

# Opinion

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## CONSTITUTION'S INVIOLEABLE

Ram Nath Kovind, NDA nominee for president

For a president, the Constitution is supreme. It is the Gita, Ramayana, Quran and Bible. It is very important to maintain and uphold the supremacy of our Constitution

## INDO-US TIES

INDIA'S ENGAGEMENT WITH THE US SO FAR WOULD SUGGEST ONLY FINANCIAL INVESTMENT IS WELCOME; BUT OTHER KINDS OF TIES CAN OFTEN HAVE LARGER PAY-OFFS

# Where do we go from here?

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**T**HE RECENT US visit of India's prime minister Narendra Modi garnered an unusual amount of media attention, perhaps because US president Donald Trump himself is more of a media celebrity than a working politician. The most high-profile reports were on the Modi-Trump hugs, and how they represented a trumping (pun intended) of the bizarre presidential handshake, even better than tugs-of-war, hand-clenching competitions, or shoulder grabs tried by other national leaders. More substantively, India seemed to have succeeded in its charm offensive, with Trump relatively positive and effusive, and his family invited to India for the now-common mixing of personal and national business that is characteristic of the current US administration (but something quite familiar to those in India).

India also obtained an arms deal, and joint statements on Islamic terrorism and Pakistan in particular, while avoiding areas of disagreement such as what is to be done about climate change. The two leaders are both nationalists, albeit of different kinds, and subscribe to different versions of Islamophobia, but otherwise are quite different. India's prime minister may be egotistical, but not in the narcissistic, unpredictable manner that characterises his American counterpart. Trump has invited numerous comparisons to a toddler who lacks self-control and command of basic boundaries of social behaviour.

All this means that interactions between the US and India at this level are likely to stay somewhat fraught, with Trump prone to lashing out whenever he perceives he is not getting what he wants, either in terms of personal grat-

ification or sops for his political base. Looking over the history of India-US relations, the personal equations of those at the top have certainly mattered, but so have larger strategic considerations. The latter seem to be aligned for India and the US on the security front, which is not a bad thing. But the plane of co-operation that will really matter for India is that of economics and business. One cannot repeat enough times the importance for India of accelerating growth and job creation at a time when its demographic changes urgently demand such speed.

Prime minister Modi also met with US CEOs, and by all accounts this, too, was a positive meeting. Increased foreign direct investment by US companies in India, especially if it enables and increases the transfer of technological and manufacturing know-how, will be an important part of India's growth in the coming years. But we should also remember the history of US-India economic interactions. The 2005 US-India Agricultural Knowledge Initiative has had limited impact, and been controversial because it seemed to be geared toward promoting US agribusiness interests. By contrast, successful and long-lasting impact in US-India interactions has come when a mix of people and ideas from non-profits, academia and government were involved along with—or

even without—corporate interests. I think the original impetus for the Green Revolution had this flavour.

What are the lessons of this perspective for the current situation in India-US economic relations? I would suggest that a top-down approach that relies on large deals, symbolic cooperation and corporatism will be less likely to be beneficial than a web of relationships that encompasses many layers of institutions. If we use the Indian American diaspora as a conduit, one can illustrate the possibilities. In our book, *The Other One Percent: Indians in America*, Sanjoy Chakravorty, Devesh Kapur and I reported on a unique survey of over 600 Indian American entrepreneurs and professionals. We found a relatively high degree of engagement with India, both in politics and business. Here, we are not talking about just a few high-profile US CEOs of Indian origin, but a range of occupations, backgrounds and expertise. US academia is also replete with successful Indian Americans, including deans of engineering and business schools. And the community is also in-

**Interactions between the US and India are likely to stay somewhat fraught, with Trump prone to lashing out whenever he perceives he is not getting what he wants**

creasingly present in the US non-profit sector and the media.

