



Toilet targets

The campaign to end open defecation can succeed only if it takes communities with it

India's declaration on the 150th birth anniversary of Mahatma Gandhi that its rural areas are now open defecation-free will be acknowledged around the world as a milestone in its developmental journey. Cleanliness and sanitation were central to Gandhi's concerns for his vast number of impoverished countrymen, and should ideally have been pursued zealously by governments in free India, along with good housing and access to clean water. In 2014, the NDA government made total sanitation a high priority, with the avowed goal of bridging decades of neglect through a policy focused on toilet construction. That 110 million toilets were built under this programme since then counts as an achievement in itself, even though many of these structures have been bootstrapped to ramshackle dwellings; many do not meet construction standards. Forward-looking as it is, the campaign for universal sanitation and an end to open defecation cannot go far if toilet access is the sole metric of success. One independent survey shows toilets are not used by up to half the population in some places, underscoring the challenge ahead. It is welcome, therefore, that an ODF-Plus programme has been adopted by the Ministry of Jal Shakti to encourage toilet use and create the infrastructure to manage solid and liquid waste in every village. This is a long road, and the Central government can hope to achieve sustainable outcomes only if it prioritises citizen rights and community participation. The campaign has erred in its approach in many instances, opting for coercive methods that produce dreadful consequences.

Development literature makes it clear that bringing one set of freedoms to people, including material benefits, cannot compensate for the loss of others, notably freedom from oppression. This bears mention in the context of Swachh Bharat Abhiyan and its efforts to end open defecation, since officials and campaigners have resorted to violence, public shaming and the threat of deprivation of welfare benefits to bring about compliance. Such methods must be ended immediately and voluntary participation encouraged. Of concern too is a possible resort to illegal manual scavenging, since many toilets built under the Swachh mission are not of the prescribed twin-pit design, and will need periodic evacuation. Despite widely reported cases, the Centre does not appear to be eager to eliminate manual waste removal through a war-like effort, under which all States will install sewage and sludge treatment plants. Neither are States keen to strictly enforce the law that makes the practice punishable. In the years ahead, making sanitation universal and sustainable will depend not just on toilets, but on providing decent urban and rural housing, and strengthening another key determinant of development – the right to a good education.

Aimless in Haryana

All that is wrong with the Congress comes to the fore ahead of the elections

The Congress party is in dire straits. Steamrolled by a ruthless adversary, the BJP, hollowed out ideologically, and its leaders systematically targeted by the government apparatus, this calamity should have brought everyone in the party together. But the opposite appears to be happening, as was evident in Wednesday's protest outside party president Sonia Gandhi's residence by supporters of Ashok Tanwar, the ousted chief of its Haryana State unit. The crisis in the party unit in Haryana, which is going to polls later this month, is largely self-inflicted. Mr. Tanwar, a Dalit leader with a doctorate, was hand-picked by former Congress president Rahul Gandhi to lead the Haryana unit. In the five years that he was president, there were no district and block-level committees as the AICC did not allow their formation, caving in to pressure from Bhupinder Hooda, a two-term Chief Minister between 2004 and 2014. On the eve of the Assembly poll, Mr. Tanwar was replaced with Kumari Selja, also a Dalit leader and close to Mr. Hooda. That a PCC chief who put in five years of efforts could be dismissed and his tormentors who brought the party to a standstill could be rewarded sent a dispiriting message to workers. Left out in the cold in seat selection, those who remained active in the last five years hit the streets in protest.

Mr. Hooda's triumphant return at the helm of Congress affairs in the State is also indicative of a lingering inability of the party to free itself from the clutches of an old guard and an old method of doing politics. The patronage network in Haryana that flourished during Congress rule enriched individuals but pauperised the party. Mr. Gandhi tried to shake up the party but his successes were limited partly due to his inadequacies and largely because of the old guard's tight grip. Unable to tackle the task, Mr. Gandhi threw in the towel after the 2019 election, and in disarray, the party returned to Ms. Gandhi. The old Congress way – taking the path of least resistance in governance, networking vested interests as organisation and remaining ambiguous on ideological questions – can no longer be a viable model for the party. It requires infusion of fresh ideas and fresh blood at all levels and that must be the focus of Ms. Gandhi's second innings. She must use her moral authority to persuade her close colleagues for the last two decades to voluntarily step aside. They have done their bit, but they cannot pull the party up from the current abyss. They should allow a younger crop to emerge, immature and inexperienced as they are, and mentor them with the larger interests of the party in mind. That is not a sufficient condition for a revival of Congress but is certainly an essential one. Ms. Gandhi must be the catalyst of that process, but not much more.

