



A crippling shortage

Lower courts, performing critical functions, must not be bogged down by vacancies

The burgeoning docket burden that weighs down the judiciary is not because of its lumbering judicial processes alone, as it is often made out. The chronic shortage of judges and severe understaffing of the courts they preside over are significant reasons. More than a decade after the Supreme Court laid down guidelines in 2007 for making appointments in the lower judiciary within a set time frame, a similar issue is back before the highest court. The immediate context is the existence of more than 5,000 vacancies in the subordinate courts. A Bench headed by Chief Justice of India Ranjan Gogoi has pulled up State governments and the administration of various High Courts for the delay in filling these vacancies. Answers provided in the Rajya Sabha reveal that as on March 31, 2018, nearly a quarter of the total number of posts in the subordinate courts remained vacant. The court has put the actual figure at 5,133 out of 22,036 sanctioned posts. The State-wise figures are quite alarming, with Uttar Pradesh having a vacancy percentage of 42.18 and Bihar 37.23. Among the smaller States, Meghalaya has a vacancy level of 59.79%. The reasons are not difficult to guess: utter tardiness in the process of calling for applications, holding recruitment examinations and declaring the results, and, more significantly, finding the funds to pay and accommodate the newly appointed judges and magistrates. Besides, Public Service Commissions should recruit the staff to assist these judges, while State governments build courts or identify space for them.

According to the Constitution, district judges are appointed by the Governor in consultation with the High Court. Other subordinate judicial officers are appointed as per rules framed by the Governor in consultation with the High Court and the State Public Service Commission. In effect, the High Courts have a significant role to play. A smooth and time-bound process of making appointments would, therefore, require close coordination between the High Courts and the State Public Service Commissions. A study released last year by the Vidhi Centre for Legal Policy revealed that the recruitment cycle in most States far exceeded the time limit prescribed by the Supreme Court. This time limit is 153 days for a two-tier recruitment process and 273 days for a three-tier process. Most States took longer to appoint junior civil judges as well as district judges by direct recruitment. This situation demands a massive infusion of both manpower and resources. Subordinate courts perform the most critical judicial functions that affect the life of the common man: conducting trials, settling civil disputes, and implementing the bare bones of the law. Any failure to allocate the required human and financial resources may lead to the crippling of judicial work in the subordinate courts. It will also amount to letting down poor litigants and undertrials, who stand to suffer the most due to judicial delay.

Krishna will sing

AAI's capitulation raises worrying questions about why his concert was cancelled

TM. Krishna, a leading Carnatic vocalist, has previously commanded a full lawn in Delhi's chilly season tradition of classical music and dance performances in Nehru Park. His scheduled participation in a Spic Macay programme this weekend was always going to be a big draw. But in a move that should shock anybody concerned about the threats to free expression, the programme was abruptly cancelled, after its sponsor, the Airports Authority of India, suddenly bailed out. The public sector enterprise constituted by an Act of Parliament may have been the target of a sustained attack by trolls, angry with Mr. Krishna for being an outspoken critic of the Narendra Modi government. But rather than capitulate, it should have had the courage – and summoned up the necessary official support and protective cover – to ensure that the show was conducted. The AAI has said it has called off the show because of “some urgent engagements”, an explanation that has found few takers. For one, there was no attempt to clarify what these pressing engagements were. And for another, if the AAI had merely postponed the show as it suggested, why couldn't it have declared when the deferred programme would be held? The weak and incomplete explanation seemed to confirm that the AAI had surrendered to social media threats.

As a musician, Krishna has attempted to break barriers of orthodoxy, caste and class. For instance, the Magsaysay award came out strongly in favour of some Carnatic musicians who were targeted on social media for singing Christian compositions, declaring he would do the same and not give in to critics' diktats. He has also contested the structural rigidities of the Carnatic music world and attempted to take this art out of the hallowed halls and to more inclusive platforms. In his public talks and writing, he has drawn attention to the dangers posed by fundamentalism. The Delhi government has done well to step in and organise a concert of his at another venue on Saturday. In doing so, it has called out the AAI's capitulation to bigotry and called the bluff of those who threatened the show. At the same time, the staggering silence of those higher up – namely, those in political power at the Centre who exercise informal control over public sector enterprises – lends credence to speculation that the AAI may not have acted on its own. But even if it had, that such threats could result in the cancellation of a concert speaks poorly of the capacity of the Indian state to stand up in the face of intolerance and intimidation. The decision to hold Krishna's concert is not only about a musical performance but an assertion of the democratic ethos.

Getting the economy back on track

It is important to understand the myth and reality of the current economic situation in order to map the road ahead



SUBRAMANIAN SWAMY

Economics is a technical subject of interdependent variables and parameters, that allows for objective mathematical and statistical analysis. It is no more a single commodity demand-supply subject. Those in responsible positions who are ignorant of this fact end up trying to put a spin and gloss on reality, and thus get exposed soon as ridiculous, as we can see today in media debates.

