

# Policy WATCH

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RAJIV GANDHI INSTITUTE FOR CONTEMPORARY STUDIES

## SPECIAL ISSUE (COVERING ALL THEMES)

*In this issue*

**Increasing  
Evidence of Attack  
and Erosion**

**Reimagining  
Regional Planning  
and Development:  
The Samarth Zillas  
Framework**

**Forest  
Conservation  
and the Forest  
Rights Act**



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**3 Increasing Evidence of Attack and Erosion**

**11 Reimagining Regional Planning and Development: The Samarth Zillas Framework**

**15 Taxation for Equitable Growth**

**20 Forest Conservation and the Forest Rights Act**

**26 India-China Trade and Investments**

# Editorial

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Dear Reader,

As you may have read in our last month's issue, our work at RGICS is now reconstituted in 5 themes:

1. Constitutional Values and Democratic Institutions
2. Governance and Development
3. Growth with Employment
4. Environment, Natural Resources and Sustainability
5. India's Place in the World

The last five issues of Policy Watch covered a theme in each issue. This sixth issue is a special issue, covering an article each from all themes.

The first article from Theme 1, titled, "Increasing Evidence of Attack and Erosion" highlights how there has been an increase in cases of intolerance leading to violence, how state and institutional machinery are under a threat and how the constitutional values of Justice, Equality and Fraternity are being diluted in the present times.

The second article from Theme 2 discusses our ongoing study on "Reimagining Regional Planning and Development: The Samarth Zillas Framework". It focuses on how regional planning and development needs to be reconceptualised based on the contemporary realities like large scale migration from rural to urban areas, breakdown of livelihood linkages, changing climate patterns amongst few.

The third article from Theme 3 is about "Taxation for Equitable Growth". It proposes to have progressive taxation policy which will facilitate equitable growth for all and improvement in public services.

The fourth article from Theme 4, about Forest Conservation and the Forest Rights Act, highlights the issues of forest governance and lack of effective policy implementation given the recent SC order of eviction of nearly 2 million forest dwellers. It also discusses the different approaches of forest preservation and how there is a need to develop an understanding between forest conservationists and its traditional dwellers.

The last article is from Theme 5 and focuses on India-China Trade and Investments. It discusses the need to reduce the trade deficit with China and prospects and challenges of Chinese investments in India.

We look forward to receiving your comments/suggestions.

Hope you enjoy reading this issue.

## Constitutional Values and Democratic Institutions

# Increasing Evidence of Attack and Erosion

Dr Sushree Panigrahi, Senior Fellow, RGICS

In drafting of the Indian Constitution, the primary concern was to safeguard the freedom and rights of people that were diverse in every imaginable way- religion, class, caste and region. The Preamble of the Constitution, which lays down the values of JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all and FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; was based on the Objectives which was drafted and moved in the Constituent Assembly by Jawaharlal Nehru on 13 December 1946. Dr B. R. Ambedkar said about the preamble:

“It was, indeed, a way of life, which recognizes liberty, equality, and fraternity as the principles of life and which cannot be divorced from each other: Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things.”



Of the total eleven sessions held by the Constituent Assembly between 1946 and 1949, the first six sessions were devoted to - religious and cultural freedom, fundamentals rights, the scheduled tribes, and the powers of the Union and its relationship with the states. These along with the directive principles form the core of our Constitution and it is this core that is in crisis today. It cannot be denied that caste and religion based violence have been witnessed in the past. However, the last few years has seen an unprecedented surge in communal and caste violence. Moreover, institutions meant to safeguard democracy have also been under attack. Through this article we wish to bring into focus issues and events that violate constitutional values and democratic institutions establish to uphold those values. We will be focussing on three institutions – two with a Constitutional status and the third being an important building block of a democratic polity - that are central to upholding constitutional values and democratic institutions – the Judiciary, the Election Commission and Higher Educational Institutions.

## I. Judiciary

The Constitution ensures that the judiciary remains free from the influence and pressures of the executive and the legislature so as to ensure that access to justice for all. However the courts have been plagued with the, pitfalls of the collegium system, the issue of shortage of judges leading to pendency of cases and delays in justice. While these cannot be attributed to a particular government as it has been building up over years, however, in the past few years, matters have escalated. There have been several instances of direct conflict of the State and the Judiciary which do not augur well for a democracy.

