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Step Up Now

Government should take three mutually reinforcing measures to revive economic growth

TOI Editorials

There have been big shocks to the economy over the last four years: demonetisation, transition to GST, pandemic induced lockdowns. A fallout has been arrested economic momentum since the beginning of 2018-19. The lockdowns have led to a dramatic 23.9% plunge in GDP in the April-June quarter. The uneven lifting of restrictions across India has improved things. However, it is unlikely we will see a quick recovery. Not only did the restrictions strike an already stressed economy, the pandemic's cross-country impact has removed a potential source of early recovery.

This leaves the government as the only player in the game with the potential to catalyse a reversal. Its first reaction was to blunt the impact of Covid-19 and the lockdown through food relief and cash transfers, among other measures. On its part, RBI unveiled a package of liquidity measures meant to lower interest rates and ensure availability of credit. This will have only a limited impact in the current context. Who wants to borrow with uncertainty clouding the future? Also, won't banks that haven't yet fully recovered from the last round of bad loans remain risk averse?

There are three separate but mutually reinforcing measures which the government can take to remedy the situation. All things considered, there's a strong case for another round of cash transfers. A headline fall of 23.9% in GDP signals that the hit has been worse for the informal sector. Farm households too depend significantly on non-farm income. Separately, the government needs to follow through on the reforms it announced earlier, particularly those which deal with factors of production such as labour and land. However, by themselves these measures will not be adequate to change things enough.

The most powerful tool which the government can use in the current context is to step up public investment. Research shows that public investment plays a role in drawing private investment. Handing out of contracts activates the job market and puts income in the hands of people. It will also eventually sync with RBI's liquidity measures and crowd in private investment. Unlike private firms and households, the government doesn't face the same degree of constraints when it comes to borrowing. This is not the time to quibble over debt. Economic growth is indispensable. India has to literally grow its way out of its problems. For that, the government has to step up now.

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Question & Answer

PM is right, Parliament has a special responsibility — but that responsibility is not just what the PM says it is.

Editorial

Before the start of the truncated Monsoon session of Parliament, Prime Minister Narendra Modi said "this Parliament, particularly this session, has a special responsibility". The PM is absolutely right, this Parliament does have a greater task — but that task and responsibility is not just what the PM says it is, "… to send out a unanimous message that the entire country stands behind its armed forces… with one voice". It goes beyond that. Even as Parliament closes ranks behind the armed forces on the front, fighting to protect India's territorial integrity, the House must open its doors wider to debate and discussion on important issues that confront this country, including the face-off with China, and to questions that seek to hold the government to account. In fact, it could even be said that the special task of this session of Parliament, held amid hostilities on the border and a public health emergency, is to ensure that spaces for disagreement and diversity and difference, and for the thrust and parry of politics, are not cramped and constricted by the invocation of the figure of the soldier and the accompanying calls for submission and silence, or by demands of undue deference to the pandemic. In a crisis, especially in a crisis, it is essential for Parliament to talk things out loudly and freely.

On Day 2 of the session, Union Defence Minister Rajnath Singh made a statement in Parliament on the situation in Ladakh. He applauded the armed forces for their patience and resolve, their courage and valour, and said that India is prepared to deal with all contingencies. But there is much more to be asked and answered, and the issue's sensitivity must not become a cloak or a pretext to ward off questions. The people's representatives owe it to the people to seek information, and to deepen deliberation on a consequential matter. Indeed, there is an important tradition of all-party meetings where the government addresses the Opposition's questions, especially on issues of diplomacy and national security. Even apart from China, there are discussions that must not be delayed on the economy, which was already slowing down and is now weighed down by a record contraction, a surging viral load and destruction of demand. The absence of safety nets for migrants, who fled back home because they lost their livelihoods in the lockdown, and who are slowly making their way back to the cities again, needs to be addressed by Parliament, as also the continuing spread of the pandemic and the need for a response to it.

These are not happy times for legislatures in general. The world over, the outbreak of COVID-19 is strengthening executive power and weakening countervailing institutions and checks and balances. In a time like this, more so when Question Hour has also fallen victim to the virus, Parliament needs to safeguard its argumentative and deliberative spaces against all efforts to curb or still them, in the name of patriotism or the pandemic. Through the mask and across the distance, the Opposition has to make itself heard — and has to be heard.

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A Narrative Of Distrust

Judiciary is being disparaged for personal and political gain

Hitesh Jain , [The writer is a senior lawyer based in Mumbai and managing partner, Parinam Law Associates]

Judicial independence goes hand in hand with judicial accountability. However, some have confused judicial independence with the proclivity to strike down legislation or executive action in a cavalier fashion. The job of the judiciary is to be accountable by dispensing justice. But some self-anointed people feel the judiciary should be accountable by playing to the galleries. This is understandable, given how they were disappointed with the nation's rejection of a listless political opposition. This does, though, raise questions on the logic behind their covert demand for a remote control on the judiciary.

The people of India have believed that the venerable judges objectively dispense justice. Now, there is an ongoing attempt to browbeat the judiciary manifesting itself in the uncalled-for attacks on the Supreme Court.

There are multiple recent examples to demonstrate how the judiciary has stood contrary to the government of the day. Be it the striking down of the National Judicial Appointments Commission (NJAC) or the Goa mining case, the Supreme Court gave verdicts that cannot be deemed as favourable to the government. Similarly, in the Aadhaar case, although the Supreme Court upheld its constitutional validity, the judgment went against the government's policy objective of stemming leakage, while affecting the then-nascent fintech industry. The Supreme Court also struck down the Reserve Bank of India's framework resolution plan for debt recovery that was proposed to ease the pains related to stranded assets.

