



Substantive equality

The Supreme Court decision rightly rejects the notion that quotas affect efficiency

The Supreme Court verdict upholding a Karnataka law to preserve the consequential seniority of Scheduled Caste/Scheduled Tribe candidates promoted on the basis of reservation is notable for being the first instance of quantifiable data being used to justify reservation. After a similar 2002 law was struck down on the ground that there was no data, as required by the judgment in *Nagaraj* (2006), the Karnataka government appointed a committee to collect data on the “backwardness” of SC/ST communities, the inadequacy of their representation in the services and the overall impact of reservation on the efficiency of the administration – parameters laid down in the 2006 verdict as constitutional limitations on the power to extend reservation in employment. Based on the report, the State enacted a fresh law, which has now been upheld on the ground that it is compliant with the *Nagaraj* formulation, as well as the clarification found in *Jarnail Singh* (2018). A key principle in this decision is that where reservation for SC/ST candidates is concerned, there is no need to demonstrate the ‘backwardness’ of the community. The other pre-requisites of a valid system – quantifiable data on the ‘inadequacy of representation’ for classes of people identified for reservation, and an assessment of the impact of such quota on the “efficiency of administration” – remain valid. Justice D.Y. Chandrachud’s judgment applies the rule emerging from *Jarnail Singh*, which decided that *Nagaraj* did not require reconsideration. At the same time, it held that *Nagaraj* was not right in insisting on data to justify the ‘backwardness’ of SC/ST communities, as it contradicted a nine-judge Bench decision in *Indra Sawhney* (1992).

The judgment places in perspective the historical and social justification for according reservation, rejecting the argument that quotas, by themselves, affect administrative “efficiency”. It says merit lies not only in performance but also in achieving goals such as promotion of equality, and that India’s transformative Constitution envisages not just a formal equality of opportunity but the achievement of substantive equality. It accepts the subjective satisfaction of the government in deciding the adequacy of representation, subject to the norm that there should be relevant material before it. One must also recognise the constant tension between legislative intent and judicial interpretation. Most judgments on affirmative action indicate that the courts are laying down constitutional limitations, lest the equality norm, a basic feature of the Constitution, be given the go-by. It is welcome that the backwardness of the SCs and STs no more needs to be demonstrated. Policy-makers should heed the appeal contained in the judgment: there is no antithesis between the concept of efficiency and the inclusion of diverse sections of society in the administration. While data on representation may be a requirement, the idea that reservation has an adverse effect on administration must be rejected.

Deal in danger

Time is running out for European signatories to the nuclear pact to address Iran’s concerns

Iran’s decision to reduce its commitments under the 2015 Joint Comprehensive Plan of Action, which sought to curtail its nuclear capabilities, is more of a warning than a move to break the nuclear deal. Iran has been under economic and political pressure since President Donald Trump pulled the U.S. out of the deal a year ago. The U.S. has since amped up its anti-Iran rhetoric and reimposed sanctions. While President Hassan Rouhani clinched the agreement in 2015 despite opposition from hardliners, his promise was that it would help lift sanctions, providing relief to Iran’s economy. But the economic benefits did not last even three years, weakening Mr. Rouhani’s position in Iran’s complex power dynamics. With the U.S. having ended the sanctions-waiver it had given to certain countries, including India, on purchasing Iranian oil, from the first week of May, the Iranian economy has come under more pressure. It is in this context that Mr. Rouhani announced the suspension of some of the restrictions in the deal.

