, we need to know how much money was spent in the last election. That number depends on a couple of factors. First, the money that the Election Commission of India spent. This data is available and reasonably accurate. Second, the amount spent by political parties and candidates. This figure is known only to political parties and candidates who contest elections.

Professor Kumar, the Indrajit Gupta Committee had said that whatever funding is given should be in kind, such as free transport. How would this work? And is it possible to explore a system which is partially public funded?

Sanjay Kumar: People need to discuss this because the question is about a possibility. Is this possible or not? I think it is possible. You have to work out a model. We cannot say this is not possible at all or that this is perfectly alright. Political parties need to be part of the decision-making process.

A few years ago, Prime Minister Narendra Modi had called for a discussion on public funding of elections. Before that, the Congress had also raised it. But nothing has come out of these statements. Why have parties never taken this issue forward?

Sanjay Kumar: Political parties support it because state funding of elections is seen as socially desirable or desirable in the electoral context. But they have not been able to move ahead with this because at the moment, this is just a concept. Nobody is clear about how it is to be worked out.

Also, is it a case that except the two large national parties, most political parties, especially regional parties, have now become family-oriented?

Sanjay Kumar: How does that relate to state funding of elections? Suppose the government decides to give 100 crore to political parties for poll contests. How will this amount be

distributed? The benchmark should be the party's performance in the last Lok Sabha or Assembly elections, not whether the party is being headed by a family member or not.

Also read | [A vote for state funding](#)

Jagdeep Chhokar: I am amused that Professor Kumar is saying or at least implying that the party which gets more votes should get more money. That if Party A won or got more votes in the last election, it should get more money for this election. If that party then has more money than the parties that have lost, it will be an uneven playing field.

Sanjay Kumar: I was only stating a limited point that if the funding is to be supported by the government, the criteria cannot be whether a party is being headed by a family or a party which has a democratically elected leader. There have to be different criteria, and I was just citing an example. I'm not saying that the party which has performed better should get more money or a party which has performed poorly should get less. Things can be worked out. This could be one possibility. But my intervention was to another point: if a party has a leader who is democratically elected, we can't say there should be different criteria for giving funds to that party while parties which are family parties should be punished with less funds.

Jagdeep Chhokar: It is problematic to say that the money to be given to political parties depends on their electoral performance. No party today functions as a political party. Political parties function as corporates. Their business is to win elections and make money to be able to win the next elections. So, this functioning of political parties as corporate entities or as family-run corporate entities is the fundamental problem. Political parties have to be made accountable to the public. They have to be democratic institutions if they are to deserve public money.

How do other democracies handle this?

Sanjay Kumar: There are some 34 countries where state funding of elections is available in some form or the other. The highest proportion of state funding of elections is in Norway, which is about 74% of the total expenses on the election. But there are different models. In some countries only parties get the fund, candidates do not. There are countries where it's the other way round.

Jagdeep Chhokar: In most countries where there is public funding of elections, there are also strict transparency requirements. In the U.S., there is a rule that if the presidential candidate raises X amount of money, they are eligible to receive an equal amount of money from the government. But this is subject to certain conditions. In the last two or three presidential elections, no candidate has accepted government money. They have said that they do not want to accept these conditions and that they are able to raise enough money on our own. The point is, if there is to be any public funding of elections, I, as a member of the public, would insist on complete transparency about the money spent by the party or the candidate in the election. If a candidate or a party is allowed to accept other money in addition to public money, there is a very serious problem. And that is the reason why no political party has taken it forward.

Jagdeep Chhokar is co-founder and trustee, Association for Democratic Reforms; Sanjay Kumar is Professor, Centre for Study of Developing Societies, Delhi

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UNION MINISTER OF STATE FOR EDUCATION FLAGS OFF DECORATED VANS ON VIKSIT BHARAT SANKALP YATRA AT BANKURA

Relevant for: null | Topic: Important Schemes & Programmes of the Government

Kolkata, November 16, 2023

The Union Minister of state for Education Dr Subhas Sarkar flagged off the well-decorated Viksit Bharat Sankalp Yatra (VBSY) vans today from Bankura. The vans with photographs depicting the welfare schemes of the Union Government will roam in the adjacent areas to make more people aware of the benefits of the Central schemes so as to add to the number of beneficiaries in respective schemes, stated Dr Sarkar after flagging off the vans at Bankura.



In another event at Jhargram, today, Viksit Bharat Sankalp Yatra van was flagged off from Jhargram by Shri R K Jena, Senior Advisor to the Ministry of Information and Broadcasting, in presence of the State Nodal Officer for VBSY, Shri Rajiv Bhattacharya; Akash Sharma DDM, Ranjit Dutta, LDM among others.



The focus of the Yatra will be on reaching out to people and creating awareness and providing benefits of welfare schemes like sanitation facilities, essential financial services, electricity connections, access to LPG cylinders, housing for the poor, food security, proper nutrition, reliable healthcare, clean drinking water, etc. Enrolment of potential beneficiaries will be done through details ascertained during the Yatra.