Some people have expressed their grief at certain Supreme Court judgments or the lack of appointment of judges of their choice despite the government having a very limited role in such appointments. Moreover, we have certainly not witnessed an aggressive government, as we did during the dark days of the Emergency. It would be a travesty if anyone denies that during the Emergency, all bail applications were rejected by the courts, despite their awareness of the falsehood of those cases. That is a classic example of when the courts abdicated their role in enforcing rule of law.

The judiciary has surprisingly been accused of being overly aggressive against a certain political dispensation when it was in power. Observing the rule of law and calling out illegality is not bias. The quashing of a Central Vigilance Commissioner (CVC) appointment was not a political decision — it was a result of procedural illegalities surrounding the act in question. Similarly, quashing the spectrum allocation or striking down the allocation of coal mines was an act of calling out the loot of India's resources.

Those making deprecating comments about the judiciary should realise that an independent judiciary is a basic feature of our Constitution. It is the guardian and protector of our fundamental rights, a role which, barring some exceptions, it has performed with courage and vision. Issuing threats such as impeachment for deemed "misbehaviour" is a serious matter and not to be used so casually, as it can adversely impact

the judiciary by questioning the trust of the nation in the institution. Therefore, imputing motives to judges for their decisions, or referring to their caste, or saying that the judiciary was subservient to the government or toeing a party line, cannot be construed as legitimate criticism. Seeking recusals on-demand as seen in the Judge Loya case or on the PIL on Assam's detention centres are prime examples of wanton politics for ulterior motives and creating doubt where none exists.

One must be able to distinguish between a narrative of distrust being peddled for personal and political gains from reality. The Supreme Court is not a political organ of the state. It is not the duty of the Court to appease the aspirations of political proxies and under no circumstances can retributive attacks on its integrity and independence be condoned. To attack the independence of the Supreme Court and to continuously attack its authority is the true unravelling of the rule of the law. Moreover, lawyers and politicians seeking to cast aspersions on the independence of the judiciary ought to remember that the Supreme Court is not a vessel to navigate the seas of their personal ambitions.

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A constant irritant to power

In 'Kesavananda Bharati' case, Supreme Court redefined the relationship between judiciary, executive and legislature. And set limits — constitutional dismemberment is not allowed in the name of amendment.

Upendra Baxi, [The writer is professor of law, University of Warwick, and former vice chancellor of Universities of South Gujarat and Delhi]

Not many who speak, write, or think about religion and law recognise how religious institutions have affected the law and shaped interpretation in enduring ways. His Holiness Swami Kesavananda Bharati Sripadagalvaru, then a senior head of Edneer Mutt in Kasaragod district Kerala, made possible the landmark decision of the Supreme Court (though other petitions were also bunched together). I call the judgment the second most important text after the Constitution of India.

The mutt is believed to have been established by Thotakacharya, among the first four disciples of Adi Shankara. It blossomed under his leadership. No mukadamabaz himself, Kesavananda Bharati protested the validity of the 29th amendment which immunised, in the Ninth Schedule, Kerala's takeover of the mutt's property. The seer lost the battle but won the war because the amending power was made subject to the basic structure.

The legendary barrister, M K Nambiar, a native of Kasaragod, and father of K K Venugopal, now the Attorney General of India, persuaded Kesavananda Bharati to consult Nani Palkhivala, who then urged before the Supreme Court that the seer's rights to religious freedom, equality, and property were violated. The seer later described the verdict as "God's decision" — it was so to many people of faith. The seer passed away on September 6.

A hearing for 68 days by the full court of 13 justices yielded 11 separate opinions commonly grouped together as Sikri 6 (subjecting Article 368's amending power to the implied limitation) and Ray 6

(conceding all plenary powers of amendment including repeal of the Constitution). This made the task of ratio hunters difficult and they were not enabled by the heroic Justice H R Khanna. Still, the basic structure and essential features (BSEF) govern now the political and juristic destiny of Indian constitutional development.

Theological fervour animates the BSEF discourse. Justice Y V Chandrachud, while upholding the absolute amending power, had to invent a resounding judicial curse: "We have given you vast powers for the welfare of the country, but woe betide you if you misuse these powers". And Justice S N Dwivedi spoke of the "reverence for the Constitution" as a public virtue. In the assembly dissolution case, Justice P K Goswami described the Supreme Court as the "last resort for the oppressed and the bewildered" citizens of India. Kesavananda, and its progeny, has yet to be visited as constitutional secular theology of law.

As the chief survivor of Kesavananda, and also as the longest-serving CJI, Justice Y V Chandrachud developed the doctrine in chiselled prose and with the strict discipline of a constitutional soldier. Cases like Raj Narain, Waman Rao, Minerva Mills mark the pilgrim's progress to the shrine of basic structure. Boldly questioning Parliament's plenary power to accord primacy to all Directive Principles over Articles 14 and 19, Justice Chandrachud said in Minerva that an eternal deferral of constitutional promises invites "a lurking danger that people will work out their destiny". He poignantly added: "Words bandied about in marbled halls say much but fail to achieve as much."

In Waman Rao, he performed a constitutional miracle by validating all amendments retrospectively and achieved this feat by invoking the BSEF doctrine. Closely read, the discourse in, and since Kesavananda, insists that basic structure is the power of judicial review and essential features are what the Court identifies as such in exercise of that power. For example, Justice Bhagwati remarkably enunciated as an essential feature the "harmony" between fundamental rights and directive principles. Similarly, Parliament amended Part III — deleted the right to property under Article 31 and demoted it to the status of mere constitutional right. The crucial message though is that the apex court has, in the rarest of rare cases, the constituent power to pronounce a constitutional amendment invalid.