**a) Conflict with regard to appointment of Judges:** It started in 2014 with the Government sending back Gopal Subramaniam's name to the collegium as Supreme Court judge citing a CBI case against him. As a mark of protest, Subramaniam tendered his resignation and also accused the government of orchestrating a malicious campaign against him for his role as the Supreme Court's amicus curiae in Sohrabuddin fake encounter case. The then Chief Justice RM Lodha publicly expressed his dissatisfaction with government's conduct.

In the years 2015-2016, other points of conflict emerged between the Executive and the Judiciary when the Supreme Court struck down the National Judicial Appointments Commission Act, 2014 which gave the Executive the final say in the appointment of judges, as unconstitutional in Oct 2015. The Supreme Court collegium rejected in 2016 the Centre's draft of Memorandum of Procedure containing provisions that enabled the central government to reject the candidate nominated by the collegium on the grounds of 'national security'. The collegium had to finally concede to government's demand in 2017 to end the stand-off with the government.

**b) Inaction on Judicial Vacancies:** The Economic Survey 2018-19 flags the huge pending cases and the urgent need to fill in vacancies in order to tackle pendency of cases. As per the Economic Survey, more than 8500 judges are required to clear the backlog. It says additional 8 judges will be required in Supreme Court in the next 5 years. Across high courts, a total of 43,63,260 cases were pending as on July 1, according to the National Judicial Data Grid (NJDG). Of the total cases, 27.42 lakh have been pending for more than one year, while 8.43 lakh cases are 5-10 years old, 6.86 lakh cases are 10-20 years old, and 1.04 lakh are 20-30 years old. A total of 44,409 cases have been pending for more than 30 years!

While one may argue that the judicial delays have not crept up only in the last five years, but the point to be noted is that Chief Justice TS Thakur appealed to the government to expedite the process of judges' appointment. But no action was taken on this. Additionally the CJI wrote to the



Prime Minister on June 22, 2019 to increase the number of Supreme Court Judges and to increase of the retirement age to 65 years. He urged the Prime Minister to make tenure appointment of retire Judges under Art 128 and 224 A to clear the backlog of pending cases. However nothing has been done so far.

Matters came to a head when senior most judges addressed a press conference against the stance of the government with regard to the judiciary. Justice Chelameswar and Justice Kurian Joseph in their public letters issued in the chief justice in March and April 2018 directly accused the government of interference. Justice Joseph writing on the matter of government delay of Justice KM Joseph's name went to the extent of saying that the "existence of the Supreme Court is under threat"



Photo Credit: PTI/Atul Yadav

Cases of issue based rift between state institutions and government have occurred in the past, but the scale of the crises at present is clearly unprecedented. Three Chief Justices and multiple Supreme Court judges have called out government for interfering in its working in last three years. The Supreme Court bench that struck down the NJAC in 2015 itself has been introspective about the existing collegium system and even invited the Government to work collaboratively towards improving it. The collegiums system in judicial appointment as devised to safeguard for judicial independence from the executive and therefore, government tendencies to control the appointments go against the separation of power doctrine. Similarly, repeated questioning and criticism of judicial verdicts and working by government representatives harms the credibility of the institution amongst the citizens.

## II. Election Commission

Free and fair elections are crucial in a democratic country and when the Election Commission comes under the scanner for its role in an election it is a matter of grave concern. The signs of the Election Commission being biased in its decision regarding elections were apparent when in 2017 it decided to split the elections in Himachal Pradesh (HP) and Gujarat while it was expected to hold simultaneous elections in both the states. The decision, it was alleged was made to favour the ruling party. The voting in HP was held on 9 Nov and result were stalled for as long as 18 December 2017, a gap of total 40 days. In 2018, the Delhi High Court had criticised the Election Commission for violating the principles of natural justice and dismissing 20 AAP MLAs without holding oral hearings. It restored their membership and asked the commission to give the

legislators to present their side. In the election of 2019, the Election Commission was seen as favouring a particular party in deciding the poll phases, holding road shows, content of speeches. We cite some examples here to elucidate our point.

In April, 2019, it was reported the government think tank Niti Aayog had asked bureaucrats in Union territories and at least one BJP-ruled state to send the Prime Minister's Office inputs on local area knowledge ahead of the leader's visits to the place. It asked the bureaucrats to prepare a write-up for the Prime Minister's office on the highlights and important features of the UTs - historical, local heroes, culture, religious, economic (including details of major crops, industry etc). The Congress moved the EC against the alleged misuse of state machinery by the Prime Minister's office for election campaign. No heed was paid to it.