Prime Minister Shri Narendra Modi launched the VBSY on Wednesday (November 15, 2023) , a nationwide programme aimed at reaching out to citizens who are eligible for various central schemes but have not benefited so far. He flagged off five specially designed IEC (Information, Education and Communication) vans from Khunti to mark the launch of the Yatra. Similar vans were flagged off from other districts across the country having significant tribal populations.

The VBSY was duly organised in North Bengal also at Kalchini Gram Panchayat area of Alipurduar.



In another programme at Purulia Janjatiya Gaurav Diwas was solemnly observed at Shanka village under Raghunathpur-1 Block of the district. A sit and Draw competition for children was organised where many school-children participated. Besides, a football tournament was also organised amongst the local youths. Shri Vivekananda Bauri, the MLA of Raghunathpur inaugurated the tournament.



Shri Modi on Wednesday addressed a special programme at Khunti, Jharkhand marking the celebrations of Janjatiya Gaurav Diwas, 2023, where he launched the VBSY and Pradhan Mantri Particularly Vulnerable Tribal Groups Development Mission. He also released the 15th instalment of PM-KISAN. Shri Modi also laid the foundation stone and dedicated to the nation multiple development projects in Jharkhand worth Rs 7200 crores in multiple sectors like rail, road, education, Coal, Petroleum and Natural Gas. He also took a walkthrough of the exhibition showcased on the occasion.

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UNCERTAIN FUTURE IN A SEA OF POPPIES

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Sundar Bai, an opium farmer, and her son Anil tend to their poppy crop in a field in Neemuch district on the Madhya Pradesh-Rajasthan border. | Photo Credit: SHASHI SHEKHAR KASHYAP

When Sunder Bai's husband, Shiv Narayan, died during the COVID-19 pandemic, she inherited 1 square kilometre of land and his licence to cultivate opium. She lives with her daughter and son in a village near Nayagaon in Neemuch district on the Madhya-Pradesh Rajasthan border. "Both my children, who are graduates, support and help me in this profession," says Bai. "We employ four or five people to cultivate opium and extract opium gum."

Bai's son Anil, 25, who holds a degree in physics, has decided not to find a job and instead help his mother on the farm. Opium cultivation is known as *swabhiman ki kheti* (agriculture of dignity) in the Mewar region that is spread across Madhya Pradesh and Rajasthan. There is so much pride in the age-old trade that a saying in this area goes, "*Afeem aur aulat barabar* (poppy plants and children deserve similar treatment)". While farmers in Madhya Pradesh call the crop *afeem*, a name which finds its origin in Persia, the community in Rajasthan calls it *amal* (pure).

Entire families in this region usually cultivate opium from November to March; some have doing this for as long as 200 years. Young men and women protect the family licence for various reasons. "One reason is that it increases their marriage prospects," says Parmanand Patidar, a farmer, laughing.

Bai had been cultivating opium with Narayan for about 20 years before he died. Anil says the job is not easy. "The procurement rate for opium hasn't increased in many years (farmers get 1,200-2,000 per kilogramme of opium latex based on the concentration of morphine in it) and the input cost has increased due to the price rise of fertilizers, labour costs, and pesticides. We also have to be vigilant all the time. We go to the field even at night to ensure that the crop is secure from thieves. We also cultivate other crops to manage our expenses. But we will continue to cultivate opium as it is a family practice," he says with pride.

Apart from worrying about inflation, opium farmers have been agitated ever since the sector was opened up to private players through a Union government policy in 2021. The farmers increasingly worry that this move will threaten their livelihood, affect their profits and family businesses, and also have a bearing on "national security" by potentially increasing the problem of drug abuse.

In India, there are about 1 lakh farmers across 22 districts in Madhya Pradesh, Rajasthan, and Uttar Pradesh with a licence to cultivate opium. The majority of them are from three districts that border Madhya Pradesh and Rajasthan — Mandsaur, Neemuch, and Chittorgarh. Together, these districts produce 80% of India's opium.

Opium is obtained by slightly incising the seed capsules of the poppy after the plant's flower petals have fallen. Two types of narcotic raw materials can be produced from opium poppy: opium gum (latex) and the concentrate of poppy straw (CPS). Until recently, only opium gum, a milky substance, was produced in India. Opium contains morphine, which is known to relieve chronic pain and is used mostly by the pharmaceutical industry to produce medicines, and codeine. On the flip side, it also produces opioids like heroin.

Because it is an addictive substance that can cause mental clouding and hallucinations, opium production is highly regulated in India. In the Mewar region, farmers collect opium gum and send it to Government Opium Alkaloid Works, Neemuch, a factory that began operations in 1935. The gum is procured solely by the Central Bureau of Narcotics, which functions under the Union Finance Ministry.

However, in the 2021-22 crop year, the Union government changed its opium policy, allowing private players to produce CPS from the opium poppy to boost the yield of alkaloids.

According to a document titled 'An outlook of opium cultivation' provided by the Central Bureau of Narcotics on its website, other opium-growing countries follow the process of extracting alkaloids from CPS.