This scarcely means that the Supreme Court may exercise its power just as it pleases. The Court is bound by the "golden triangle" of rights created by Articles 14, 19, and 21 of the Constitution. Further, the Court must derive the "spirit" of the Constitution by scrupulous and meticulous reference to the provisions of the Constitution. Since l973, the evidence shows the Apex Court has shown utmost democratic responsibility and rectitude in interpreting the doctrine of BSEF, perhaps more than can be said of other branches of co-governance.

The spirit of the Constitution is a vexed question. But my favourite passage is Para 399 in Raila Amolo Odinga (2017), where Chief Justice David Kenai Maraga of Kenya's Supreme Court has probably said the last word. In nullifying President Uhuru Kenyatta's election for a second term (while also giving 50 days to plan and hold free and fair re-election, whose results in the incumbent's favour were later upheld), Justice Maraga said: "However burdensome, let the majesty of the Constitution reverberate across the lengths and breadths of our motherland; let it bubble from our rivers and oceans; let it boomerang from our hills and mountains; let it serenade our households from the trees; let it sprout from our institutions of learning; let it toll from our sanctums of prayer; and to those, who bear the responsibility of leadership, let it be a constant irritant."

The seer would have agreed. The ultimate message of BSEF doctrine is not merely to set limits to the power of the managers of people, but to make little by little the tasks of emancipation less onerous. The

BSEF does not betoken any arrogant judicial overreach or sovereign judicial despotism as the Court has not obstructed the tasks of just development and governance. It has shown considerable accommodation for executive and legislative power. But to be a "constant irritant" to untrammelled power is the very essence of judicial duty. The BSEF rules that constitutional dismemberment is not allowed in the name of an amendment. Permissible remains the enhancement of the arcs and arts of governance, but if only exposed to the "constant irritant" of constitutional good governance. Truly a "God's decision", as the seer said.

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The impossible trilemma

With high inflation, capital inflows, currency appreciation, tough decisions are needed

Rajeswari Sengupta, [The writer is assistant professor, Indira Gandhi Institute of Development Research]

In a recently released report, the Reserve Bank of India mentioned that an appreciating currency will help contain imported inflationary pressures. This has given rise to a fervent debate as to whether the RBI is no longer able to handle the Impossible Trilemma. The Impossible Trilemma, an important paradigm of open economy macroeconomics, asserts that a country may not be able to stabilise the exchange rate, and conduct an independent monetary policy when it is financially integrated with the rest of the world.

Policymakers in all sophisticated economies face this trilemma, forcing them to make choices about which targets they are going to pursue. The RBI has tried to avoid these choices: It has tried to pursue all three objectives simultaneously in an especially aggressive manner since the pandemic struck. It has reduced its policy interest rate to negative levels in real terms. It has bought government securities to push down long-term interest rates. It has allowed large capital inflows, then intervened in the foreign exchange market to prevent the appreciation of the rupee. These actions are incompatible, and will eventually generate a serious policy dilemma.

One of the corners of the trilemma has to do with capital inflows. In the first few months of the pandemic and the associated lockdown, the Indian economy witnessed a net outflow of foreign portfolio investment (FPI). However, this trend has reversed in recent months, as policymakers in the developed world have

adopted stimulative measures to revive their economies, creating excess liquidity in global financial markets.

Between June and August, Indian capital markets received a net FPI inflow of close to $10 billion as foreign investors returned to the stock market. In September so far, for the first time in the last six months, inflows into the debt market have turned positive. India also received close to $17 billion of foreign direct investment (FDI) during April-July. Capital has also been flowing to India in the form of external commercial borrowing (ECB) by Indian corporations.

At the same time, the combination of weak economic growth, lacklustre domestic demand, and low oil prices have shifted the current account balance from deficit into surplus. Imports have fallen more than exports suggesting that India is doing worse than its trading partners. These factors have changed the balance of supply and demand in the foreign exchange markets as a result of which the currency has begun to face appreciation pressures against the dollar.

This brings us to another corner of the trilemma — currency stability. In the face of rising appreciation pressure, the RBI has been actively intervening in the foreign exchange markets to prevent the rupee from strengthening further. It has been buying dollars both in the spot and in the forward markets. In May and June, RBI's net dollar purchase in the spot market was to the tune of $14.4 billion. In June, its net purchase in the forward market was more than $4 billion. As a result of the RBI's currency trading, India's foreign exchange reserves have increased by around $80 billion since January, to reach an all-time high of $540 billion.

When the RBI buys dollars in the FX market, it sells rupees. This increases the domestic money supply and is therefore inflationary. In order to counter this inflationary pressure that is being generated by RBI's FX interventions, the central bank will ideally sterilise its interventions. This entails the RBI selling government bonds to banks and in the process absorbing excess rupee liquidity from the system.

But the RBI has not been absorbing the liquidity created through dollar purchases, it has been adding to it by buying government securities through its open market operations and targeted liquidity injection programs such as the T-LTRO. In the last couple of months, some of these operations have been neutral, such as the Operation Twist programme wherein the RBI buys long-term government securities and sells short-term bonds in order to lower the yields on the longer end of the maturity spectrum. But in total, the net bond purchase by the RBI has been positive. This implies that instead of sterilising its FX operations, the RBI is adding further liquidity into the system through its bond market interventions. As a result, liquidity has soared, reaching as much as Rs 8 trillion at one point.