Two sets of letters were written during and post the election. Both letters written by civil servants raised certain common issues on misuse of government machinery, violation of code of conduct by the Prime Minister, bias in taking action. In the first instance, a group of 66 former civil servants wrote to President Ramnath Kovind, calling the Election Commission's conduct in question, regarding the following:

**a) Model Code of Conduct:** The letter cited Uttar Pradesh CM Adityanath Speeches and Namo TV as clear cut violation and Election Commission's failure to act on the same. Not only did the Namo channel continue to be telecasted, it was also immediately taken off post elections. There has been no enquiry regarding this. They also cited Narendra Modi's A-SAT speech. The letter pointed out the gross violation of election code of conduct with the Prime Minister parading achievements of the government. They wrote, "tantamount to a serious breach of propriety and amounts to giving unfair publicity to the party presently in government and the ECI's decision did not stand up to the standards of impartiality expected of it".

Furthermore, the Election Commission refused to share the details of alleged model code of conduct violations by Prime Minister Modi and other political leaders during general elections in response to an RTI query. The body cited section 7(9) of RTI Act, saying compilations of all the information will lead to disproportionate diversion of the resources. In yet another example of partisan behaviour, the Election Commission dismissed the Opposition's complaint against the Prime Minister's road show in Ahmadabad while the second phase voting was going on. On the other hand, EC sought an explanation from the congress president for his interview before second phase of voting. EC had given clean chit to PM total six times including for his speeches where he invoked Pulwama and Balakot.

**b) Differential Action/Inaction towards Government officials:** The letter also noted the Election Commission's differential attitude towards Government officials on election duty. The ECI passed orders transferring three top police officers and the chief secretary in Andhra Pradesh and four top police officers in West Bengal, it did not take any such step in Tamil Nadu, where the present Director General of Police (DGP) is reportedly under investigation for Gutkha Scam case and there had been repeated appeals by the opposition parties in Tamil Nadu, seeking his removal from the post. He was also on extension beyond the normal date of superannuation and as per ECI norms, such officers should not be assigned election duties.

**c) Curb of dissent within the ECI:** During the elections, the Election Commission tried to curb dissent within the institution. It refused to disclose the dissent note of Election Commissioner Mr Ashok Lavasa under the RTI Act on decisions pertaining to Prime Minister Narendra Modi's

speeches which were alleged to have violated the model code of conduct. The Commission in its response said that it was exempted from providing information which may “endanger the life or physical safety” of an individual. Election Commissioner Ashok Lavasa, was sidelined and he said the minority decisions were going unrecorded and were being left out of the final decisions which are “contrary to well established conventions of multi member statutory bodies”. Lavasa had opposed five clearances given by the EC to PM Modi and BJP President Amit Shah in complaints of Model Code of Conduct violations.

Post the elections, apart from concerned civil society members, over 60 civil servants wrote to the Election Commissioner of India (ECI) saying that 2019 Lok Sabha elections were among the “least free and fair elections” in three decades. The letter pointed out the several instances which exposed the bias of the ECI:

- i) **Delay in such as delaying the announcement of the election dates as late** as 10 March, deliberately allowing the PM to complete the inauguration of projects right before the elections. He inaugurated a total of 157 projects between the months of February to March barely a few months before the election.
- ii) **Allocation of Election Phases:** A second important point made by the letter was the allocation of election phase; where the ruling party was weak, elections were held in a single phase, whereas where it was facing tough competition or was likely to gain seats, the polling was held in several phases.
- iii) **Use of official machinery:** The signatories questioned the EC's decision to exonerate the government of charges of misusing official machinery during campaigns. As pointed out earlier the Niti Aayog supplied data and information to plan out campaign and speeches.
- iv) **Media Bias:** No efforts were made to curb the use of media with regard to extensive coverage to every movement of the Prime Minister plus the airing of Na Mo Television which appeared and disappeared literally overnight

“So blatant have been the acts of omission and commission by the ECI that even former Elections Commissioners and CECs have been compelled, albeit reluctantly, to question the decisions of their successors in office.”

Apart from the series of inaction against the electoral transgressions by those in office in the current government the Election Commission also reversed its opinion of electoral bonds. Initially the EC called the move a step back, only to change its mind later and endorse the policy instrument. The Commission again changed its stance in 2019 when it told the Supreme Court that electoral bond hit transparency in political funding.