"After a shift to the CPS method, India will be on a par with other nations. As other countries have already shifted to the CPS method, the demand for Indian opium in global market is reducing. This is evident from the decreasing export of opium. (Moving to) CPS provides an opportunity for India to regain its market place through the export of CPS. CPS is less labour-intensive than the lancing method (used by farmers now). It will also help in ensuring better drug law enforcement as it will reduce the illicit market for opium gum," the government says.

In a press release dated September 14, the government said that it has been engaging with the private sector on processing opium gum as well as poppy straws to augment the opium-processing capacity of India. The press release read, "Government intends to further significantly expand the licensing for un-lanced poppy and has decided to set up a processing unit for Concentrate of Poppy Straw of 100MT capacity on a PPP (public-private partnership) basis."

An opium farmer shows a small poppy plant in Mandsaur, Madhya Pradesh. | Photo Credit: SHASHI SHEKHAR KASHYAP

This is the second crop season since the policy was revised. Various farmers organisations such as All India Kisan Sabha, Bharatiya Afeem Kisan Sangharsh Samiti, and Bharatiya Afeem Vikas Samiti formed the Samyukt Afeem Kisan Morcha to raise the issues of opium farmers. When Prime Minister Narendra Modi visited Neemuch to address an election rally last week, these farmers' organisations tried to meet him. Modi did not meet them, so they have sent him a memorandum demanding that the CPS system be withdrawn, and the traditional system of extracting opium gum be continued.

Farmers believe that private companies are likely to pose a threat not just to their profession, but also to national security. "Opium can be misused. What if the drug mafia gets access to alkaloids? Drugs will be rampant here," worries Mahesh Vyas, a farmers' leader from Mandsaur.

Justice G.D. Saxena, a retired judge of the Madhya Pradesh High Court and a resident of Mandsaur, expresses similar concerns. "Opium is reportedly coming to Mandsaur from illegally cultivated areas too. States like Punjab are struggling to control synthetic drugs. Allowing private entry in opium processing should be done with extreme caution," he warns.

The former judge remembers opium being very common in the area when he was young. He says it took several years to restrict and regulate the crop and bring it completely under the government's control.

Shailendra Singh Thakur lost his job at the Neemuch factory some years ago for protesting against the erstwhile United Progressive Alliance government's plan to privatise the production of opium. "When opium production is handed over to private companies, the safety and security of the alkaloids may come under question. Importantly, life-saving medicines which are made using opium will become costly and poor patients will suffer. Also, recently, narcotics of huge volumes were confiscated from a private port in Gujarat. This is a warning," he says. Heroin worth 11 crore was seized in Assam just this week. "The production of alkaloids was monopolised by the government. It should remain that way."

Thakur also believes that government alkaloid factories have the capacity to produce more opium. "Employ more people. Why give this to private companies? Right now, five people get steady employment for about three months from cultivating 10 ares (100 sq m) of opium fields."

Farmers also worry that there are no new postings in the Neemuch factory. Against the sanctioned strength of more than 500 posts, there are just about 200 employees in the factory. The farmers and trade union representatives believe that this is a ploy to help private companies. They demand that more factories be introduced under the public sector with more people working in them so that alkaloids can be produced with strict government control.

A group of farmers from Pipliya in Mandsaur say that "private companies will issue their diktat in this sector." Pipliya was the site of an agitation by opium farmers demanding better prices for their produce in 2017. The protest took a terrible turn when six farmers were killed in police firing. The Bharatiya Janata Party (BJP) blamed opium smugglers for instigating the community.

Now, the farmers accuse the government of trying to "create divisions with two systems". They say that the Centre has introduced a policy that is reminiscent of the British era. They have heard stories about the East India Company smuggling opium from their region and exporting it to China and other countries. "Big companies will misuse this crop to maximise profit. If smugglers have stolen opium from government factories, what security can be ensured in private factories," asks Kachrual Chadawat of Pipliya.

Nand Kishore and Mohan Singh, two farmers who have come to sell garlic at the Dalauda Mandi in Mandsaur, echo this sentiment. "We do not cultivate opium even on an inch of land more than what is earmarked by the government. Narcotics officials mark the area twice after giving a license to ensure that the area is properly fenced. They monitor cultivation by visiting the farm at least half a dozen times during the season (November to March)."

The farmers say they are already experiencing losses. To cultivate 10 ares of land, they spend about 1 lakh. They used to get 1-1.5 quintals (1 quintal is 100 kg) of poppy seeds from 10 ares under the earlier system. Under the CPS, they get about 80 kg of seeds. They complain that the government has stopped procuring poppy petals and pods from them, which it used to do earlier.

Poppy seeds fetch farmers about 1,000 a kg. This is the main source of revenue for most opium

farmers. “We used to get 1 lakh-1.5 lakh by selling seeds during one season. That would meet our expenses. But under the CPS, we will get fewer quantities of seeds,” say farmers. The government procures CPS for 200 for a kg.