India has an opportunity to welcome multiple layers and types of engagement with its diaspora in the US, and building a web of such relationships is likely to pay off handsomely in terms of economic development. The current government has tended to be suspicious of foreign NGOs, almost to the point of strangling them. Academic cooperation is also often more restricted than it needs to be. Only financial investment has seemed to be welcome, but other kinds of ties can often have larger payoffs.

During the recent visit, the Modi also met with Indian Americans, but the focus seemed to be on a relatively small nationalist element of that community that also finds itself attracted to Donald Trump, rather than the majority of Indian Americans who seem to be more comfortable with a more liberal-leaning, pluralistic or even progressive view of American society than Trump espouses. Donald Trump is ultimately, in my view, on the wrong side of history, and Indian Americans who think that his economic

nationalism and xenophobia will help them or help India are mistaken, again in my view. India's leadership should have the confidence to invite and engage with its diaspora in the US in ways that it has not yet imagined. Those successful engagements have historical precedents and can be reinvented for the future.

## Can't allow NCLT process to be derailed

If courts entertain appeals against RBI direction on NPAs, the insolvency process will get delayed a lot

**I**NDIAN PROMOTERS ARE proving yet again they will use every trick in the book to save themselves even though they may be defaulters. Even before the National Company Law Tribunal (NCLT) could admit the insolvency case against Essar Steel, the company has moved the Gujarat High Court; it has argued RBI selection of 12 stressed exposures to be resolved via the IBC (Insolvency and Bankruptcy Code) is arbitrary. On June 13, the central bank had identified a clutch of 12 accounts—this included Essar Steel—that were to be referred by banks to the NCLT, a decision that was justified given lenders had exhausted all other options to recover their dues.

While the wisdom of the High Court will prevail, it would be very unfortunate indeed if the Essar Steel case isn't admitted to NCLT. That would be a very big setback for the initiative taken by the government and RBI to try and solve the bad loans problem which is threatening to stall growth. There is a lot of taxpayer money at stake—₹2 lakh crore in the 12 accounts—and while the promoters may argue RBI's selection of accounts is arbitrary and that the business is turning around, the fact is the company is unable to service its loans. If the High Court doesn't dispose off the case quickly, which is necessary for the NCLT to admit the case, it will become very hard for the lenders to recover their loans. Moreover, it will vitiate the environment with other promoters also likely to start approaching various courts for similar relief. Should the case drag on after the next hearing on July 7, the government as the owner of the banks should explore all legal options it may have including, if need be, petitioning the Supreme Court on the need to ensure the NCLT process does not get delayed/derailed.

While the circumstances of each NPA differ, it remains a mystery as to how many of these firms were able to borrow so much even after not being able to service their loans—there is little doubt the banks were lax in their evaluation and also helped evergreen loans. Also, in the Essar case, while financial institutions took big haircuts nearly two decades ago on a loan to the company, it is not clear if they got any recompense when the promoters sold their stake in the Hutch joint venture many years later. As former RBI governor Raghuram Rajan had observed, many promoters believe it is their divine right to stay in control despite their unwillingness to put in new money. With the benefit of hindsight, tighter norms for prudential exposure limits to groups and companies would have helped prevent corporate India from being as over-leveraged as it is, almost posing a systemic risk. The very liberal norms were intended to promote industry and growth, but have ended up making the banks bankrupt. Indeed, if there were norms for blacklisting defaulters, many of the groups RBI has identified would never have been able to run up the kind of debt that they have. It would be a shame if the Gujarat High Court allows the case to drag on, thwarting the attempts of lenders to get back what is rightfully theirs.