Is it true then that the Indian economy is headed for a serious crisis? Yes, that is a reality. It is, however, a myth that any or every crisis necessarily means an imminent collapse of the economy. The Indian economy is not near a collapse yet.

The situation today in the Indian economy is therefore still retrievable and a turnaround can be commenced within three months if the government initiates “real” economic policy changes, as was done in 1991-96 during the tenures of Chandra Shekhar and P.V. Narasimha Rao as Prime Ministers.

Hence, no amount of quoting foreign agencies such as the International Monetary Fund, or international events in explanations will help address the crisis that is looming unless we initiate major economic reforms that are credible and incentive-driven for the people. We therefore need a reality check today.

A few basic facts

The reality of today can be assessed from the following facts. One, the growth rate of the economy with proper index number-

based GDP declined over the last two financial years. The annual rate for 2018-19 is for obvious reason not available, but my guess is the trend has not changed.

Two, household savings, which are the bulk of India's national investment, dropped from a high of 34% of GDP to about 24% of GDP in 2017. Non-household savings are about 5% of GDP. This decline happened even before demonetisation and the decline continues because of intrusive and sometime obnoxious tax measures. I consider the Goods and Services Tax (GST) a flop borrowed from the United Progressive Alliance (UPA) government. Despite my protest, it was introduced much as a carnival in Parliament, with gongs reverberating.

Three, non-performing assets of the public sector banks (PSBs) have also risen sharply, in fact at a rate of growth much higher than the rate of new advances of these banks, making many large PSBs financially unviable and likely to collapse. This could cause financial contagion in 2019 in all sectors.

Four, the Ministry of Finance has brutally cut allocations of the investments in infrastructure despite the urgent need for such infrastructure. The economy needs about \$1 trillion investment in infrastructure to render “Make in India” a reality, but the actual investment in sanctioned projects is valued even less in real terms than the amount invested in the pre-2014 years.

Five, the manufacturing sector, especially MSMEs (micro, small and medium enterprises) which provide the bulk of the employment for the skilled and semi-skilled in the labour force, has been growing at abysmally low rates of between 2% and 5%.

Six, India's agricultural products are among the cheapest in the world, and despite a low yield



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per hectare, we are not able to increase the yield to its potential maximum and at least double the production and export the agricultural products abroad commensurately. Consequently, agriculture, as the sector that is the largest employer of India's manpower, is grossly under-performing.

Seven, when crude oil prices had steeply fallen over the four years since 2014, and despite the dollar value of the rupee till mid-2018 having been steady at around Rs.65 per dollar, nevertheless both exports and imports simultaneously declined over 2014-17.

The current adversity

Now today in 2018, the Indian economy is facing a 180-degree adverse situation: a rise in the rupee-dollar rate to 75, and crude oil prices rising to \$85 per barrel, although they are lower now. This is causing a massive crunch for our foreign exchange reserves.

Thus the present possibility of an economic crash should galvanise us to review honestly the way we have governed and done the business of governing, and then rise to new heights with an appropriate change in policy, and thereafter achieve higher growth rates of 10%-plus annual growth in GDP, with structural changes.

The Union government also needs to give an alternative ideological thrust to economic policy

rather than try to improve on the failed economic policies of the UPA, as is currently being done. In particular, first, the individual has to be persuaded by the government by incentives – for example, by abolishing the income tax – and not by coercion, such as harsh levies and taxes. Of course, the state should make no promise to the people without specifying the sacrifice required to be made by them to make it happen.

Second, India can make rapid economic progress to become a developed country only through a globally competitive economy, which requires assured access to the markets and technological innovations of the U.S. and some of its allies such as Israel. This has concomitant political obligations which must be accepted as essential.

Since the growth rate in the GDP is calculated as equal to the rate of total investment (investment as a ratio of GDP) divided by the productivity coefficient of capital (called “capital-output” ratio which decreases with increasing productivity and vice versa), a fall in the rate of investment and/or a rise in capital output ratio means a decline in the growth rate in GDP.

Thus if the rate of investment is 39% and the productivity ratio is 3.9, then the GDP growth rate is 39 divided by 3.9, which equals 10%. Thus higher the productivity in the use of capital (same as lower capital output ratio), higher is the GDP growth for the same level of investment – and vice versa.

The decline in the level of household savings thus had caused a sharp decline in the GDP growth rate. It is imperative therefore that to accelerate the GDP growth rate, government policy should be to incentivise the saving habit to increase the savings rate to 35% of the GDP.