Parmanand Patidar, another farmer in the area who holds a licence for extracting opium gum, complains that the government did not consult the farmers before opening up production to private players. “This is the second year of the CPS system. The Centre brought this scheme during the lockdown without holding any meeting with the farmers, just as it did with the three farm laws. In our village, 150 farmers have licences of which half are under CPS. This is being done only to divide the farmers,” he says.

Farmers allege that there is no transparency in the CPS mechanism. “The government could consider a policy which will enable farmers to sell the additional opium gum (extracted over and above the limit set by the government) in the open market monitored by the government,” suggests Ambalal Jat, a farmers’ leader from Neemuch. Despite their unhappiness, the farmers are scared to speak up fearing that their licences will be cancelled, adds Jat.

Nerulal Jat, president of the Bharatiya Kisan Union (Tikait) of Chittorgarh district, says he has been cultivating opium since 1980. “The procurement price of opium gum has been same all this time. Foreign companies will benefit from the CPS system. The old system should be continued to protect farmers. New factories should be opened under the public sector,” he says.

Farmer leaders agree that smugglers roam around the locality in search of farmers in distress. They say that there are farmers who are involved in the smuggling of opium. In most cases, the supplier of opium is also arrested with the trader or the middleman. Several farmers have been in jail for years for the illegal sale of opium. Leaders believe that such instances will increase if private players are allowed into the field.

Mangelal Meghwal, a farmer from Chittorgarh, says, “Modi will have to take CPS back. Opium cannot be used as a profit-making commodity. It is used to make life-saving drugs. The Prime Minister talks about ‘Make in India’, but allows import of poppy seeds. This is not a Congress or BJP issue. It is an issue of farmers.”

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CONSTITUTIONAL TYRANNY: THE HINDU EDITORIAL ON RAJ BHAVAN'S USE OF THE VETO

Relevant for: Indian Polity | Topic: Executive: Structure, Organization & Functioning ; Ministries and Departments of the Government

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November 20, 2023 12:30 am | Updated 12:30 am IST

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Tamil Nadu Governor R.N. Ravi's act of [withholding assent to Bills](#) concerning universities in the State is nothing but constitutional tyranny. It is gross abuse of the power granted by the Constitution to give or refuse assent to Bills passed by the legislature. The grant of assent is a routine function of the titular head of state, and the exceptional power to withhold it is not meant to be exercised unreasonably. Rather, incumbents in Raj Bhavan ought to use this veto rarely, and only in flagrant instances when basic constitutional values are at stake. The Bills for which Mr. Ravi has refused approval, seek mainly to take away the Governor's power to appoint Vice-Chancellors of universities and vest it in the State government. There is nothing in these Bills for the Governor to disapprove of, save a vested interest to retain the powers conferred on him in his capacity as Chancellor. The rejection of the Bills appears to be a cantankerous response after the [Supreme Court made well-justified remarks on Governors delaying assent to Bills](#) pending with them. On its part, [the DMK government quickly convened a special session of the Assembly and adopted the same Bills again](#). The question arises whether it was under the belief that the Governor is bound to grant assent, if the same Bills were reconsidered and passed again by the House.

The statute position is that these Bills have failed to become law. There is no remedy in the Constitution for a House aggrieved by the rejection of its Bills. The proviso to Article 200, which makes the Governor's assent mandatory for Bills passed a second time, does not apply to Bills for which assent has been 'withheld', a term that essentially means 'rejected'. If the government was aware of this position and still ventured to adopt them again, it is possibly meant as a political message that it will not yield in the matter of pursuing its legislative measures. The effect of their fresh passage is that the Governor may treat them as fresh Bills. This means he is free to withhold assent yet again. In a sense, the Governor's action has helped highlight an undemocratic and anti-federal feature in the Constitution that creates an unguided power to reject pieces of legislation passed by elected representatives. In its observations in ongoing proceedings concerning the Governor's powers, the Court has drawn attention to the fact that Governors are not elected. The [Court must examine](#) whether vesting that office with a veto over legislation violates parliamentary democracy, a basic feature of the Constitution. An authoritative pronouncement is needed to end the scope for partisan mischief.

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A DILEMMA OVER TRIBAL LAND RIGHTS IN ODISHA

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The permission for transferring land from tribals to non-tribals was granted with a rider that after such a transfer, the tribal seller or mortgagor should not be landless or homestead-less. | Photo Credit: The Hindu

A Cabinet decision allowing tribals to transfer their land to non-tribals by way of amending the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (OSATIP) triggered a massive controversy, forcing the [Naveen Patnaik Government to put the two-day-old decision on hold on November 16](#).

The decision made on November 14 says, “a scheduled tribe person may, with the written permission of the sub-collector, make a gift or exchange for public purposes or obtain a loan by securing a mortgage in a public financial institution for agriculture, construction of residential house, higher studies of children, self-employment, business or establishment of small scale industries or transfer the same in favour of a person not belonging to scheduled tribe for the above purpose.”

The permission for transferring land from tribals to non-tribals was granted with a rider that after such a transfer, the tribal seller or mortgagor should not be landless or homestead-less.