### III. Higher Education Institutions

The State and educational institutions have been at logger heads for decades now on several issues- appointments, recruitment, admission, syllabi and also at times the naming of the universities as when a panel constituted by the University Grants Commission (UGC) suggested dropping the words Hindu and Muslim, respectively in the Banaras Hindu University and Aligarh Muslim University names.

Batabyal (2014) maps out both the conflicts that have taken place in establishing centres of higher education in India since 1960's. He points out how students and administration have been instigated into violence by the state inciting people on communal lines. But in the last few years,

there has been a sharp increase in the instances of violence in Universities and also curbing of freedom of speech not confined to one university but occurring in several across the country.

We list a few of these instances to give an overview of how educational institutes and academic freedom has been repeatedly come under attack. In 2016, Prof. Vivek Kumar, a sociologist was attacked during a talk in Bal Bhawan, Gwalior by members of Bhartiya Janta Yuva Morcha calling his speech “provocative and anti-national”. In February 2017, an event called “Culture of Dissent” organised by the students of Ramjas college of Delhi University was violently attacked by ABVP members. The attack was met with large scale protest march by Delhi University students. In the same month Rajshree Ranawat, a faculty member in Jodhpur University was suspended for organising a lecture by Prof. Nivedita Menon. A police complaint was lodged against Menon as well as Ranawat.

In September 2017, a talk by Prof. Nandini Sundar, Adhik Kadam and K Stalin was cancelled at IIT Madras. The university administration deemed the talk “controversial and unsuitable”. In yet another incident, Sanjay Kumar, a professor of Sociology in Mahatma Gandhi Central University at Motihari town in Bihar was assaulted for a comment he made on Facebook on the demise of former PM Atal Bihari Vajpayee. In July 2018, a programme “Dialogue on Freedom of Expression” was cancelled in Delhi University after ABVP members threatened to disrupt it. In December 2018, ABVP members attacked a book stall of Hariti publication, for publishing and selling a book titled 'JNU Diaries' in the campus of Savitri Bhai Phule Pune University.

Apart from this there have been several other cases of professors being attacked and assaulted for speaking up against the government, the suicide of Rohit Vemula also points to the apathy of the government towards students, especially those belonging to the marginal sections of the society. One of the most prominent cases is that of JNU where a students' union meeting was taken out of context and students were accused of sedition and put behind bars. In spite of it being proved that the video doing the rounds was doctored, the deed was done and a wave of anti-JNU sentiment emerged questioning it being funded by tax payers.

As Gudavarthy (2019) points out in his work, these occurrences are symptomatic of the Government's attitude towards higher education and the idea of a university itself. Universities are set up to encourage freedom to think and question, the current government is against this and wants to instead promote a false notion of nationalism among students creating a narrow and sectarian understanding of education. This is believed to be part of a larger design to stifle public university and encourage privatisation of universities.

Fundamental Rights articulated from Article 14 to Article 21 form the core of our Constitution. All the examples quoted above are a direct attack on the fundamental rights of citizens. Historically governments over the years have invoked various provisions to curtail unfavourable opinion ranging from sedition to defamation. The Government has repeatedly provided patronage to ideologically affiliated groups and elements like ABVP and Karni Sena as they used violent methods to attack those who do not subscribe to the ruling regime and ideology. This is evident from the constant attacks on writers, academics and journalists as the perpetrators enjoy impunity. Students, journalists, academics, institutions are maligned and discredited and are framed as a threat to the nation. This attitude undermines democracy and the ideals on which the constitution grants us freedom.



## Conclusion

It cannot be denied that the institutions which are essential for a healthy democracy are under threat today in India. We have cited examples of violation of constitutional values in three institutions. But, others like the Reserve Bank of India, Media, Art and cultural institutions have also witnessed increased state interference in their functioning. The media does not provide a level playing field to the opposition. It doesn't carry the voice of the opposition to the people and has become a propaganda machine for the current government. Last and not the least- film makers, authors and the press are being stifled.



Any commentary against the government is followed by violence by fringe elements or action is taken by the government – this is being done by both State and Central Governments. The assassination of Dabholkar, Pansare, Kalburgi and Gauri Lankesh, point to the intolerant times we live in where anyone who speaks against certain belief systems, or the policies of the government is attacked in the most brutal manner. As citizens we cannot ignore these developments that are slowly eroding the pillars of democracy and moving us towards a totalitarian state. We need to be vigilant and raise our voice against the dilution of our constitutional values and erosion of our democratic institutions.

## Acknowledgement:

The author is grateful for research assistance provided for this article by Mr Piyush Kumar, Junior Policy Associate, RGICS.