For the moment, this injection of liquidity may not get readily converted into broad money because the growth of credit to the private sector has been weak, depressing the money multiplier. But if the RBI continues to ignore the Impossible trilemma, it will eventually fail. There are two main ways this could happen: It might need to give up on its exchange rate objective, as the recently released report hints. Or it might need to give up on its inflation objective.

Both would be problematic. Exchange rate appreciation will further damage the already hard-hit export sector. But allowing high inflation is even more of a problem in a country where the RBI has committed to the public not to allow a repeat of what happened after the last global financial crisis, when inflation soared to double digits.

Already, the constraints of the trilemma have tightened. Retail inflation has now breached the upper limit of 6 per cent for more than three quarters. Core inflation has been rising and inflation expectations have jumped sharply. And while credit to the private sector remains depressed, credit to the government has been strong, implying that overall broad money is growing rapidly. The time for difficult decisions seems to be approaching.

THE HINDU

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Parliament and its panels

There is a need to rethink the tenurial prescription for reconstitution of Department-related Standing Committees

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The Department-related Parliamentary Standing Committees have a so-called tenure of one year. There was speculation in the media that the Chairman of the Rajya Sabha, M. Venkaiah Naidu, is keen on amending the rules to give them a fixed tenure of two years. However, since these are joint committees of the two Houses of Parliament, the Speaker of the Lok Sabha also has to concur.

What the rules say

According to sub-rule (4) of Rule 331D of the Lok Sabha Rules and sub-rule (3) of Rule 269 of the Rajya Sabha Rules, the term of office of the "members" of the committees shall not exceed one year. Thus, it is the term of office of the members and not that of the committees per se that is one year.

This tenurial issue has to be looked at against the backdrop of the fact that the Rajya Sabha itself undergoes partial biennial renewal, since one-third of its members retire every two years by virtue of clause (1) of Article 83 of the Constitution. As far as the Lok Sabha is concerned, it has a fixed tenure of five years, unless sooner dissolved. Given these facts, Mr. Naidu's suggestion is in consonance with the biennial partial reconstitution of the Rajya Sabha.

In the Rajya Sabha, the annual renewal is only notional; major changes are brought about only after each biennial election. Since the Rajya Sabha biennial elections have taken place only in June 2020, there is little point in going through the re-nomination exercise again now. As far as the Lok Sabha is concerned, the major reconstitution takes place when a new Lok Sabha is elected, that is normally after five years. Since there is a mismatch between the election schedule of the Rajya Sabha (every two years) and the Lok Sabha (every five years), it is only once in 10 years that the requirement of major reshuffle of the Standing Committees in both the Houses is expected to coincide, that is after the second round for the Lok Sabha and the fifth biennial round of the Rajya Sabha.

Against this backdrop, there is definitely a need to rethink the tenurial prescription for reconstitution of Department-related Standing Committees. Given the different election schedules of the two Houses and since the term is prescribed for the members, there is perhaps no need to mandate the same term for the members of both the Houses.

The Rajya Sabha Rules prescribe no fixed tenure for all the other Standing Committees of the Rajya Sabha listed therein. The standard prescription relating to the constitution of those committees states that the committee shall hold office until a new committee is nominated and that the casual vacancies in the committee shall be filled in by the Chairman of the Rajya Sabha. As far as the Lok Sabha is concerned, most of its committees listed in the Lok Sabha Rules have a tenure of one year, except a few for which no tenure has been prescribed. It would appear that committees concerned with deliberations of a serious nature were given a term coterminous with that of the House, while others were prescribed annual renewal. The Department-related Standing Committees, which were constituted later in 1993, came to be clubbed with the latter category by the Lok Sabha. The Rajya Sabha followed suit.

Another fact to be taken note of is that there are 24 Department-related Standing Committees, each with a membership of 31 (10 of the Rajya Sabha and 21 of the Lok Sabha). They can accommodate 240 members of the Rajya Sabha and 504 members of the Lok Sabha. Ministers cannot be members of these committees and some senior members opt out. Thus no eligible and available MP is left out of the membership of these committees. As a matter of fact, members of some parties have to perforce do double duty. It, therefore, stands to reason that once a member is nominated to a committee, based on his expertise and/or preference, he should be allowed to continue till he retires or otherwise discontinues the membership in order that the committee is able to benefit from his experience and expertise.

Different tenures

The language of the Rules of the two Houses makes it clear that the one-year term is of the members of the committees and not of the committees per se. The Standing Committees are permanent. Hence, there should be no difficulty if the terms of the members of the two Houses on these committees are different, in consonance with the tenure of the Houses themselves. Given these facts, it would stand to reason if the tenure of Department-related Standing Committees is prescribed differently for the two Houses. It may be two years for the Rajya Sabha members and for the Lok Sabha members, it may be coterminous with its life. The Rules could also provide that casual vacancies may be filled in by the Presiding Officers, who may also be empowered to reconstitute the membership of their respective Houses in the committees, if they so desire.

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Won technically, lost morally

The issue of territorial jurisdiction of the Sushant Singh Rajput case must be resolved

R.K. Vij is a senior IPS officer in Chhattisgarh.

The controversy over territorial jurisdiction of the Sushant Singh Rajput case is over, but it may arise again when the final report is placed in court as the Supreme Court did not resolve the dispute arising out of the claims of the two States. However, it took cognisance of the fact that in future, if commission of a cognisable offence is determined, "the possibility of parallel investigation by the Mumbai police cannot be ruled out".