Also read: [Land held by tribals in Odisha is shrinking, says a draft CAG report](#)

The OSATIP includes strict provisions that not only prohibit the transfer of tribal lands but also criminalise any forced alienation. Additionally, it delineates mechanisms for eviction and the restoration of tribal land.

This was not the first attempt in the past 25 years to amend the OSATIP Act in order to ease tribal land transfer. In 2010, the amendment seeking permission to transfer tribal land was turned down by the President of India. Inter Ministerial Committees and Tribal Advisory Council (TAC) on different occasions had recommended amendments for allowing tribal land transfer.

The Cabinet decision, however, evoked strong resistance from tribal communities as well as activists working on tribal rights. They said the amendment would open the floodgates as far as the transfer of tribal land in scheduled areas is concerned.

As of the 2011 Census, the tribal population in the State stands at 95.91 lakh, comprising

22.85% of the total State population. Odisha is home to 62 distinct tribes, including 13 Particularly Vulnerable Tribal Groups, showcasing one of the most diverse tribal landscapes in the country. It ranks as the third-largest concentration of tribal population, trailing behind Madhya Pradesh and Maharashtra. Scheduled Tribes in Scheduled Areas constitute approximately 68.09% of the total tribal population. Notably, 121 out of the 314 blocks in Odisha have been designated as Scheduled Areas. Furthermore, about 44.70% of the State's geographical expanse falls under the Scheduled Area classification.

The OSATIP 1956 is acknowledged as one of the most stringent legislations aimed at safeguarding tribal interests. This Act was conceived in response to widespread reports of unchecked appropriation of tribal lands in Scheduled Areas. Instances were documented where even small parcels of tribal land were transferred to non-tribals in exchange for a bottle of local brew. For tribal communities, land holds paramount importance as it constitutes their most valuable asset. A majority of tribals lack business expertise, face challenges in transitioning to alternative livelihoods, lack access to capital for starting new ventures, and are relatively recent participants in the realm of technology.

In a draft report, the Comptroller and Auditor General (CAG) of India, which carried out the random study, found that land held by tribals in Odisha had decreased by 12% in the decade between 2005-06 and 2015-16. It had happened despite OSATIP being in force.

Concerned activists feared that the implementation of the amendment could have amounted to an attack on tribal identity. Tribals are traditionally inclined towards subsistence livelihoods and are not driven by the desire to amass wealth rapidly. Tribal rights activists argue that granting permission to transfer land (for obtaining a loan by securing a mortgage in a public financial institution for agriculture, construction of a residential house, higher studies of children, self-employment business or establishment of small-scale industries) would swiftly eliminate the essential fallback option for tribals.

Significant economic disparities persist in Scheduled Areas. At a time when tribal communities face dire economic conditions, non-tribal populations have experienced educational and economic improvements over the past several decades. The OSATIP has played a crucial role in maintaining tribal ownership in Scheduled Areas, even though tribals may be economically disadvantaged compared to their non-tribal counterparts. The proposed amendment could potentially enable non-tribals, especially in southern Odisha districts, to purchase tribal lands, thereby altering the demographic landscape of Scheduled Areas.

Prominent politicians, moneylenders, and business figures have repeatedly acquired extensive portions of tribal land by circumventing the provisions of OSATIP. The proposed amendment, if enacted, would help facilitate the regularisation of unlawfully acquired tribal lands, providing a legal framework for these holdings. According to a tribal researcher, the amendment would open opportunities for corporate houses looking to aggregate land through anonymous persons in Scheduled Areas.

Repeated efforts to amend the OSATIP Act over the past two decades have laid bare the class divisions within tribal communities. A smaller but ambitious segment across various tribes aims to monetise their land parcels as a means of achieving financial progress. In contrast, the majority of scheduled tribes want to retain ownership of their land.

The government aimed to convey a sense of realism with the proposed amendment by including a provision to prevent tribal sellers or mortgagors from being left without land or a homestead. However, the terms 'landless' or 'homestead-less' were not clearly defined. This lack of clarity could potentially allow a tribal individual to sell all of their land while retaining a small token

piece, thus avoiding classification as landless.

Though the government has put the amendment to OSATIP on hold, Opposition political parties are demanding a complete withdrawal of the amendment.

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LISTEN TO THE PEOPLE, NOT THE NUMBERS

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Millions of Indians have moved out of agriculture in the last three decades. | Photo Credit: The Hindu

The Indian economy has an incomes problem, not a growth problem. Incomes are not growing sufficiently or sustainably for very large numbers of people. Even though overall GDP growth is good, there is increasing pressure for reservations of jobs for all “economically weaker” sections regardless of caste or religion.

Economists on both sides, for the government and those against it, are debating whether the economy is creating enough jobs and are questioning the veracity of the government’s data. Those against the government also want to show that the problem of growth with insufficient jobs has been created by the policies of the present government and not the previous one. They are like Sheikh Chilli, who was looking for his lost keys under the lamp, rather than in the darkness where he lost them. The data is what they can see, but it cannot explain the problem, and will not point to the right solutions.