To seriously address these priority problems, it is essential to

implement a new menu of measures: (a) dramatic incentives for the household expectation and sentiment to save; and (b) lowering the cost of capital via reducing the prime lending interest rates of banks to 9%, by shifting to a fixed exchange rate regime of Rs.50 per dollar for the financial year 2019 and then gradually lowering the exchange rate for subsequent years.

Cause for optimism

On a positive note, we should bear in mind that in the last 71 years, India has always come out successfully in all crises – once this is acknowledged as such by policy makers, it can then be dealt with squarely with reforms that incentivise the people. On each occasion, such as the food crisis of 1965, the foreign exchange crisis of 1990-91, thereafter growth renewed on to a higher accelerating path.

A recent biography of Narasimha Rao by Vinay Sitapati shows how as Prime Minister, Rao relied on my blueprints prepared for reform led to economic reforms moving away from Soviet socialism to the market system and led to doubling the GDP growth rate rising from the socialist 3.5% annual rate of four decades (1950 to 1990) to the market fuelled 8.5% annual rate.

The Indian economy, however, needs to grow at 10%-plus per year for the next 10 years to achieve full employment and for India's GDP to overtake China's GDP and pave the way to form a global economic triumvirate with the U.S. and China.

We can no more be satisfied with 7-9% growth rate if we want to become an economically developed country by 2040.

Subramanian Swamy, a Rajya Sabha MP, is a former Professor of Economics and Union Cabinet Minister of Commerce

Unnecessary, destabilising and expensive

The pursuit of nuclear-armed submarines reflects a security assessment that is becoming increasingly irrelevant



SUVRAT RAJU

On November 5, Prime Minister Narendra Modi announced that India's first indigenous ballistic-missile armed nuclear submarine (SSBN), Arihant, had “successfully completed its first deterrence patrol” and claimed that this “accomplishment” would “always be remembered in our history”. However, he failed to address some fundamental questions: why does India need such a submarine? And, are the enormous resources spent on the nuclear-submarine programme justified?

A nuclear submarine is fuelled by an onboard nuclear reactor, which allows it to operate underwater for long periods of time. In contrast, a conventional diesel submarine uses batteries to operate underwater, but is forced to surface periodically to recharge its batteries using diesel-combustion engines that require oxygen. SSBNs were first deployed during the Cold War and justified as a tool of last resort. If an adversary were to launch a devastating first-strike on a country, destroying its land-based missiles and paralysing its air force, the submarine – undetected at sea – could still deliver a

counter-strike, assuring the “mutual destruction” of both countries.

Indian context

However, this strategic function makes little sense in the modern Indian context. There is no realistic threat, which the Arihant could counter, that could wipe out India's existing nuclear deterrent. The range of the missiles carried by the Arihant is about 750 km, and so it can only target Pakistan and perhaps China.

The Pakistan government has threatened to use “tactical nuclear weapons” to counter India's cold-start doctrine that envisions a limited invasion of Pakistan. However, these are relatively small nuclear weapons that could devastate a battlefield but would not affect the Indian military's ability to launch a counter-strike using its existing land or air-based forces.

China has consistently pledged, for more than 50 years, that it will never be the first to use nuclear weapons in a conflict. Even if China were to suddenly change its policy, any attempt to disable India's nuclear weapons would be fraught with unacceptable risks regardless of whether India possesses SSBNs. Even the United States, which maintains such a large nuclear stockpile, is unwilling to militarily engage a limited nuclear power such as North Korea since it understands that it cannot reliably disable Pyongyang's land-based deterrent.



K.R. DEEPAK

Much of the rest of the world has moved to outlaw nuclear weapons. Last year, 122 nations voted in favour of the “Treaty on the Prohibition of Nuclear Weapons”. The Indian government skipped these negotiations claiming, nevertheless, that it was “committed to universal... nuclear disarmament”. So the government's active pursuit of nuclear-armed submarines undermines India's stated international position and reflects a security assessment that is becoming increasingly irrelevant.

Some risks

In fact, nuclear-armed submarines increase the risks of an accidental conflict. Traditionally, nuclear weapons in India have been kept under civilian control, and separate from their delivery systems. However, the crew of a nuclear-armed submarine will have both the custody of nuclear weapons and the ability to launch them at short notice. Even though reports suggest that nuclear weapons on Indian SSBNs will be safeguarded by electronic switches, called

“permissive action links”, such a setup can dangerously weaken the civilian command-and-control structure, as declassified documents from the Cuban missile crisis show.

During the crisis, U.S. warships recklessly attacked a Soviet submarine with practice depth charges to force it to surface. The captain of the submarine, which had been sailing under difficult conditions and was out of radio contact with the Soviet leadership, thought that war had broken out and decided to respond with nuclear torpedoes. It was only the sober intervention of another senior officer on the submarine, Vasili Arkhipov, that prevented the outbreak of large-scale nuclear hostilities. For his actions, which averted a civilisation-threatening event, Arkhipov was posthumously awarded the “Future of Life” award last year.