## Privilege to imprison?

Untrammelled power to legislatures needs questioning

**T**HE SPEAKER OF the Karnataka Assembly, KB Koliwad, sentencing two tabloid editors in the state to one-year's imprisonment and slapping them with fines of ₹10,000 each for "breach of privilege" appears indefensible and out of proportion with the offence. Articles criticising three MLAs had been published some years ago in Ravi Belagere's *Hi Bangalore* and Anil Raj's *Yelahanka Voice*; however, instead of choosing the more appropriate recourse of litigation, the MLAs invoked "breach of privilege". The Speaker authorised penal action for something that should have, at best, attracted admonition. While the sentencing is technically within the legislature's powers, whether the framers of the Constitution envisaged 'breach of privilege' to lead to a prison sentence—a power usually exercised only by the courts—is open to question.

The problem stems from the Constitution's provisions on privileges and powers of the legislature. Articles 105 and 194 were instituted to protect the "freedom of speech" and expression in Parliament and Assemblies and to ensure that no one from the outside could exert undue influence, pressure or coercion on the functioning of the legislative bodies—"to take part in the proceedings of a House of the Legislature of a State". But, these provisions are loosely worded—Article 194 (3) states that "the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of that House and of its members and committees". But surely none of the newspaper articles was either affecting the MLAs' "freedom of speech" or their ability "to take part in the proceedings" of the legislature? Breach of privilege cannot be used to prevent any criticism of MLAs/MPs.

The extent to which this can be abused was best seen in the case of Keshav Singh who was, in 1964, sentenced to seven days imprisonment by the Uttar Pradesh Speaker. Singh got bail from a two-judge bench of the Allahabad high court and this led to the Assembly issuing warrants against not just Singh but also the two judges and Singh's advocate. When the matter reached the Supreme Court, it clarified that the powers of the assembly included the power to punish contempt. But the time has come for legislatures/Parliament to define more strictly what exactly 'contempt of the house' is and to codify the penalties for it including the right to imprisonment. Instead of the matter being referred to a court, it would be in everyone's interests if legislature/Parliament itself took the lead in the matter—a blatant abuse of power will lend momentum to a public demand for the abolition of the privileges altogether.

## DeMo's DEMONS

Since all cash deposits will be scrutinised, another window to deposit demonetised notes is quite OK

**S**EVERN MONTHS AFTER demonetisation, the controversies around it aren't going away. Apart from the debate over whether it was desirable, the government did all manner of flip-flops—given that this was the first such exercise anywhere in the world, and so there was no playbook to go by, though, that may have been unavoidable. What was not was the time given for people to exchange their old notes, given the rush at banks. While the prime minister had first talked of people getting a longer period for the exchange, when the notification came out, it restricted this to December 30. This was later extended for NRIs or for those who were not in the country between November 8 and December 30.

At the time of demonetisation, many argued, the government had no right to snatch away people's property. Since the government was not snatching away anyone's property, the argument was invalid. But, when the window for exchange was limited, it was possible to argue that this is effectively what the government was doing. Indeed, the Supreme Court has invoked this very right to property in asking the government to open another window for people to make the exchange. Since the government is, in any case, tracking all those who deposit very high amounts of cash, especially if these are not in sync with their income profile, there is nothing wrong with accepting SC's suggestion and leave this open to everyone—if the window is used to launder black money, it will be tracked in the same way that deposits made before December 30 were. Since this will mean more of the demonetised money will find its way into bank currency chests, it will also give the central bank one more reason to delay making public the figures of how much of the demonetised currency has come back!

## For a more regulated net, thank Canada

The US does little to control online content, but companies may be forced to change anyway

## NOAH FELDMAN

Bloomberg



**DOES CANADA OWN** the internet? The question may sound like a joke, but it is the serious challenge presented by a Canadian Supreme Court decision issued last week. The court ordered Google to deindex search results that were letting one side of a lawsuit violate the intellectual property rights of the other—not just in Canada, but worldwide.

The court tried to avoid the difficult free-speech issues by saying those weren't involved in the case. But what makes the precedent so important is that it raises the core problem of who gets to regulate the internet by ordering around search companies and social media. The US Supreme Court recently clarified that it thinks the First Amendment mostly blocks the US government from such regulation. That leaves other governments like Canada—or Germany, which on Friday enacted legislation that forces social media entities to remove unwanted content.