Iran will immediately stop shipping out excess enriched uranium and heavy water. Mr. Rouhani has given 60 days to other signatories to find solutions to shield Iran’s banking and oil sectors from U.S. sanctions. In theory, excess enriched uranium and heavy water allow Iran to expand its nuclear programme, but it hasn’t announced any such plan. The big threat is that it will resume higher levels of enrichment to build weapons unless its grievances are addressed in 60 days. Iran’s response may appear to be calibrated. It hasn’t quit the deal as the U.S. did. And its concerns are genuine as it is being punished even as it is compliant with the terms of the agreement. But Iran’s move to put the remaining signatories on notice could be the start of the formal unravelling of the deal. European countries have been working on a mechanism, which is still in the initial stages, that allows Europe to trade with Iran through a barter system avoiding the dollar and circumventing sanctions. But it hasn’t covered oil trade, the mainstay of Iran’s economy. If Europe doesn’t do enough in 60 days and Iran sticks to its threat, the deal will collapse, giving more reason to the U.S. to escalate hostilities. It has, among other things, deployed an aircraft carrier and a bomber squad to the Gulf. A practical alternative would be for Iran to end this brinkmanship and deepen cooperation with other signatories instead of breaking the deal. Europe, on its part, should stand firmly up to the U.S.’s unilateral threats and pressure, and come up with ways to help Iran. A collapse of the deal would not only exacerbate the Iran nuclear crisis but also set a bad precedent in international diplomacy.

Of shells, companies and GDP

The government must put the MCA-21 data under scrutiny and bring transparency in calculating corporate output



R. NAGARAJ

About a third of non-government non-financial companies in the services sector are not traceable is the finding of a National Sample Survey Office (NSSO) survey for 2016-17 that has just been released. Since such entities could be shell/fake/bogus companies included in the MCA-21 database of “active” companies used for estimating the gross domestic product (GDP), the new finding could imply that private corporate sector GDP is being currently overestimated, denting the official growth narrative.

The background

In 2015, the Central Statistics Office (CSO) issued a new GDP series with 2011-12 as the base year, replacing the earlier series with the 2004-05 base-year as a routine matter. Usually, the revision leads to a slight expansion of the absolute GDP in the base year, but its growth rate does not change, implying that the underlying pace of economic expansion in the two series has remained the same. This time was different, however. The absolute GDP size – the sum of the value of all (unduplicated) goods and services produced in a year – got diminished slightly in the base year, and its growth rates went up subsequently.

Faced with public scrutiny and scepticism, the CSO defended the revision by claiming that it had followed the latest global template

(the System of National Accounts 2008), applying improved methodologies to a newer and larger data set; hence the new GDP was kosher. In a first, the new series estimated private corporate sector (PCS) GDP directly using the Ministry of Corporate Affairs’ (MCA) statutory filing of financial returns, MCA-21. Accounting for over a third of GDP, as the non-financial PCS now spans widely, the revision has affected the estimates of many industries and services. Hence the GDP debate has mostly centred on the PCS.

Since the MCA-21 database is much larger than those used earlier – like the Annual Survey of Industries (ASI) for manufacturing or the Reserve Bank of India sample of large companies for estimating corporate saving and investment) – the CSO claims the new GDP better captures the economy’s value addition, especially of smaller enterprises and services activities. Critics, however, wonder if it is a case of a better description or an overestimation.

Screening and setback

Though now contributing over a half of GDP, services sector output estimates are poorer, outside of the public sector and large private sector companies. To redress the shortcoming, the CSO is committed to launching an annual survey of services (on the lines of the ASI). As a first step, the NSSO carried out a survey of non-government and non-financial companies/establishments in 2016-17, using three list frames (or the universes of enterprises) to draw samples for the survey, the MCA sample being the largest. A 10% sample was drawn from the CSO’s universe of 3.5 lakh active non-financial companies.



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After due screening, at the survey stage, the NSSO, to its shock, found that 45% of the selected companies did not respond to the survey.

The NSSO report says, “About 45% of MCA units were found to be out-of-survey/causality.... Non-response of a large number of units was a major setback for this survey. This happened due to unit non-response, closure of the unit, unit found to be the one other than headquarter, unit out of coverage or unit non-traceable.”