The brick and mortar of FDI 2.0

'List or trade in India' should be used as a strategic policy tool to enable Indians to become shareholders in MNCs

NARENDRA JADHAV, VIJAY KELKAR & UMESH KUDALKAR

Foreign Direct Investment (FDI 1.0) has been welcome in India irrespective of whether or not its equity structure includes Indian public shareholding. However, the world has undergone a structural change with the emergence of Internet Multi-national Companies (MNCs) such as Microsoft, Google, Facebook and Twitter that are based on 'winner-takes-all' platform business models. These firms are characterised essentially by inequitable dynamics, since they distribute most gains to themselves *vis-à-vis* their host countries. This situation demands a policy response.

Perhaps this is one of the reasons why China banned Internet MNCs. This led to China creating nine out of the 20 global Internet leaders. China strategically deploys a quid pro quo policy. MNC firms are mandated to transfer technology, share patents and enter into 50:50 joint ventures with Chinese partners in return for market access. Given our political system, India will obviously need to follow a new FDI 2.0 policy to achieve more desirable outcomes.

Rather than accepting the 'winner MNC takes it all' as fait accompli, FDI 2.0 should harmonise interests of all stakeholders including Indian consumers, the government and investors. FDI 2.0 could deploy 'List or Trade in India' as a strategic policy tool to enable Indian citizens become shareholders in MNCs such as Google, Facebook, Samsung, Huawei and others, thus capturing the 'upside' they create for their platforms and



companies. This is equitable to all, since Indian consumers contribute to the market value of MNCs.

In 1978, the Indian government adopted a policy that required equity dilution by 100% foreign-owned companies. This led to the 'Listing of MNCs', and many of which then provided handsome returns to both MNCs and Indian shareholders. It is estimated now that listing Indian subsidiaries of MNCs alone could add as much as ₹50 lakh crore to equity market capitalisation. This could make capital markets deeper and valuations more reasonable. 'List or Trade MNCs in India' could become a potent extension to 'Make in India' to disseminate prosperity. In contrast to 1978, the proposals we present here are based on incentives, more capital market-friendly and in line with the practices followed by Mexico, China, Bangladesh and other countries.

A road map for India

India could implement the following set of proposals: Proposal 1 (List in India): Majority (more than 51%) foreign-owned Indian-listed MNCs could be eligible to domestic company tax rate whereas un-

listed MNC subsidiaries could be subjected to a higher tax rate. Many countries such as Bangladesh, Vietnam and Thailand have used tax incentives to attract listing by MNCs.

Mexico is most successful in attracting cross listings. For example, AB InBev, Coca-Cola, Walmart and Citigroup are listed in Mexico. To ensure the success of this proposal, the government will need to reconsider the present policy of allowing 100% MNC-owned subsidiaries to compete with their listed Indian counterparts that erodes the value accruing to Indian shareholders.

Proposal 1, by itself, will not achieve the objective of increasing Indian participation in the fair value of Internet MNCs. This is because of complex issues in revenue booking that result in low profits in Indian subsidiaries. Hence, there is a need for additional initiative by way of proposal 2 to enable Indian investor participation in the ownership of parent MNCs' shares.

Proposal 2 ('Trade in India' i.e. U.S. dollar-denominated parent MNC Shares to be 'Admitted for Trading' on Indian bourses): In

Making political parties accountable

A Supreme Court judgment on non-governmental organisations throws light on the powers of an undiluted RTI



ANMOLAM & SHIVAM

Recently, the Supreme Court in *D.A.V. College Trust and Management Society Vs. Director of Public Instructions* held that non-governmental organisations which were substantially financed by the appropriate government fall within the ambit of 'public authority' under Section 2(h) of the Right to Information Act, 2005. Under this section of the RTI Act, 'public authority' means "any authority or body or institution of self-government established or constituted by or under the Constitution and included... any non-government organisation substantially financed directly or indirectly by funds provided by the appropriate government."

Wide ramifications

Owing to the reasoning given by the court, the judgment can potentially have wide ramifications in the discourse pertaining to the ambit of the RTI regime on national political parties.

In *D.A.V.*, the top court held that

'substantial' means a large portion which can be both, direct or indirect. It need not be a major portion or more than 50% as no strait-jacket formula can be resorted to in this regard. For instance, if land in a city is given free of cost or at a heavily subsidised rate to hospitals, educational institutions or other bodies, it can qualify as substantial financing. The court resorted to 'purposive' interpretation of the provisions by underscoring the need to focus on the larger objective of percolation of benefits of the statute to the masses.

In 2010, the Association for Democratic Reforms (ADR) filed an application under the RTI to all national parties, seeking information about the "10 maximum voluntary contributions" received by them in the past five years. None of the national political parties volunteered to disclose the information. Consequently, ADR and RTI activist Subhash Agarwal filed a petition with the Central Information Commission (CIC).