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# Reimagining Regional Planning and Development: The Samarth Zillas Framework

Yuvraj Kalia, Associate Fellow, RGICS



In January 2019, RGICS began a research study to reconceptualise how planning and development takes place as to address increasingly complex challenges in the country<sup>1</sup>. The gravity of these challenges is highlighted by large scale long term migration from rural areas to urban areas, against which the infrastructure in urban areas seems to be crumbling<sup>2</sup>; rising unemployment<sup>3</sup>; breakdown of livelihood linkages and stark class inequality with wicked regional patterns<sup>4</sup>; and drastically changing climate patterns with natural events having long return periods occurring rather frequently. The study, called Samarth Zillas, aimed to provide a regional approach to development (which is an old concept) and create a new framework keeping contemporary realities in focus. While the research report is forthcoming, this article aims to apprise readers of scope of the research study with a few pointers on major findings.

Samarth Zilla translates as 'Capable District'. The capability of the district is to support and sustain its inhabitants with meaningful livelihoods and a decent quality of life. Although

1 Vijay Mahajan and Yuvraj Kalia (2019) Samarth Zillas : A Regional approach to holistic spatial development  
[http://www.rgics.org/wp-content/uploads/Policy\\_Watch\\_8.1.pdf](http://www.rgics.org/wp-content/uploads/Policy_Watch_8.1.pdf)

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3 Prasanth Regy (2019) Employment in India: Structural Problems  
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4 Livemint (2018) Where India's affluent classes  
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meaningful and decent may seem rather vague terms, assuming the least it could mean would deliver a livelihood that supports the person and his family well above the official poverty line; and with basic needs as defined by the person/ community including access to potable water, electricity, affordable housing, etc.

The Samarth Zillas framework uses a regional approach to development which recognises the continuum of rural and urban areas. Though the unit of planning could be larger such as a cluster of neighbouring districts, or a river basin, the Samarth Zillas framework makes a district as the unit of development because of data availability at district level as well as the existence of all implementation mechanisms. The framework deals with the whole district, instead of a town or a village, which enables larger, integrated planning and implementation. It borrows substantially from Sustainability Livelihoods Framework (SLF) so far as to include five types of capital (i.e. Natural, Human, Social, Physical, and Financial) and that these capitals are bound by certain constraints.

To guide the study, the Samarth Zilla Index (SZI) has been created using eight variables under six categories. These categories are institutional capability plus the five types of capitals. The usage of variables was restricted by availability of district level data, and the formats and timeframes in which it is collected. Based on the Index, a total of 20 districts were selected from 9 states across India (See Table 1). Within a state, the districts were chosen to represent agro-climatic and economic variability, and both top and bottom performers. The selection of states was largely driven by operational convenience and networks available to carry out the research. During the study, one state, Madhya Pradesh, had to be dropped due to operational issues. Effectively, the study has been carried out in 8 states and 18 districts. More details on the Index and its construction in forthcoming final report.

*Table 1 Districts selected for Samarth Zilla Study and their SZI scores.*

S. No.	District	SZI	State SZI Rank	State
1	Badgam	0.35	4	Jammu and Kashmir
2	Doda	0.14	11	
3	Jalandhar	0.72	2	Punjab
4	Moga	0.45	16	
5	Ajmer	0.49	2	Rajasthan
6	Karauli	0.1	31	
7	Sonitpur	0.32	6	Assam
8	Kokrajhar	0.16	17	
9	Ganjam	0.63	4	Odisha
10	Naupada	0.27	28	
11	Meerut	0.47	5	Uttar Pradesh
12	Deoria	0.3	13	
13	Mahoba	0.13	56	
14	Bahraich	0.05	67	
15	Jabalpur	0.52	3	Madhya Pradesh
16	Barwani	0.05	38	
17	Bilaspur	0.3	4	Chhattisgarh
18	Bastar	0.13	14	
19	Kanyakumari	0.9	3	Tamil Nadu
20	Dharamapuri	0.47	29	



Keeping in view the diversity of contexts offered by district under this study, the methodology adopted was simple and flexible, starting with assessment of status and potential of each district under each type of capital under SLF. Along with this, three dimensions of constraints over these five types of capital viz. political economy of the district, institutional capability, and financial feasibility, presented a reasonable picture of the nature of development or underdevelopment of the district along with the requirements to reach the assessed potential. Clearly, the research is largely qualitative with quantitative data used to support qualitative findings.