To its dismay, the NSSO found the results to be so poor that it had to abandon the planned output of two-volume survey results, and instead settle for a brief technical report which was released recently. It candidly admitted the difficulties the NSSO faced in the survey: “Many units, particularly of the MCA list, were not identifiable due to lack of proper/adequate postal addresses. Therefore, many notices could not be delivered. A large number of out-of-coverage units was also found in the list. Affixing signatures on Schedule 2.35 for out-of-coverage units was time-consuming and difficult as owners were reluctant to sign. In many cases, it was found that the selected enterprises had not prepared the Annual Audit Report for 2015-16 or the balance sheets any time before.”

The inference could be that such companies are likely to be shell/fake/spurious entities that re-

main legally registered (but merely on paper), without actually producing goods and services.

Impact of estimation

What does this imply for GDP estimation? Apparently, quite a lot since they are part of the universe of active companies for which GDP is estimated. Though it may not be possible to show how much difference it would make to the GDP level and growth rate (in the absence of more information), the survey findings could bring down the growth estimates.

However, those knowledgeable have dismissed such an apprehension on two counts: one, shell companies add value to the economy, hence their deletion would underestimate GDP; two, as all active companies are said to submit their audited accounts at least once in three years, the contribution of shell companies is well captured in the MCA database.

Both arguments seem questionable. Shell companies, by definition, do not produce goods and services; they help the promoter/owner to hide profits or evade taxes/regulation. A dictionary meaning of a shell company is “a company existing as a legal entity but having no significant assets, independent business operations, etc., often owned or controlled by another company and used for various, often illegal purposes”.

The argument that all active companies under the MCA have filed statutory returns at least once during the last three years is a bureaucratic fiction. If it were true, there would be at least one year for which there would exist data for seven-eight lakh companies, which has never been the case. In reality for most years data are

available for around three lakh active companies, estimates for which are inflated (or multiplied) for the (fictitious) universe of about 10 lakh active companies. As the database is not made public and the methodological details are not adequately revealed, there is no way of verifying the veracity of the official estimates – an issue critics have flagged since 2015.

If the share of shell/fake/bogus companies in the universe of active companies in the MCA-21 database is as high as what is found in the NSSO’s services sector survey, then GDP estimates based on a more realistic list of working companies are likely to be smaller. Hence this could affect the corporate sector’s GDP level and its growth rate.

Case for scrutiny

In sum, the NSSO’s survey of active companies in the services sector discovered that 45% of them could not be traced or misclassified; hence they could represent or be shell/fake/bogus companies. The finding throws into sharp relief the poor quality of the MCA-21 data set, which has formed the backbone of the new GDP series. The NSSO survey results have added more questions about the beleaguered GDP series, strengthening doubts that have arisen from various aspects of the revision process. As a first step towards dispelling the growing distrust in the new GDP series, the government should put up the MCA-21 data for public scrutiny and lift the opacity of the methodology used in estimating corporate sector output.

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Playing the division card

The BJP’s electoral fortunes depend on its capacity to polarise the OBC vote



AJAY GUDAVARTHI

In the ongoing elections, the Congress’s electoral strategy continues to be based on its age-old Nehruvian strategy of ‘politics of accommodation’. In contrast the Bharatiya Janata Party (BJP)-Rashtriya Swayamsevak Sangh strategy thrives on the ‘politics of polarisation’. As has been evident in the last five years, social tensions amongst various social constituencies across caste, religion, and region have been brewing. These tensions have underpinned the political strategy of the BJP for 2019. It has mobilised support by polarising in order to delineate social differences and prejudices in social relations. As part of this strategy, there has been a sustained attempt to divide religious groups between Hindus and Muslims, to keep Kashmir as a point of reference, and with increased violence and political rhetoric to collapse the distinction between communalism and nationalism.