In 2013, a full bench of the CIC delivered a historic judgment by declaring that all national parties came under 'public authorities' and were within the purview of the RTI Act. Accordingly, they were directed to designate central public information officers (CPIOs) and the appellate authorities at



their headquarters within six weeks.

In 2013, 'The Right to Information (Amendment) Bill' was introduced in Parliament to keep political parties explicitly outside the purview of RTI that lapsed after the dissolution of the 15th Lok Sabha. Notwithstanding the binding value of the CIC's order under Section 19(7) of the Act, none of the six political parties complied with it. Quite interestingly, all the parties were absent from the hearing when the commission issued show-cause notices for non-compliance at the hearing.

Finally, in 2019, a PIL was filed in the Supreme Court seeking a declaration of political parties as 'public authority' and the matter is sub judice. Irrespective of the ideological differences among these political parties on almost all the issues under the sun, non-compliance of the RTI mandate has

this proposal, Indian investors could buy shares of parent MNCs (where global profits and value get consolidated). This can be permitted within the \$250,000 Liberalised Remittance Scheme (LRS) limit. Indian bourses could admit only S&P 500 stocks. The Mexican Stock Exchange allows trading of international shares listed in other stock exchanges. India could replicate such models.

Mirroring Mexico

For successful implementation of Proposal 2, the Indian government may need to facilitate following measures:

- Permit Indian bourses to implement international trading system on the lines of Mexico.
- Parent MNCs in S&P 500 with business interests in India could be mandated to facilitate trading of their shares in India. MNCs would readily agree as it does not envisage listing in India.
- For taxation purposes, no distinction should be made between transactions in comparable domestic and foreign securities.
- LRS implementation for buying foreign stocks in GIFT City/NSE/BSE could be simplified and work as single click functionality.
- Educate Indian investors about the value of diversification of their portfolio in international stocks for achieving better risk adjusted returns.
- The government could facilitate access to ultra-low cost (≈0.04%) S&P 500 Index Funds such as Admiral Shares (VFAX) and ETFs using Indian e-KYC. Indian MFs charge fees from 0.54% to 2%. They are at least 13 times more expensive.

For Proposal 2, one important issue that needs to be addressed pertains to U.S. Estate taxes. For Indian citizens, U.S. estate taxes @40% apply above portfolio value of \$60,000.

To mitigate this burden, the National Securities Depository Limited (NSDL) could design a sovereign trust for holding parent MNC stocks. The NSDL could then issue BharatShares to retail investors. Nominees of the government of India would get voting rights in parent MNCs. In addition, the government could make available a 'Fully Disclosed Model' for holding foreign stocks in line with our NSDL/Central Depository Services Ltd (CDSL) system. The prevalent 'Omnibus model' carries the risk of U.S broker default because investors' shares are held in the U.S broker's name. For this reason, it could also lead to higher tax liabilities in India.

Summing up, increasing Indian equity ownership of MNCs would offer diversification benefits and make Indians more prosperous. Wealth distribution through mutual funds would create a virtuous cycle of innovative ideas, entrepreneurship, employment, consumption, higher taxes, social and physical infrastructure for the benefit of Indian society. MNCs would earn the goodwill of Indian consumers while expanding their investor base. In other words, this is a win-win for all stakeholders.

Narendra Jadhav is a Member of the Rajya Sabha and a Trustee of the Pune International Centre. Vijay Kelkar and Umesh Kudalkar are the Vice-President and Visiting Fellow, respectively, of the Pune International Centre

been a great unifier.

Drawing an analogy between the Supreme Court's judgment on *D.A.V.* and the political parties' issue which is sub judice, it can be argued that national parties are 'substantially' financed by the Central government. The various concessions, such as allocation of land, accommodation, bungalows in the national and State capitals, tax exemption against income under Section 13A of the Income Tax Act, free air time on television and radio, etc. can easily satisfy the prerequisite of Section 2(h) of the RTI. If an entity gets substantial finance from the government, there is no reason why any citizen cannot ask for information to find out whether his/her money which has been given to the entity is being used for the requisite purpose or not.

On accountability

Applying the purposive rule of interpretation which is discernible from the preamble of the RTI Act, the ultimate aim is the creation of an 'informed' citizenry, containment of corruption and holding of government and its instrumentalities accountable to the governed. Under the anti-defection law, political parties can recommend disqualification of Members of the House in certain eventualities under the Tenth Schedule of the

Constitution.

The Law Commission opines that political parties are the lifeblood of our entire constitutional system. Political parties act as a conduit through which interests and issues of the people get represented in Parliament. Since elections are predominantly contested on party lines in our parliamentary democratic polity, the agenda of the potential government is set by them.