A good way to think about regulation in the internet age is to consider two radically different views about who should be doing it, if anyone. In the US, the internet is treated as a free-speech zone made up of "vast democratic forums," as Justice Anthony Kennedy said in a recent opinion. The federal government and the states can't do much to regulate what is said in that space.

At the same time, the means we use to access that vast forum, such as search engines like Google or social media platforms like Facebook, are treated under US law as private entities with free speech rights of their own. That means Google and Facebook can shape access to content as they please, subject only to market pressures. The First Amendment protects their right to do so.

In sharp contrast to the US model is the approach exemplified by the Canadian decision, as well as by European laws. According to this view, govern-

ments are entitled to regulate what happens on the internet in order to protect their citizens according to their own laws.

And those laws include various bans on hate speech and enforcement of privacy laws. It's important to remember in this context that the US is a free-speech outlier, embracing unfettered discourse in ways most countries—including free ones—consider mistaken and even wrongheaded.

In the Canadian opinion, Google v. Equustek, a British Columbia technology company was trying to block another company from reselling its stolen intellectual property via websites on servers in unknown locations. To protect the company, a trial court ordered Google to deindex, or block, the predator's website worldwide.

Google was willing to deindex in Canada, but it objected to becoming the means by which the Canadian court sought to enforce its order throughout the world. Among other things, Google said that it was possible the victim company couldn't have gotten the order in other countries and that deindexing might force Google to violate the laws of some other place.

Invoking a hot-button term in international law, Google said the worldwide order would violate "comity"—roughly, the notion that courts in one country shouldn't interfere with the laws of other countries. To international lawyers, a comity violation is serious business, conjuring visions of competing jurisdictions fighting legal battles across borders.

In an opinion by Justice Rosalie Abella, who is widely known in international judicial circles, the Canadian court ruled 7-2 that Google had to comply. Abella pointed out that Google hadn't actually shown that deindexing would break any laws or limit freedom of expression. If in a future case Google found itself in such a bind, Abella said, Google could bring

that up. "We have not, to date," she commented acerbically, "accepted that freedom of expression requires the facilitation of the unlawful sale of goods."

Abella's distinction means that Canada, at least, might balk at a worldwide injunction that blocks what other countries would count as free speech. But that won't be true elsewhere. The proposed German law won't work if it only limits what is searchable on German Google. Internet regulation has to be universal to work.

That sets up a future of conflict between countries that want to regulate effectively within their borders and those that, like the US, want to keep information flowing freely without government intervention.

The particular anomaly is that Google could be regulated within the US by foreign nations—while US law would protect it against domestic regulation.

Advocates of a free internet warn of a race to the bottom, in which the most restrictive countries block free speech everywhere. That's conceivable but unlikely. Right now Google and Facebook have the capacity to resist being bullied by countries that don't respect free speech and might want to make access to their markets depend on giving up freedom elsewhere.

But what could happen is something more like a partial jog to the middle—where platforms comply with reasonable countries' reasonable speech limitations worldwide. That could mean adopting limits on hate speech, for example, or protecting privacy.

In the US, after all, those private platforms have the right to adopt those restrictions by choice. So it wouldn't be unlawful for them to follow, say, Canadian or German guidelines. In this scenario, Canada really would rule the internet, or at least the platforms we use to access it. Would that really be such a bad outcome?