The Supreme Court did not give due weightage to the death having taken place in the jurisdiction of the Bandra Police, and that inquiry had made substantial progress. More importance was given to the FIR recorded on a statement which was not "first in time" and was also delayed. But these can be questioned only at the trial stage. In fact, the Court adjudicated only on technical grounds.

First, an inquiry

In case of a suicide, unless the victim leaves behind a suicide note alleging that someone was responsible, registration of a case of abetment to suicide is mostly preceded by an inquiry. Taking advantage of the provisions of the Criminal Procedure Code (CrPC) which allow more than one court, and thereby more than one police station, to have jurisdiction, the Patna Police directly registered a case of abetment to suicide along with sections pertaining to criminal breach of trust, cheating and defalcation of money. In this case, the main objective is to unravel the cause of death; all other transactions relating to it are secondary.

The purpose of law to allow more than one court or police station to exercise jurisdiction is not to permit two agencies to inquire into the same incident simultaneously. It only intends that either of the two or both or more could take cognisance in case part of an offence is committed under their jurisdiction. The difference between inquiry into the 'cause of death' under Section 174 of the CrPC and investigation into an offence cannot be exploited in favour of the latter just because 'the cause of death' is not ascertained. Courts must rise to make this distinction irrelevant when investigation is generally preceded by such an inquiry.

The Indian Police are often questioned for not registering FIRs despite being well equipped with information disclosing an offence and having territorial jurisdiction over the case. Under such circumstances, the police of the two States fighting over jurisdiction of a case raises moral questions. A cognisable offence is registered so that it can be taken to its logical conclusion. If an agency is ready to transfer a case almost immediately after registration to another, its intention could be questioned.

The matter of jurisdiction

It is a settled law that if an offence is disclosed, the court will not normally interfere with an investigation and the matter of rightful jurisdiction will be decided only when the final report is submitted in the court.

However, when an inquiry into the cause of death is pending, registration of a direct cognisable case with regard to the same incident at any other place may defeat the whole objective of having the rightful jurisdiction under the CrPC. Though the Supreme Court, in Lalita Kumari (2013), directed that the registration of an FIR is mandatory, each police station has its own notified territorial area to ascertain the actual cause of action of any offence or incident. When it is clearly known that some other police authority who has rightful jurisdiction is already inquiring into the cause of death to ascertain abetment to suicide, the law need not be exploited to debar that agency only on technical grounds.

The statement of Rajput's father was first recorded by the Mumbai Police, which did not disclose commission of any cognisable offence. If he had received any additional piece of information disclosing any cognisable offence, either he or the Patna Police (with FIR at zero) should have handed over the same to the Mumbai Police. But this was not done. The issue of territorial jurisdiction must be resolved at an appropriate time.

बिज़नेस स्टैंडर्ड

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ग्रामीण इलाकों में व्यय बढ़ाने का उचित निर्णय

विनायक चटर्जी , (लेखक फीडबैक इन्फ्रा के चेयरमैन हैं)

महज कुछ महीनों की अवधि में ग्रामीण भारत के स्वरूप में एकदम नया बदलाव आया है और वह भारतीय अर्थव्यवस्था को उबारने वाले रक्षक के रूप में सामने आया है। कोविड-19 महामारी के प्रसार को रोकने के लिए लगाए गए देशव्यापी लॉकडाउन ने जहां विनिर्माण और सेवा क्षेत्र को बुरी तरह प्रभावित किया था, वहीं अब खरीफ की फसल की अच्छी बुआई और बढिय़ा मॉनसून ने यह आशा जगा दी है कि ग्रामीण अर्थव्यवस्था उपभोक्ताओं की आय और उनके खर्च में इजाफे की वजह बनेगी। हालांकि यह अपेक्षा कुछ ज्यादा ही है। दरअसल ग्रामीण अर्थव्यवस्था को गैर कृषि क्षेत्र से अलग करके नहीं देखा जा सकता है क्योंकि यह काफी हद तक उस धन पर निर्भर करती है जो शहरों में काम करने गए गांव वाले वापस अपने घरों को भेजते हैं। शहरों से गांव आने वाले ऐसे धन में कमी आई है और कोविड-19 महामारी के कारण शहरों में घटे रोजगार के कारण बड़े पैमाने पर बाहर काम करने वाले लोग गांवों में लौट आए हैं। ऐसे में अनुमान तो यही है कि ग्रामीण उपभोक्ता शायद अर्थव्यवस्था को उबारने में उस कदर प्रभावी न हों जितना कि अर्थशास्त्री और बाजारविद उन्हें मान रहे हैं। कम से कम बिना सतत मदद के वे ऐसा नहीं कर पाएंगे।

केंद्र और राज्य दोनों स्तरों पर सरकारों ने इस बात को पहचाना है। टेलीविजन चैनलों पर प्रवासी श्रमिकों के सैकड़ों किलोमीटर चलकर वापस अपने गांवों तक पहुंचने की खबरें जब लगातार समाचार चैनलों पर चलने लगीं तो सरकार ने ग्रामीण क्षेत्रों में अभाव दूर करने के लिए कई योजनाओं की घोषणा की। केंद्र सरकार ने अकेले ही ऐसे सार्वजनिक कार्यों के लिए 1.5 लाख करोड़ रुपये उपलब्ध कराए। तेलंगाना, पश्चिम बंगाल, छत्तीसगढ़, झारखंड और हिमाचल प्रदेश की सरकारों ने भी ग्रामीण अर्थव्यवस्था के खास हिस्सों को लक्षित कर योजनाएं शुरू कीं।