The U.S. economy seems to be doing well according to its headline economic numbers. Growth is good and employment numbers have been improving. Yet, polls show that a large majority of U.S. citizens are dissatisfied with the state of their economy. This has become a major issue before the presidential elections, scheduled for next November. The U.S. President even walked with striking autoworkers demanding a fair deal from their employers. U.S. statistics of growth and employment, whose veracity no one doubts, are not measuring what really matters to common citizens. Workers want a fair deal and adequate and secure incomes to cope with inflation. The President agreed with the workers that CEOs of auto companies were paying themselves far too much while asking workers to tighten their belts to improve the competitiveness of U.S. companies.

The overall problem of incomes in India, according to economists, is that insufficient numbers have moved out of agriculture into manufacturing. This has been the historical pattern for sustainable growth in all countries, including the U.S. a hundred years ago, and China more recently. India’s policymakers thought they had found a short-cut in the 1990s, directly from agriculture to services, with the boost in the growth of exportable Information Technology services. The short-cut has ended in a cul-de-sac. There is very little room in high-end services to absorb the large numbers of young Indians in need of jobs. Moreover, these jobs require levels of education that people in rural areas do not have. Therefore, when they move out of

agriculture, they need work that fits their present abilities, and puts them onto a ladder that they can climb. They need jobs where they can learn higher skills and earn more. Labour-intensive manufacturing, services, and construction provide them the first step. The millions of Indians who have moved out of agriculture in the last three decades moved into such jobs.

The problem is that the jobs they have, irrespective of the sector, are not “good” jobs: they do not pay enough, they are temporary or on short contracts, and they do not provide social security or assistance to develop further skills. In fact, even in large, modern, manufacturing enterprises, workers are employed through contractors to provide employers with “flexibility” to reduce costs. Contract workers are paid much less than regular workers. They have insecure employment and are not assisted to develop higher skills.

Also read | [Regular jobs increased, but unemployment still a concern: report](#)

The world is at a turning point. New ideas of economics are required to create a more environmentally sustainable and socially harmonious future before it is too late. Statistics of growth and employment measure what we used to think should be measured. New concepts of “work” are required; also new designs of enterprises in which the work is done; as well as new evaluations of the social and economic relationships between participants in these enterprises. The drive for green, organic, and “local” to reduce carbon emissions and improve care of the environment will make small enterprises beautiful again. “Economies of scope” will determine the viability of enterprises rather than “economies of scale”. Denser, local, economic webs will develop, rather than long, global supply chains through which specialised products made on scale in different parts of the world are connecting producers with consumers in other distant parts.

Attention will shift towards creating genuine “social” enterprises, rather than enterprises for creating economic efficiencies and surpluses which corporate enterprises are designed for. Those who provide care, and their work of caregiving, must be valued more than economists value them today. In the present paradigm of economic growth, caregivers, traditionally women, are plucked out of families — which are a natural social enterprise — to work in factories, offices, and retail, in enterprises designed to produce monetary economic value. When economists measure women’s participation in the labour force, they value only what women do in formal enterprises for money. They seem to assign no value to the “informal” work they do outside their homes to earn money, whether as domestic caregivers in others’ homes or on family farms. Moreover, they are unable to see any economic value in the caregiving they provide without monetary compensation in their families and communities.

The prevalent paradigm of economic theory is distorting social organisations, which families are, to suit the requirements of corporations, which are formal economic organisations. Thus, the money-measured economy (GDP) grows, while the care that humans can and should give each other reduces. Measurements of economic growth and employment must not be mired any longer in 20th-century concepts of economic growth. They must be reformed to reflect forms of work and enterprises we want more of in the future.

For this paradigm shift, the process of policymaking must begin with listening to those who have not been given much value in the present economic paradigm: to workers, small-holding farmers, small entrepreneurs, and women. Presently, their views are over-ruled by those who have power in the present paradigm: experts in economics, large financial institutions, and large business corporations. The lesson for policymakers is this. Don’t count on historical statistics to guide good policy for the future: listen to the people and what matters to them.

Arun Maira is the author of Shaping the Future: How to Be, Think, and Act in the New

World

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UNHEEDED ADVICE: THE HINDU EDITORIAL ON THE CONDUCT OF GOVERNORS

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Ongoing proceedings before the Supreme Court raise concerns about the conduct of some Governors. The key issue that has forced State governments to approach the court for redress is the perverse manner in which incumbents in Raj Bhavan have used the absence of a time-frame for granting assent to Bills to harass and frustrate elected regimes. When the [court raised the question](#), “What was the Governor doing for three years?” with respect to the Tamil Nadu Governor, R.N. Ravi, it was underscoring the fact that he disposed of pending Bills only after the court’s observations about the delay in an earlier hearing. The Governor’s reluctance to act until an aggrieved government approached the court seems deliberate. The hearing was marked by some questions and answers about the implications of the Governor’s action in withholding his assent to 10 Bills, and the response of the State Assembly in [passing the Bills for a second time](#). Preliminary observations by the court suggest that the scheme of Article 200 of the Constitution, which deals with the presentation of Bills passed by the legislature to the Governor for assent, will come under a good deal of scrutiny in this matter. With the court noting that the Governor cannot refuse assent to the re-enacted Bills, the present legislative impasse can be given a quick resolution if Mr. Ravi acts on the observation. However, the matter should not end there.