## LETTERS TO THE EDITOR

### Don't let tensions with China simmer

Apropos of the report "China escalates border tension, accuses Indian Army of 'betrayal'" (FE, July 4), the claims and counterclaims on Sino-Indian border area Doka La in Sikkim Sector after decades of its unchallenged existence, are seemingly demonstrations of mistrust brewed. The right of possession, according to the demarcation in the existing treaties and agreements, is an easily demonstrable equation with maps and modern visual aids, unless the dispute on the territory is one intentionally advanced. China's threatening postures, the finance minister Arun Jaitley's unnerving claim about India's current military capability to retaliate any Chinese aggression and General Bipin Rawat's injudicious statement that "Indian army is fully ready for a two-and-a-half-front-war", have ignited a war of words, making a retreat difficult for both the countries. The continuing military standoff at the Doka La tri-junction on the borders of India, China and Bhutan, has triggered discussions about war with the powerful neighbour, a mood that has further narrowed the space for the government to negotiate. If borders are allowed to simmer for long and issues to escalate into full-scale acrimony, the region will be a zone of eternal conflict with peace making a hasty exit. That relations with the neighbouring countries, especially with China and Pakistan, have deteriorated after this government assumed the mantle, increase the anxiety.

— Haridasan Rajan, Kozhikode

### Changing times

Time scales are getting dramatically altered in modern diplomacy and 25 years is an aeon now. Perhaps a Modi visit to Israel in 2014-15 itself would have suited the mode. Indo-Israeli bonhomie, apart from cementing bilateral ties, would have put our recalcitrant neighbour on guard. Today's global political-economic dispensation compels leaders to pay as much personal attention to foreign affairs as domestic ones.

— R Narayanan, Ghaziabad



ILLUSTRATION: ROHINI THOPRE

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# Theatre strike in Tamil Nadu

The feeling in the industry is that time has come for the state government to de-link itself from the film business. Technology has raced ahead. People watch films on computers, phones and tablets, and it no longer makes sense to control prices or impose a tax which has always led to corruption

**M**ORE THAN 1,100 theatres across Tamil Nadu remained shut on Monday. Theatre owners in the state have called for an indefinite strike to protest against the state's imposition of 30% entertainment tax in addition to the 28% goods and services tax (GST) on film trade. It was expected that this standoff would end soon. The talks between the various parties involved have led nowhere on the first day of the strike. Filmmakers who have borrowed heavily to release their films are wringing their hands. Although they are sympathetic to the theatre owners' demand the Producer's Council wants the strike called off.

Tamil Nadu is the only state in the country which has imposed this tax in addition to GST. Neighbouring Andhra Pradesh and Telangana which are equally film crazy haven't. Nor has Kerala which is ruled by the left. From 1967, when the Dravida Munnetra Kazhagam (DMK) came to power, film industry and politics have been intertwined. Chief minister M Karunanidhi was a popular and successful screenwriter, and his successor MG Ramachandran was the superstar of that era. It was the rift between both which led to MGR leaving the DMK and launching the All India Anna Dravida Munnetra Kazhagam (AIADMK). It is said that Karunanidhi was trying to curb MGR's ever increasing popularity by trying to block the release of his films. He brought in his son to take on MGR. Everybody in the industry knows about their legendary clashes, but nobody has been willing to talk about it.

Every chief minister starting from Karunanidhi to Jayalalithaa has retained cinema (information and publicity) under their portfolios. They have had a tight control over the industry. Stars and producers have had to pay obeisance to them. The chief ministers did not always do things to please the industry. One of the first things MGR did was to stop the morning shows in Tamil Nadu. He said these screenings would tempt children away from schools. The theatres traditionally had four screenings. This dealt a big blow to the industry at that time. Like many rules relating to the industry, this was openly flouted in many theatres. Although it still remains on paper, big budget films (such as Rajinikanth's) sometimes start their screening early in the morning on the first day.

The Tamil film industry till recently operated only on cash. Even when cheques were issued, they often bounced. Stars took 50% of their payment in cash whatever was claimed otherwise. It is well-known that political slush money funded many films. Both the DMK and AIADMK have constantly meddled with the film industry. Many of Karunanidhi's large family members are producers, distributors and now actors. As distributors, they have been accused of arm-twisting many the-

atre owners into screening their films. AIADMK's Sasikala's family was better. They own multiplexes and fund films.