सरकार ने महात्मा गांधी राष्ट्रीय ग्रामीण रोजगार गारंटी अधिनियम (मनरेगा) योजना के अधीन भी 100,000 करोड़ रुपये व्यय करने की प्रतिबद्धता जताई। इस योजना का मूल बजट 60,000 करोड़ रुपये था जिसमें 40,000 करोड़ रुपये का इजाफा कर इसे 100,000 करोड़ रुपये कर दिया गया है। सूत्रों का कहना है कि मनरेगा के अधीन प्रतिदिन 280 करोड़ रुपये की राशि वितरित की जा रही है। यह वाकई काबिलेतारीफ है।

इसके अलावा पीएम गरीब कल्याण रोजगार अभियान की शुरुआत की गई है। 50,000 करोड़ रुपये के आवंटन वाले इस अभियान में 25 अलग-अलग तरह के छोटे सार्वजनिक काम किए जाएंगे। उदाहरण के लिए ग्रामीण आवास, जल जीवन मिशन के तहत पेयजल मुहैया कराना, पंचायत भवन, आंगनबाड़ी केंद्र, सामुदायिक शौचालय और ग्रामीण मंडी आदि। यह कार्यक्रम 116 जिलों में संचालित किया जाएगा। इस दौरान प्रवासी श्रमिकों की वापसी वाले छह राज्यों बिहार, उत्तर प्रदेश, मध्य प्रदेश, राजस्थान, झारखंड और ओडिशा पर विशेष ध्यान दिया जाएगा।

व्यक्तिगत स्तर पर राज्यों ने, खासकर उन राज्यों ने जहां बड़ी तादाद में प्रवासी श्रमिक वापस लौटे हैं, राज्य स्तर पर रोजगार कार्यक्रमों की शुरुआत की है। ऐसे अधिकांश कार्यक्रम मनरेगा के अधीन ही शुरु किए गए हैं। झारखंड ने जल संरक्षण परियोजनाओं तथा हर पंचायत में खेल के मैदान बनाने को लेकर सार्वजनिक कार्यों की शुरुआत की है। पश्चिम बंगाल सरकार ने माटिर सृष्टि नामक योजना शुरू की है ताकि छह जिलों में बंजर जमीन को बागवानी, मछली पालन तथा पशुपालन के लिए इस्तेमाल किया जा सके। योजना के तहत 50,000 एकड़ जमीन पर 2.5 लाख लोगों को रोजगार देने का इरादा है। हालांकि व्यक्तिगत स्तर पर राज्यों की अचानक ग्रामीण सार्वजनिक कार्यों पर व्यय बढ़ाने की क्षमता सीमित है क्योंकि उनके पास वित्तीय गुंजाइश उतनी नहीं है। परंतु यह स्पष्ट है कि सरकारें इस दिशा में जी तोड़ प्रयास कर रही हैं।

ऐसे में इन योजनाओं में इस्तेमाल हो रहे फंड की बात करना अहम है। पीएम गरीब कल्याण रोजगार योजना में उस धन राशि का इस्तेमाल किया जा रहा है जो मूल रूप से उन योजनाओं के लिए आवंटित की गई थी जिन्हें अब इस योजना में समाहित कर लिया गया है। कोविड-19 संकट के कारण मनरेगा में 40,000 करोड़ रुपये का इजाफा किया गया है। हालांकि ग्रामीण अर्थव्यवस्था पर इसका काफी प्रभाव पडऩे की आशा की जा रही है। खासतौर पर इसलिए क्योंकि इन योजनाओं के तहत वित्त वर्ष में पहले ही खर्च किया जा रहा है ताकि इनका अधिक से अधिक असर देखने को मिले। ग्रामीण अर्थव्यवस्था को इस वक्त हरसंभव सहायता की आवश्यकता है।

परंतु इससे भी कहीं अधिक महत्त्वपूर्ण कदम रहा है कृषि क्षेत्र में दीर्घकालिक बुनियादी निवेश का। प्रधानमंत्री नरेंद्र मोदी ने इसी महीने 100,000 करोड़ रुपये के कृषि बुनियादी फंड की शुरुआत की। हालांकि इसकी घोषणा कुछ महीने पहले कोविड से निपटने के आत्मनिर्भर भारत आर्थिक पैकेज के हिस्से के रूप में की गई थी। यह फंड अगले चार वर्षों के दौरान ग्रामीण इलाकों में फसल कटाई के बाद की बुनियादी सुविधाएं तैयार करने का काम करेगा। बैंक और वित्तीय संस्थान वर्ष 2020-21 में 10,000 करोड़ रुपये का ऋण प्रदान करेंगे और वर्ष 2023-24 तक इसे बढ़ाकर 30,000 करोड़ रुपये किया जाएगा। सरकार ऐसे तमाम ऋण पर आंशिक ऋण गारंटी तो देगी ही, साथ ही तीन प्रतिशत की ब्याज सब्सिडी भी प्रदान की जाएगी। यह ऋण किसानों, किसान संगठनों और कृषि समितियों, स्वयं सहायता समूहों और सरकारी एजेंसियों को दिया जाएगा। इसके साथ ही सरकार ने कृषि बाजारों को मुक्त करने और किसानों को अपनी उपज कृषि उपज वितरण समिति मंडियों के बाहर बेचने की छूट देने के लिए अध्यादेश भी लाया है। इसके अलावा प्रसंस्करण करने वालों, निर्यातकों और खुदरा कारोबारियों के साथ अनुबंधित कृषि को लेकर एक खाका भी तैयार किया जा रहा है।