Prohibitive costs

Given its uncertain, and even adverse, impact on the country's security, it is especially important to examine the costs of the SSBN programme. Media reports suggest that the Indian Navy would eventually like about four SSBNs. The government has not released precise figures, but the international experience can be used to estimate the costs of such a fleet.

The British government recently estimated that the cost of four new SSBNs would be £31 billion, or about ₹70,000 crore per subma-

rine. This is similar to the U.S. Navy's estimate of the cost of a new “Columbia-class” SSBN. The lifetime costs of operating such submarines are even larger than these initial costs; British and American estimates suggest that each SSBN requires between ₹2,000 crore and ₹5,000 crore in annual operational costs.

The Indian submarines will be smaller, and perhaps cheaper. However, even if their costs are only half as large as the lower end of the British and American estimates, the total cost of maintaining a fleet of four SSBNs, over a 40-year life cycle, will be at least ₹3 lakh crore.

It is senseless to spend this money on nuclear submarines when thousands of lives are lost each year because the state pleads that it lacks resources for basic health care and nutrition. It seems appropriate to revisit the words of Sardar Patel, who is held in high esteem by the current dispensation. Patel was hardly a pacifist but he was alive to the issue of wasteful military expenditure. “We must not... be frightened by the bogey of foreign designs upon India,” Patel explained in his presidential address to the 1931 Karachi Congress, or allow it to be used to turn the army into an “octopus we are daily bleeding to support”.

Suvarat Raju, a theoretical physicist associated with the Coalition for Nuclear Disarmament and Peace, is based in Bengaluru. The views expressed are personal

LETTERS TO THE EDITOR

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Pillar of judiciary

Events in Sri Lanka are a clear-cut case where the President abused his powers and threw constitutional provisions to the wind. It was the Supreme Court that showed the way out. Worldwide, it is the judiciary that is saving democracy. In India, a changes which ought to have been enacted by Parliament have been facilitated by the Supreme Court. In the U.S., President Trump's moves against migrants are being challenged in court. The judiciary remains the last resort of hope.

T. ANAND RAJ,
Chennai

Delicate balance

The doctrine of separation of powers between the

three wings, viz. the executive, the legislature and the judiciary, suffers when the Supreme Court gets into areas reserved for the executive and the legislature (OpEd page, “Single File, “When Judges legislate”, November 16). In 2016, former President Pranab Mukherjee cautioned the judiciary against pushing the boundaries of judicial activism. It is a fact that the Supreme Court has an enviable record of protecting the basic structure of the Constitution and enlarging the scope of the right to life. But if the court attempts to expand its area of jurisdiction to cover cases such as Rafale, Sabarimala or pollution in the Ganga, is it not a case of judicial

overreach? The Supreme Court is for the common man and should be easily accessible to him to redress his grievances. But with 58,000 cases pending in the top court, and 30% of the cases not being taken up for the last five years, should the court be busy with cases that do not come within its jurisdiction?

KANGAYAM R. NARASIMHAN,
Chennai

On Sabarimala

T.M. Krishna may have the freedom of expression but he has conveniently forgotten the fact that the concept of god itself is based on individual faith and so too are the rituals connected with the worship of various gods in various temples (Editorial page, “Sabarimala, and the quest

for equality”, November 16). In Kerala, women voters outnumber male voters and it is natural to conclude that the LDF government came to power largely on the choice exercised by women. Now, most of these women have expressed their view that they are not for any change in the existing rituals that do not allow the entry of women aged between 10 and 50 years. Many have also expressed their view in public to assert their solidarity in existing rituals. Perhaps the top court should take the view of this majority also while hearing the review petitions. Allow rituals to continue until there is a uniform civil code for equality.

P. MOHANAN,
Chennai

Cold feet

The report of the Airports Authority of India pulling out of Ramon Magsaysay award winner T. M. Krishna's concert after criticism by “right-wing trolls” raises serious concerns about how committed we are to democracy and the freedom of speech. It is an unhealthy sign if an artist, who has been widely praised for his art form, is humiliated only because he has a different view than that of the establishment. It is a blow against liberty and plurality, on which Indian democracy is based.

JYOTISANKAR MISHRA,
Bhubaneswar

Save the tiger

The issue of man-tiger conflict, especially the case

involving the tigress Avni, has been in the news for more than a year. What was destined has happened as per the law. But the controversy has been detrimental to wildlife management. With the loss of a “dangerous tiger”, there is no loss for tiger conservation, but if the cooperation of rural peoples is lost there will be dangers posed to tigers across India. The controversy should be buried and measures taken to improve the carrying capacity of tiger habitats in terms of herbivores – the prey base of tigers – on top priority, so that man-animal conflicts will gradually end.

B.M.T. RAJEEV,
Bengaluru

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