The entertainment tax history in Tamil Nadu is quite bizarre. When Karunanidhi came back to power in 2006, he introduced a 15% entertainment tax. He also announced a waiver of this tax when films had titles in Tamil. There has been a scramble for pure Tamil titles ever since. He also froze ticket prices. What costs ₹500 in other metros, costs only ₹120 in the state.

Jayalalithaa won the elections in 2011 and three months later, she announced that films with U certificate will also be exempted from this tax. She then set up a committee of hand-picked people to view films and recommend them for tax exemption. This resulted in double censorship in the state. It is well-known that tax exemption became a notorious money making racket. You pay and get an exemption. When the stakes were high, the producer had to pay more. Karunanidhi's grandson Udayanidhi Stalin's films never got tax exemption.

The industry has been slowly moving towards bringing down black money transactions. Tamil films were funded 60% by cash. According to insiders, it has come down to 20%. Demonetisation brought about some changes. With the introduction of GST, it has become more difficult to deal with cash. The industry thought that entertainment tax menace will also be eliminated. But Tamil Nadu government thinks otherwise.

The theatre owners, particularly the multiplexes have survived the ticket price freeze because of higher footfalls compared to other states. They also have various concessions on food and drinks such as popcorn and bottled drinks. The multiplexes do well wherever there is a food court. There are multiplexes coming up in smaller towns. However, single screens continue to dominate accounting for 80% of the theatres.

The imposition of the 30% entertainment tax will affect the economics of various stakeholders in the industry. With the cap on ticket prices, the additional tax cannot be passed on to the customer. Paying this tax from the ticket money by the theatre owners will end up reducing the producers and distributors share quite a bit. The feeling in the industry is that time has come for the state government to de-link itself from the film industry. Technology has raced ahead. People watch films on computers, phones and tablets, and it no longer makes sense to control prices or impose a tax which has always led to corruption.

"The industry employs more than 10 lakh people. Nearly 200 films are made each year. A quick resolution will be good for everybody," says Sreedhar Pillai, trade analyst and film critic. says Sreedhar Pillai, trade analyst and film critic.

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INFORMATION UTILITIES

## Resolving insolvency

RAJESH NARAIN GUPTA

Managing partner, SNG & Partners



As the repositories of financial information, the information utilities are performing a crucial task in resolving insolvency cases in a time-bound manner

**T**HE PASSING OF the Insolvency and Bankruptcy Code, 2016 was hailed as a key step in expediting exit outcomes for creditors and stressed businesses by doing away with a primordial, multi-layered legal setup that was largely unsuccessful in dealing with corporate insolvency and debt recovery cases, resulting in large-scale delays. A commendable feature of the Act is green lighting the formation of Information Utilities (IU) by the government. These entities would act as data repositories and perform the task of authenticating and disseminating financial information to debtors. The aim of IUs is to obliterate information asymmetries and fill in the gaps for creating a much-needed infomation bulwark which would fast-track the resolution of insolvency cases.

Data integrity and security remain the core aspect of making the IU a functional success. A sophisticated security infrastructure will need to be put in place by the government to ensure that data is not leaked and compromised. Debtor information in the database and its correctness are of paramount importance. Its authenticity and verification need to be a fool-proof process through the deployment of appropriate data screening methodologies and practices. This, in turn, can go a long way in speedy disposal of disputes.

A key point to be considered here is that the government has made a policy decision for the constitution of IUs, but its efficacy as a reliable information database can only be ensured through the formation of a strong and credible IU infrastructure.

The aggregation of information of the assets, both movable and immovable, charged/mortgaged with lenders on a single platform makes dissemination a herculean task. In order to tackle this problem, the IU infrastructure needs to be effectively streamlined and it needs to be determined that the veracity of information in the database is as per prescribed norms.