The larger issue requires a clear enunciation of the law. The tenor of Constituent Assembly debates indicates that it intended to make the power of granting or withholding assent to Bills, or even returning them for reconsideration, exercisable solely on the advice of the Council of Ministers. However, in practice, many Governors have acted on their own, especially in reserving Bills for the President’s consideration. The Supreme Court must now come up with an authoritative decision so that uncooperative Governors do not use such grey areas to their advantage. It must also be clarified whether ‘withholding assent’ is a final act of rejection of a Bill or it needs a follow-up action in the form of returning the Bill with a message for reconsideration by the House, as stated in the first proviso to Article 200. The proviso bars Governors from withholding assent to any Bill they had returned for reconsideration and has been adopted again by the legislature. The issue has also highlighted constitutional ambiguities on the [role of Governors](#). The ‘aid and advice’ clause that is at the core of parliamentary democracy is somewhat undermined by clauses that allow Governors to give themselves discretion they were never meant to have. Such provisions need wholesome reconsideration.

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NO VOTE FOR VETO: THE HINDU EDITORIAL ON GOVERNORS AND THEIR POWERS

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In a parliamentary democracy, Governors do not have a unilateral veto over Bills passed by the legislature. This is the crux of the Supreme Court's ruling in a case arising from Punjab after Governor Banwarilal Purohit withheld assent to some Bills passed by the State Assembly on the pretext that these were adopted in an illegal session of the House. The Court's reading of the scheme of Article 200, which deals with grant of assent to Bills, is in line with the core tenet of parliamentary democracy: that an elected regime responsible to the legislature runs the State's affairs. While granting assent is a routine function, the other options — withholding assent or reserving a Bill for the President's consideration — have been subjects of controversy. There is a proviso to the Article which states that "as soon as possible", the Governor may return the Bill (if it is not a Money Bill) to the House for reconsideration, but when the Bill is passed again, with or without changes, he cannot withhold assent. The Supreme Court has now read the power to withhold assent and the proviso in conjunction, holding that whenever the Governor withholds assent, he has to send the Bill back to the legislature for reconsideration. This effectively means that the Governor either grants assents in the first instance or will be compelled to do so after the Bill's second passage.

The Court has done well to point out that Governors, in a system that requires them to function mainly on the aid and advice of the Council of Ministers, cannot withhold action on Bills and must act as soon as possible. This is a clear reprimand administered to Governors who believe they can endlessly delay action on Cabinet or legislative proposals because of the absence of a prescribed time-frame. Mr. Purohit's stand that the particular session of the Assembly was illegal — because an adjourned House was reconvened by the Speaker on his own — has been rejected. The Court has ruled that the earlier session had only been adjourned and not prorogued. The verdict should not give any further scope for controversy over the role played by Governors in the law-making process that culminates with their granting assent to Bills, and must end the tussle between elected regimes and the Centre's appointees. There is still some residual scope for controversy if, as a result of Governors being divested of the power to reject Bills unilaterally, they start referring Bills they disapprove of to the President. Such an eventuality should not be allowed to arise.

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ALL EYES ON NAVA KERALA SADAS

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Chief Minister Pinarayi Vijayan greets the public during a Nava Kerala Sadas meeting in Kozhikode on November 25, 2023. | Photo Credit: K. Ragesh

Kerala Chief Minister Pinarayi Vijayan and his Cabinet colleagues are on a 44-day tour of the State to hear the public directly, interact with opinion leaders of different political hues, and allow elected representatives to flag the issues of their constituents directly with the Council of Ministers.

The high-profile [public outreach programme, titled “Nava Kerala Sadas”](#), which roughly translates as “People’s Assembly for a Modern Kerala”, kicked off in the Kasaragod district on Kerala formation day on November 1. It will conclude in the State capital, Thiruvananthapuram, on December 23.

Also read | [Nava Kerala Sadas will help formulate Kerala’s future: Pinarayi Vijayan](#)

The Congress-led United Democratic Front (UDF) Opposition has boycotted the Left Democratic Front (LDF) government’s political odyssey from the corridors of power in the government secretariat to the town halls of the common folk.

The UDF has termed the Nava Kerala Sadas a thinly veiled pre-Lok Sabha election campaign masquerading as a mass contract programme, bankrolled by a depleted public exchequer and winched up by the State’s government machinery.

It has accused the government of creating a power vacuum in the capital by “abandoning the government secretariat” and going for a protracted jaunt across Kerala aboard a luxury bus.

Also read | [Nava Kerala Sadas an absolute failure, says Chennithala](#)

Not far away from the Nava Kerala Sadas venues, black flag protests, inter-party street violence, political rancour, and hard-edged partisan verbal tit-for-tats characterised the Cabinet’s progress.