इतना ही नहीं कृषि निवेश फंड जमीन पर वास्तविक सहायक निवेश की कमी पूरी करने के लिए जरूरी विधायी बदलाव मुहैया कराता है। यह स्पष्ट है कि समय पर शुरू की गई ये योजनाएं देश के ग्रामीण इलाकों में मांग तैयार करने में बहुत मददगार हैं।

जनसत्ता

Date: 16-09-20

बाल अधिकारों की अनदेखी

बिभा त्रिपाठी

कहा जाता है कि बालक देश का भविष्य हैं। बालक की व्याख्या दो प्रकार से की गई है। एक तरफ कहा जाता है कि वे हमारी राष्ट्रीय संपत्ति हैं और दूसरी तरफ कहा जाता है कि बालक से एक ऐसा व्यक्ति है, जो स्वयं अपनी देखभाल नहीं कर सकता। हमें बालक के सर्वोत्तम हित को सदा ध्यान में रखना चाहिए। बालक के अधिकारों को सुरक्षित और संरक्षित करने की आवश्यकता सदा महसूस की गई है। क्योंकि बच्चा कमजोर होता है, समझ की कमी, परिपक्वता की कमी, क्षमता की कमी आदि के चलते उसके हितों की न सिर्फ अनदेखी होती, बल्कि उससे बलात श्रम कराया जाता है, उसका लैंगिक शोषण भी किया जाता है। बाल मजदूरी, बाल तस्करी, बाल अपहरण, शारीरिक और मानसिक शोषण की समस्याओं की गंभीरता को समझते हुए राष्ट्रीय और अंतरराष्ट्रीय स्तर पर अनेक कानून बनाए गए हैं, जिनकी समुचित जानकारी प्राप्त कर न सिर्फ हम उनके अधिकारों को संरक्षित कर सकते हैं, बल्कि बच्चों, उनके माता-पिता, आस-पड़ोस और फिर पूरे समाज को जागरूक भी कर सकते हैं।

1923 में सेव द चिल्ड्रन इंटरनेशनल यूनियन द्वारा बालकों के अधिकारों को नामांकित किया गया, जिसे 1924 में जिनेवा घोषणा-पत्र कहा गया, जिसमें बालक के सामान्य, भौतिक और आध्यात्मिक विकास की बात कही गई और बताया गया कि जो बालक भूखा है, उसे भोजन दिया जाए, जो बीमार है उसका उपचार किया जाए और जो भटका है उसका सुधार किया जाए। 1959 में संयुक्त राष्ट्र की साधारण महासभा द्वारा बालकों के अधिकारों का घोषणा-पत्र स्वीकार किया गया, जिसमें बालकों के सर्वोत्तम हित की बात कही गई है। पर कोई भी घोषणा-पत्र राज्य पक्षकारों के ऊपर बाध्यकारी नहीं होता, इसीलिए 1989 में बाल अधिकारों की रूपरेखा बनी और संयुक्त राष्ट्र के सभी सदस्य देशों ने, अमेरिका को छोड़ कर, उसे स्वीकार किया। इसमें मूल रूप से चार प्रकार के अधिकारों की बात कही गई है, जो उसके जीवन, अस्तित्व, विकास और सुरक्षा से संबंधित हैं।

इन अधिकारों की पृष्ठभूमि में अगर भारतीय विधियों की चर्चा करें तो सबसे पहले 'पीसीपीएनडीटी एक्ट' आता है, जो भ्रूण हत्या को अपराध बना कर एक बच्ची के जन्म को सुनिश्चित करने का प्रयास करता है। उसके बाद नवजात शिशु से लेकर दो वर्ष तक के बच्चे के लिए 'आइएमएस एक्ट' में बच्चे को माता द्वारा स्तनपान कराने का अधिकार सुनिश्चित किया गया है।

सात वर्ष तक की उम्र के बालक को भारतीय दंड संहिता में पूरी तरह अपराध के दंड से मुक्त रखा गया है। फिर सात वर्ष से ऊपर और बारह वर्ष से नीचे के बालक को सीमित छूट प्रदान की गई है, जो इस आधार पर निर्भर करती है कि बालक में अपराध करने की समझ विकसित थी या नहीं। अगर वह दोषी पाया जाता है तो उसे किशोर न्याय देखभाल एवं संरक्षण अधिनियम के प्रावधानों का लाभ मिलता है। निर्भया कांड के बाद इस अधिनियम में संशोधन किया गया। अगर बालक की उम्र सोलह वर्ष से ऊपर और अठारह वर्ष से नीचे होती है, तो फिर उसकी समझ की परिपक्वता प्रभावी होती है।

आगे के कानूनों में महत्त्वपूर्ण है- सबके लिए शिक्षा, जिसमें छह से चौदह वर्ष तक के बालकों की मुफ्त शिक्षा का प्रबंध किया गया है। इन्हें लैंगिक उत्पीड़न से बचाने के लिए 'पॉक्सो एक्ट' है, तो तस्करी से बचाने के लिए 'अनैतिक तस्करी निवारण अधिनियम'। बाल श्रम से बचाने के लिए 'बाल श्रम निवारण एवं विनियमन अधिनियम' है। बाल विवाह रोकने के लिए 'बाल विवाह प्रतिषेध अधिनियम' है। इन सबके बावजूद अपराध बढ़ रहे हैं, बालकों द्वारा भी और बालकों के विरुद्ध भी।