The Insolvency and Bankruptcy code also stipulates involvement and coordination of several overlapping agencies like the Debt Recovery Tribunal (DRT) and the National Company Law

Tribunal (NCLT) in resolving insolvency disputes within a definite time-frame. This necessitates the submission of data to multiple agencies by financial entities, but it can be a complicated and time-consuming task. In order to ensure that data submission to multiple working agencies is a smooth process, they will have to develop cohesive work synergies and ensure that there is correct reporting of charges of borrower assets, avoiding duplicity of facts.

Norms for IUs under the Insolvency and Bankruptcy Board of India (IBBI) clearly state that an IU should have a compliance officer who shall ensure that the code provisions are in order and in the event of non-compliance, he shall report the same to the IBBI. Clear guidelines need to be constituted to ensure that a person of impeccable credentials, not bearing any bias towards any party, is appointed to the post. Norms further state that a public company with a net worth of at least ₹50 crore is eligible to set up information utilities. It needs to be noted here that a public company does not have any vested interest in promoting the interest of parties who are being heard in dispute adjudication proceedings. They need to perform their duty in a non-partisan and neutral manner.

The IUs are crucial to the quick disposal of insolvency cases and in their absence, adjudication of cases would be delayed inordinately if it falls on the NCLT to ascertain whether there has been a default. The IU can act as a crucial agent in providing information as regards creditors' claims which will facilitate the formation of a creditors' committee within 14 days from the date of a case registration, as per IBC stipulations.

As the repositories of financial information, the IUs are performing a crucial task in assisting in resolving insolvency cases in a time-bound manner and help in the financial rehabilitation of distressed businesses.

**The IUs are crucial to the quick disposal of insolvency cases and, in their absence, adjudication of cases would be delayed inordinately**

## How fracking leads to babies

**THE TYPICAL FAMILY** in America is changing. Couples are increasingly reluctant to seal their relationships with the stamp of marriage, or to tie the knot before having children. In 1960 fewer than a tenth of births were to unmarried women, whereas these days around two-fifths of children are born out of wedlock. Economists wonder whether the changing economic fortunes of men might be driving these decisions, but struggle to disentangle the different factors at work. Recently, though, new evidence has emerged on the topic. Did, for example, the fracking boom affect family formation?

It seems plausible that someone

might be reluctant to marry a person with poor or worsening economic prospects. And babies are expensive; to an economist, the idea that people might be more likely to have one when they're richer is a natural one. There is some historical evidence to support both hypotheses. In response to the Appalachian coal boom of the 1970s and 1980s, marriage rates went up, as did the share of babies born to married couples. More recently, a study by David Autor, David Dorn and Gordon Hanson, three economists, found that people exposed to import competition from China over the 1990s and 2000s took a hit to their "marriage-market value". The negative shock seemed to turn

people off marriage and children.

A new study by Melissa Kearney and Riley Wilson, two economists at the University of Maryland, looks at the impact of the recent fracking boom in America, which boosted job opportunities for less-educated men. The economists wanted to see how this affected birth rates, both in and outside of marriage. They compared marriage and birth rates in areas where fracking had boosted the local economy with those where it had not had any effect. The researchers found no effect on marriage rates, though fertility rates did rise. On average, they find that \$1,000 of extra fracking production per person was associated with an extra six births per

1,000 women.

The result confirms the hypothesis that better economic prospects lead to higher fertility. But it also sheds light on times used to mean more wedding bells and babies, whereas now they just mean the latter. The policy prescriptions are not obvious. Whether or not people get married is their own business. But the finding does offer some comfort to those who worry that declining marriage rates are purely the product of worsening economic prospects for men. Clearly, some other factor is at play.

THE ECONOMIST

**B**EHIND THE APPARENT economic achievements of the NDA government at the Centre lurks a serious concern: will it be able to fulfil its campaign promise of creating jobs for the one million youth who enter the labour force each month?