Leader of Opposition V. D. Satheesan termed the Cabinet’s outreach elitist of scarce consequence. He alleged Mr. Vijayan remained inaccessible to the public. Nava Kerala Sadas appeared elitist compared to the late Chief Minister Oommen Chandy’s mass contact programme in 2013. “Chandy had received petitions personally from the public and delivered

relief hours on end,” he said.

In contrast, Mr. Satheesan alleged, Mr. Vijayan’s campaign to win the hearts and minds of the people of Kerala seemed limited to breakfast meetings with businesspersons and a few local notables.

Mr. Satheesan compared Nava Kerala Sadas to royal durbars held by colonial rulers. Only courtiers and royal retainers had access to the king. The public could only watch the royal spectacle mutedly and from afar.

Also read | [CM and Satheesan lock horns over use of local body funds for Nava Kerala Sadas](#)

The Congress averred that the government had scarce funds to disburse relief. It accused the administration of ferrying school children, teachers, party cadres, social welfare workers and government employees to show numbers at sparsely attended Nava Kerala Sadas venues. The party has also moved the court against the government’s decision to mobilise “own funds” of cash-strapped Local Self Government Institutions (LSGI) to underwrite Nava Kerala Sadas meetings.

Mr. Vijayan also came under fire for “defending” CPI(M) workers who “attacked” Congress black flag protestors in Kannur. It led to an acrimonious war of words between Mr. Vijayan and Mr. Satheesan. The LDF has accused Congress of fomenting anarchic street violence to retard the momentum of Nava Kerala Sadas. It saw a political victory in the decision of a few Congress-ruled LSGIs to allocate funds for Nava Kerala Sadas.

Also read | [IUML leader’s presence at Nava Kerala Sadas sparks row](#)

It also tom-tommed the presence of the Indian Union Muslim League (IUML) and Church leaders, traditionally aligned with the Congress, at Nava Kerala Sadas breakfast meetings and on the dais with Mr. Vijayan. The government also glimpsed optimism in IUML leader P. K. Kunhalikutty’s disavowal of belligerent street protests against the programme.

For one, Congress saw a moral victory in the High Court’s criticism of lining up students on the street or ferrying them to public venues for government programmes. (A video showing school children lined up on the road in Kannur, arguably under a harsh sun, as the luxury coach carrying the Cabinet swept by had drawn harsh public criticism).

Congress also fears that the LDF is using the Cabinet’s public outreach as a subtle political lure to blur the line between the opposing alliance to wring a political advantage in the Lok Sabha polls.

It is highlighting the State’s alleged LDF-made financial crisis, failure to disburse welfare pensions and dearness allowance to government employees, pending payments to paddy farmers, debt-driven farmer suicides, rubber sector crisis, seller inflation and corruption in mega infrastructure projects.

Nava Kerala Sadas is leaving a slipstream of positive and negative perceptions as it meanders on through the State and seems potent to set off a political churning in the coming days. It has strained, if not turned toxic, the government-Opposition relationship and underscored the need for civic and democratic discourse in politics.

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In a sign of significant socioeconomic churning in various parts of India, there have been demands for reservation by communities that are known to be politically dominant and are not traditionally classified as “backward”. The [agitation for reservation by members of the Maratha community in Maharashtra](#) is one such. The community has had significant representation in positions of political power — over 35% of MLAs since 1967 and 12 of 18 Chief Ministers in the State. It has also traditionally been economically influential in rural areas due to landowning — over 75% of the cultivable land in the State — besides controlling an overwhelming majority of sugar factories. Data from the India Human Development Survey (IHDS) in 2011-12 in the State have shown that [Marathas](#) had a per capita consumption expenditure only lower than that of Brahmins; poverty incidence among Marathas was comparable to that of other forward communities and significantly lower than that of Scheduled Castes and Scheduled Tribes and marginally lower than that of Other Backward Classes. It is evident why the [Supreme Court in 2021 struck down the 16% quota](#) provided under the Socially and Economically Backward Classes for Marathas in jobs and education in 2018.

And yet the demand is not difficult to fathom. Despite the relative dominance, there are significant intra-community variations in terms of income and educational outcomes. The IHDS survey showed that the highest quintile of the community had an average per capita income of 86,750, while the per capita income of the lowest quintile was one-tenth of this. This disparity, besides the predominant rural nature of livelihoods among the poorer Marathas amid the prolonged nature of the recurring agrarian crisis in the State, has given rise to resentment and the demand for reservations. The Eknath Shinde government bowed to the demands of the latest agitation and set up a committee led by Justice Sandeep Shinde to help expedite the [issue of Kunbi certificates to all Marathas](#) so that they could benefit from reservations as part of the OBCs. But this has led to tensions with OBC leaders, including from the ruling coalition, demanding that the government scrap the committee. The need for a comprehensive socio-economic survey across States, instead of knee-jerk responses to agitations, is a must to evaluate the implementation of reservation, its outcomes, and to find out which group deserves it based on constitutional provisions. More importantly, with government jobs shrinking to a mere fraction of overall employment, reservations cannot be a panacea for the uplift of the poor among Marathas.

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