नए संशोधन के अंतर्गत धारा 2 (14) के तहत बारह श्रेणियों के बालकों को देखभाल और संरक्षण की आवश्यकता बताई गई है। हर अठारह वर्ष से नीचे के बालक को देखभाल और संरक्षण की आवश्यकता है। इसमें आवश्यकतानुसार नई श्रेणियों को भी शामिल किया जा सकता है।

हाल ही में सर्वोच्च न्यायालय में 'एक्सप्लॉइटेशन आफ चिल्ड्रेन इन आर्फनेज इन द स्टेट आफ तमिलनाडु बनाम भारत संघ' के मामले में न्यायाधीश मदन बी लोकुर एवं न्यायधीश दीपक गुप्ता ने कहा कि धारा 2(14) की परिभाषा अंतिम नहीं होनी चाहिए। प्रत्येक बच्चे को बाल सुधार गृह में ही नहीं रखना चाहिए। बल्कि उनके दत्तक ग्रहण और देखभाल की व्यवस्था पर गंभीरतापूर्वक ध्यान देना चाहिए। जरूरी चीज है अभिभावकों द्वारा की जाने वाली देखभाल और पारिवारिक वातावरण।

जेजे एक्ट में धारा 2(14) (2) में भिक्षावृत्ति शब्द का प्रयोग किया गया है और कहा गया है कि जो कोई भीख मांगता हुआ पाया जाता है या सड़कों पर रहता है, उसे भी सीएनसीपी माना जाएगा। पर 11 अगस्त, 2018 को दिल्ली उच्च न्यायालय ने भिक्षावृत्ति को अपराध के दायरे से बाहर निकाल दिया और कहा कि यह उसकी गरिमा है कि वह चोरी नहीं कर रहा है। यानी अब जो बच्चा सड़क पर पाया जाएगा उसे ही सीएनसीपी कहा जाएगा। अब ध्यान देने योग्य बात यह है कि एक बच्चा जो सड़क पर ही जन्म लेता है और सड़क पर ही रहता है, उसकी जिम्मेदारी उठाने वाले कहां तक इनका ख्याल कर पाते हैं, क्योंकि ये वे बच्चे हैं, जो अल्बर्ट के. कोहेन की भाषा में 'अपचारी' बन जाएंगे और प्रास्थितिक नैराश्य के कारण प्रतिक्रियावादी हो जाएंगे।

अब जबकि ट्रांसजेंडर समुदाय को थर्ड जेंडर की संज्ञा दे दी गई है, तो ऐसे ट्रांसजेंडर बच्चों को भी सीएनसीपी की परिभाषा में शामिल करना चाहिए। ऐसी अवयस्क बच्चियां, जो यौन उत्पीड़न का शिकार होने के कारण गर्भवती हो जाती हैं और न चाहते हुए भी उन्हें बच्चे को जन्म देना पड़ता है, ऐसे बच्चों को दोहरे सीएनसीपी की संज्ञा दी जानी चाहिए। अभी जेलों में बंद महिलाओं के साथ रह रहे छह वर्ष की उम्र तक के बालक के संबंध में भी विधि निश्चित नहीं हो पाई है। एक तरफ तो हम अठारह वर्ष से नीचे के बालक का वयस्क व्यक्ति के साथ संयुक्त विचारण भी नहीं करते और

दूसरी ओर छह वर्ष के बालक बिना किसी अपराध के अपनी माताओं के साथ जेल के वातावरण में रहने को बाध्य होते हैं। यहां जेल मैनुअल में संशोधन की आवश्यकता है।

'खुशबू जैन बनाम रेल मंत्रालय' के मामले में सीएनसीपी बच्चों की देखभाल की बहुत महत्त्वपूर्ण जिम्मेदारी रेल मंत्रालय को सौंपी गई है। मगर इसके साथ ही आवश्यकता इस बात की है कि बच्चों से संबंधित सारे मामले केवल महिला एवं गृह मंत्रालय तक सीमित नहीं रहने चाहिए। अन्य मंत्रालयों को एक साथ मिल कर सामूहिक नीति बना कर कार्य करना चाहिए। मसलन, यातायात, सामाजिक न्याय, श्रम, शिक्षा तथा स्वास्थ्य एवं परिवार कल्याण मंत्रालय को प्रमुख रूप से संयुक्त प्रयास करना चाहिए। इन सभी मंत्रालयों द्वारा बाल सहायता समूहों का गठन किया जाना चाहिए और मुक्तांगन की संकल्पना के आधार पर उनके आवास की व्यवस्था करनी चाहिए। बाल कल्याण समितियों की संख्या भी प्रत्येक जिले की जनसंख्या के अनुपात में बढ़ाई जानी चाहिए, बाल कल्याण संस्थाओं की संख्या बढ़ानी चाहिए और बाल सुधार इकाइयों के बढ़ते दायित्व को बांटने के लिए कुछ अन्य सहयोगी विभागों का सृजन करना चाहिए।

इन सबके अलावा पूरे समाज को यह समझना पड़ेगा कि अगर एक भी बच्चा विधि विवादित होता है, तो उसका दंश पूरे समाज को झेलना पड़ता है, इसलिए सामूहिक अभिभावकत्व की संकल्पना का जितना अधिक विकास होगा, जितना ही प्रत्येक व्यक्ति अपनी व्यक्तिगत क्षमता में और प्रत्येक संस्था अपनी संस्थागत क्षमता में बच्चों की देखरेख और संरक्षण कर पाएगी उतना ही वह देश समृद्ध, समर्थ और संतुष्ट हो पाएगा।