Of the 300 million youth who entered the labour force between 1991 and 2013, only 140 million found jobs. In the three years of the National Democratic Alliance government, little has changed for the better. Statistical data indicates that overall unemployment has actually increased since 2013. In FY16, just 1.35 lakhs jobs were created in eight key sectors, making the goal of 100 million additional jobs by the year 2022 seem distant.

Behind these statistics lie unfortunate stories of unrealised human potential. The average entrant into the Indian labour market is a rural male with some schooling. In the village, he faces poor immediate prospects for formal employment outside of agriculture. If he is able to migrate to an urban area, his best options lie in small or micro-enterprises in the informal sector. Here, however, jobs offer modest salaries, no written contracts and almost no protection or long-term benefits. Moreover, there are few opportunities for growth. Rather than investing in their employee skills, en-

## A tough job

Experience shows that reforms in India have succeeded only when there is an emergency, as in 1992

HARDAYAL SINGH & SHAREEN JOSHI

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trepreneurs are largely focused on their own economic survival. It takes 12 procedures, 27 days and a paid up capital of 140% of the country's per capita income to start a business. Once started, businesses must deal with an erratic power supply, a weak urban infrastructure, distorted markets for land and capital and high transactions costs. As a result, the informal sector employs 85% of the workforce but accounts for only 45% of the GDP. On a broad average, a job in this sector is 10% to 50% as productive as comparable employment in the formal sector. Unlike the US or even countries like Mexico, successful busi-

nesses in this sector rarely grow. They face perverse incentives to remain small in order to avoid tax, labour and environmental regulations. Even the forthcoming GST provides a threshold limit of ₹20 lakh. When firms approach such limits, they split themselves into two or more units, rather than reap economies of scale. For a young job-seeker, this is hardly the environment in which he can gain experience and tap his potential.

Young job-seekers often dream of jobs in the lucrative service sector of the economy. 28.7% of the workforce engaged in this sector accounts for 53% of the GDP.



There are widespread reports of rapid growth, and a talent crunch. Yet, a rural job-seeker would typically find significant barriers to entry. A lack of fluency in English (or even Hindi), inadequate experience with technology and weak soft skills would make him uncompetitive. Firms would need to expend large amounts of money in training young hires before entrusting them with real responsibilities.

Policy prescriptions to tackle these problems are clear: One, even a decade from now, agriculture will still have to provide employment to at least 40% of the workforce. Social support and poverty alle-

viation programmes in rural areas are important, but the basic key to the health of the rural economy lies in the improvement in agricultural productivity. New technologies such as indigenously created GM varieties of seeds, innovative methods of irrigation, investments in agricultural value chains etc, are all needed on a large scale.

Two, investments in multi-brand retail, particularly in food preservation and processing can also spur job creation. Large foreign retailers bring not only jobs but also much-needed technological know-how into the economy. The inclusion of Indian farmers and entrepreneurs in global

supply chains would bring gains in productivity. Cold storage supply chains, for example, could reduce post-harvest losses, and lead to higher crop valuations.

Three, the government must continue to make efforts to make it easier for firms to do business, and exit when they fail. There are enough best practices available within India which could be standardised. For example, if procedures to start a business could be reduced to the level of Patna, those to obtain a construction permit to that of Ahmedabad, days to start a business to that of Mumbai or enforce a contract to that of Guwahati, etc, India's World Bank ranking in ease of doing business could improve from 130 to 67.

Finally, labour laws need to be made more flexible. Hiring an industrial worker need not result in lifelong employment. It should be possible for an employer to retrain him if his performance is below par; or if the firm itself is in distress and is compelled to cut costs.

Experience shows that reforms in India have succeeded only when there is an emergency, as in 1992. They have also succeeded when the government has reached out to its opponents, and built a consensus, as in the case of GST. Since the creation of millions of new jobs in now an economic imperative, the time to build such a consensus has arrived.