As noted by Dr. B.R. Ambedkar in his famous Constituent Assembly speech, "The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State...The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their policies." It is hoped that the top court will further the positive advances made in this direction. Since sunlight acts as the best disinfectant and our political parties tirelessly claim themselves to be apostles of honesty and integrity, it is expected that they would walk the talk.

Anmolam is a lawyer, running a non-profit organisation, BDLA.A.W. Shivam is a research scholar at the faculty of law, Delhi University

LETTERS TO THE EDITOR

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Sanitation claim

The announcement by the Prime Minister on sanitation cannot sound more hollow in the wake of the murders of two Dalit children last month for defecating in the open. Though the Prime Minister is perpetually trying to present a rosy picture of the nation in the international arena, the ground-level realities are quite otherwise (Page 1, "Prime Minister Modi declares country open defecation-free", October 3). There might be a significant increase in sanitation facilities, continued usage of toilets in rural areas but success depends on the availability of water as well as definite behavioural changes. That being so, ever-widening income inequalities made possible by government policies and the fact that disparity and untouchability are still prevalent show that the country has still a long way to go in achieving 'ODF' status. Mere proclamations might enthuse supporters

of the Central government, but saner minds understand that much remains to be accomplished.

G. B. SIVANANDAM, Coimbatore

■ The illegal and inhuman way in which the local administration, especially in some northern States, has gone ahead to fulfil targets "assigned from the top" has not only subverted constitutional values but also the principles of barest civic morality (OpEd, "Miles to go before becoming open defecation-free", October 3). It has been inevitable that those who are marginalised have been made to suffer in the fulfilment of this campaign. It is unfortunate that we are being sold lies and brutality in the name of celebrating a man known for upholding the values of truth and non-violence.

FIROZ AHMAD, New Delhi

■ The claim can be challenged. Though the government has undertaken the responsibility of building

toilets in rural and urban areas, the point is this: how many in a household use it? Toilets may have been built but if there are still people who prefer to defecate in the open, it shows the lack of change in behaviour and education about the importance of having a clean and healthy environment.

JAGYASINI BURMA, Cuttack, Odisha

■ Allocation and distribution of funds to building toilets are not enough. Monitoring is also a must. The government should review the list of beneficiaries and check whether there has been a change in behaviour. There may not be open defecation in surveillance areas. The fact is that a majority in rural India still lack proper toilet facilities.

SOBHANA P.S., Vandiperiyar, Idukki, Kerala

■ The government cannot ignore that fact that overcoming water problems, septic tank cleaning, stopping manual scavenging and faecal management are also an integral part of the

process of declaring India to be open defecation-free. There cannot be an announcement made with closed eyes for mere political gain and global attention. There needs to be an abolition of manual scavenging, the use of data, the use of robotics to clean faecal storage areas and a linkage with the Ayushman Bharat programme.

K. KESAVAN, Chennai

Discourse shift

Objectivity becomes a casualty when political commentary and economic analysis are scaffolded on ideological opposition (Editorial page, "Decoding the corporate-Hindutva alliance", October 3). The so-called "corporate-Hindutva alliance" appears to be an exaggerated caricature of two distinct developments that seem unrelated to each other. Corporate tax cuts are one-off short-term measures that are aimed at boosting private investments that can spur economic revival. True, whether corporate

beneficiaries of lower tax rates will invest the surplus in job-creating ventures remains to be seen. But to prognosticate a doomsday scenario of market contraction appears a needlessly pessimistic conjecture. Hyphenation of political projects such as nationalism and measures to stimulate the sluggish economy and labelling tax cuts as a transfer of resources from the poor to the rich bristle with conspiratorial undertones. Economic expertise will serve the nation if it is channelled towards suggesting proposals to revive the economy instead of frittering it away scoring political points.

V.N. MUKUNDARAJAN, Thiruvananthapuram

■ Though there is a reluctant acceptance of an economic slowdown, the issues are not acknowledged, not to speak of their being addressed. What is more worrying is the indifference of sections of the media towards the brewing crisis. Every other day, newer "ideas" are being

thrown up and operation-diversion keeps going on merrily. Fake news, false videos and concocted stories going 'viral' on social media appeal. If globalisation individualised society, right-wing nationalism is working overtime to fasten minds to a regressive ideology.

S.V. VENUGOPALAN, Chennai

NEET case

The manner in which the NEET impersonation case is unravelling speaks volumes about the extent of the slack in security arrangements at examination centres. Can this be treated merely as a security lapse or much more is the question that remains to be answered. It is, certainly a matter of shame that some have defeated the very objective and purpose of conducting such an examination. Such dreadful incidents only show that anything and everything is possible in India with money and money alone.

J. EDEN ALEXANDER, Thanjavur, Tamil Nadu

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