Sum of all tactics

With regard to caste groups, one has witnessed a sustained marginalisation of Dalits, beginning with

the death of Rohith Vemula in early 2016, attacks in Una, Gujarat, to attempts to dilute the Scheduled Castes and Tribes (Prevention of Atrocities) Act and well-laid out provisions for reservations. The attempt seemed to be to go to polls by consolidating the votes of caste Hindus and the Other Backward Classes (OBCs). The caste Hindu votes were sought to be secured on the basis of the proposed 10% reservations for the economically weak among the upper castes. Though small in number, consolidated voting of the upper castes would make a difference, though the BJP’s fortunes in 2019 depend on the OBCs.

Though the OBCs are a heterogeneous group internally divided across economic and social location, there has been a sustained movement of the OBCs to the fold of the BJP. This shift was somewhat consolidated with the ascent of Narendra Modi in 2014 and his rhetoric of belonging to a backward caste. This shift of the OBCs will continue to define in important ways the electoral prospects of major national and regional parties. In the 1980s, the OBCs consolidated behind various regional parties. After the 1990s, and post-Mandal, it is intriguing that the politics of social justice and the ‘second democratic upsurge’ inaugurated the OBC shift towards the BJP. It was also typified as a ‘secular upsurge’ as the OBC reservations had the potential to bring



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the Hindu-Muslim OBCs together by conjoining their interests and potential mobility.

The shift towards the BJP has to be understood in terms of the particularistic location of the OBCs in the caste order and the relative economic mobility they have enjoyed in the last three decades. The less dominant OBC castes today define the aspirational generation of India, marking mobility from rural to urban areas, and they constitute the bulk of the lower-middle classes in urban and peri-urban areas. In rural areas, with the sustained agrarian crisis, the farmers’ movement of the 1970s and 1980s got converted to OBC identity politics, putting emphasis on joining the formal education and employment sectors. The BJP holds a strong promise to such social constituencies through its rhetoric of ‘New India’, creation of jobs, rapid urbanisation and smart cities. After the economic reforms of the 1990s, the OBCs have benefited from greater inter-genera-

tional mobility; today, more than abject poverty, they perceive themselves to be vulnerable to slipping into poverty. Such a precarious location attracts them to the processes of corporatisation and the promise of new opportunities that a globalised economy offers.

Hindutva’s appeal

Further, in terms of their caste location, the OBCs never had a programme of moving out of the Hindu fold, unlike the Dalits. This becomes partly clear in the difference between Ram Manohar Lohia, who has come to symbolise OBC politics in the Hindi heartland, and B.R. Ambedkar. While Ambedkar was convinced that caste is inextricably linked to Hindu religion and conversion was the only way to emancipate Dalits, Lohia preferred a critique of caste-based discrimination but never linked it to a critique of the Hindu religion itself. The BJP’s robust Hindutva mobilisation that symbolises a celebration of Hindu identity offers it a ready entry-point to appeal to the OBCs, including in many of the southern States. It also signifies a local cultural idiom that was earlier articulated by parties such as the Samajwadi Party (SP) in its campaigns against English and introduction of computers. OBCs also become a ‘natural’ constituency for the BJP’s campaign to make Hindi the sole official language, which also al-

lows for the optics of an anti-elite political rhetoric.

In addition, the BJP has been at the forefront of the ‘movement’ to sub-divide the OBCs in order to provide representation to the more backward among the OBCs. The party had succeeded in doing this in Uttar Pradesh, one of the main reasons for its stupendous victory in the Assembly elections in 2017. This allows for more backward OBCs to come out of the yoke of patronage of dominant OBC communities such as Yadavs and Kurmis in U.P. and Bihar. The BJP has the unique advantage of providing more seats for individuals from the smaller and less dominant OBCs since it is a relatively younger party still expanding its leadership ranks in many States. Further, the BJP in its strategy of not offering seats to Muslims, unlike any other party, keeps more seats reserved for OBCs. Paradoxically, while the dominant OBCs such as the Yadavs moved to a socialist-brand of politics, other caste groups among the OBCs have moved towards a muscular Hindutva brand of politics.

The BJP’s electoral prospects depend on this new directionality of OBCs and how its strategy fares in the face of the Samajwadi Party-Bahujan Samaj Party alliance in Uttar Pradesh.

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LETTERS TO THE EDITOR

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The next five years

As the country heads towards the final phase of the general election, the fact is that India has never been as fractured as it is today along religious lines. This is horrendous. It is unfortunate that the ruling party has, in the past five years, not fostered a more all-inclusive model of democracy and economic development. The current elections are crucial for they are not merely about which party or Prime Minister will lead us now, but what India’s ethos in the coming decades will be. It is a tragedy that in a country such as India, economic issues have been relegated to the background. The lack of investment, unemployment, middle class woes, poor infrastructure and soft GDP data dished out by the government, to cite a few

examples, have not been debated. The focus now appears to be on building a personality cult. Perhaps a coalition government would be best for India, where no strongman or party can overload the country with its ideologies. Coalition governments may be slow and inefficient, but they would be more inclusive than any demagogue or megalomaniac leader or party. The country cannot afford another five years of a strongman’s rule with unilateral decisions. The country will fragment further.

RAJENDRA ANEJA,
Mumbai

IS claim

The Islamic State’s claim that it has established a “province” in India is not something to be taken lightly. It poses a major security threat. The world has already seen the

damage caused in Sri Lanka, which intelligence agencies say is linked to the IS. The government must be transparent and give us all the information necessary (Page 1, “IS claims it set up ‘province’ in India”, May 12).

C.A.C. MURUGAPPAN,
Kothamangalam, Tamil Nadu

■ The report is alarming. Muslims have been and are living in India harmoniously with people of other religions and desire to live in peace. Muslim-based political parties in India should spend their resources to expose the bad apples in the community. Causing grievous harm and hurt to others is not jihad. Absolutely not.

MOHAMMED IKRAMULLA,
Hyderabad

Court extension

The Supreme Court’s move to give the court-appointed mediation team time till

August 15 to resolve the much contentious Ayodhya title dispute is a prudent and signal act (Page 1, “Supreme Court extends Ayodhya mediation till August 15”, May 11). The step is likely to be resonant with the expectations and way of thinking of all peace-loving Indians. It is quite gratifying to learn that the panel has reported “progress” to the court in the ongoing talks. Let us hope the country is presented with an amicable and everlasting resolution by the next Independence Day.

C.G. KURIAKOSSE,
Kothamangalam, Kerala

Tea trend

It is refreshing that the ‘bhar chai’ tradition is still being followed in Kolkata. As a south Indian, I never got the opportunity to drink tea from an earthen cup; metal containers are preferred here. It is not just about the hard work of the potters. The cups are also eco-friendly

and must be popularised. (Magazine, ‘Cover story’, “The breaking story about chai”, May 12).

VIDHYA B. RAGUNATH,
Thanjavur, Tamil Nadu

Shuttered stands

It is a sad commentary that Chepauk missed hosting the IPL final, thanks to the bickering over piffles – stands ‘I’, ‘J’ and ‘K’. The Chennai cricketing crowds are among the most knowledgeable as they know the grammar of cricket better than crowds thronging stadia in other cities. Chennai-ites have again been robbed of their due (Chennai, “Pitch perfect, but three stands short”, May 12).

K. PRADEEP,
Chennai

There is goodness

In 1959, I was working in the railway divisional office at Madurai. I was living in a room and had almost all my meals from a well-known

hotel, College House. I always sat at a particular table and was waited upon by a particular server. One evening after work, I rushed to the hotel and had a sumptuous meal. It was only after I was presented with the bill that I realised I did not have my wallet. I began to tremble and imagine how I would be ridiculed by the manager in the presence of others. Noticing my visible state of discomfort, the server I knew asked me gently what the problem was. “Sir, don’t worry, I will pay the bill,” he said and rushed to the bill counter. I ran back to my room and retrieved my wallet before rushing back on the pretext of having another coffee. The touching look in the server’s eyes is still fresh in my memory (‘Open page’, May 12).

D. SETHURAMAN,
Chennai

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