The study, in its final phase now, has thrown some interesting insights into the process of development, critical requirements to enable that process, and the path to Samarth-ness. Without delving into much detail, major findings can be summarised as follows:

1. There is a process to capital formation. Only availability of abundant natural capital does not ensure that there will be growth of other types of capital in the region. Neither is it the case that availability of physical or financial capital leads to growth in any type of capital. There is necessity of 'high quality' human capital to come together, create social capital of a particular variety and act on natural or physical and/or financial capital.
2. The process of capital formation is extensively guided by norms, values and belief systems of a given society or group of people. These norms vary spatially and among communities within an area too. Under such scenario, it becomes impossible to drive the process of capital formation with interventions guided by a normative system that does not align with the norms of the society. For smooth functioning of this process with a long-term view, it is imperative that developmental efforts align with the reigning norms. These norms, beliefs and values of the society are the institutions of the society or "Rules of the Game" with which the development takes place.

3. When these norms, beliefs and values become divergent from that of the community/ society, it requires action on behalf of the community execute a course correction. This collective action becomes the soul of change process which keeps people's requirement at the forefront, drives institutional development and change, and brings about acceptance to a certain set of norms and values across multiple stakeholders and actors. This collective action is a challenge, as often the boundaries of norms, belief and values are not definite. Within a community, there might be different sets of norms held closely while overall existing norms align with none of them.
4. The institutions are the crucial link in driving the process of the capital formation and growth. Institutions ensure that the process takes place in an effective manner as per the needs of the people. When institutions are formalised and diversified, they carry out specified functions as organisations forming a network, which is guided by the institutions and also effect the institutions. This way, institutions of an area or region are in fact dynamic, although the change is visible over long periods of time.
5. Although the government systems are uniform across the country, particularly within states, the intra and interstate variations in how these systems are operationalised to carry out governance of resources are huge. Given that agro-climatic and economic contexts, populations and nature of resources also differ greatly, adds to the challenge of governance.
6. The governance challenge is further enhanced if we understand the responsibilities placed on the government structure, which certainly has deep limitations. The civil society organisations and market institutions work in different mutually exclusive domains altogether. The past efforts in creating mechanisms of engagement within these three sectors, such as the Public-Private-Partnership with government and market institutions as stakeholders, have seen limited success, raising questions on pattern of associations.

The Samarth Zillas research study, with few of the findings mentioned above, creates a framework synthesising all the learnings. The framework engages multiple stakeholders to create acceptance of a set of norms, values and beliefs which then guide formal/ informal and governmental/ non-governmental institutions to drive the process of capital formation and growth. The framework places emphasis on tri-sector engagements and partnership to create vehicle of delivering on felt needs of the people of a district/ area. This becomes necessary as the complex challenges call for complex solutions and partnerships. This article may raise more questions than it answers, please refer to forthcoming research report on Samarth Zillas framework for details.



# Taxation for Equitable Growth

Prasanth V. Regy, Senior Fellow, RGICS

**Tax system in India and Trends:** In the budget presented on the 5th July 2019, the maximum marginal income tax rate has been raised to 42.7%. This has led to questions about whether this tax rate is too high, and whether it will decrease incentives to work and increase tax evasion.



In India, many public services such as law and order, public health, social security, water and sanitation, public education, environmental protection, and public transportation, are poorly funded and delivered. We also see high and increasing inequality, driven primarily by the lottery of birth. These two problems feed on each other. One way to both improve the delivery of public services, and secure more equitable growth, is a progressive taxation policy that raises more taxes from those who are very well off.

Trends in tax revenue: The tax-GDP ratio in India has been increasing gradually over the past two decades. In the year 2017, the taxes were 17.8% of the GDP.<sup>5</sup> Table 1 indicates the percentage breakup of the tax collections.

Level	Total
Centre	65
States	34
Local	1
Total	100

Table 1: Tax collection in India (as percentage of total). Source: RBI (2018, Table 109)

It is evident from Table 1 that the centre collects 65% of the total tax. However, most of the expenditure obligations (58% of the total government expenditure) are in the domain of the states.<sup>6</sup> This highlights the importance of the Finance Commissions in ensuring a fair distribution of resources. This also indicates how necessary it is for State Finance Commissions (SFCs) to allocate revenue to local governments more effectively.

<sup>5</sup> International Monetary Fund 2019

<sup>6</sup> Isaac, Mohan, and Chakraborty 2019

**Principles of taxation:** There is broad acceptance that tax policy and administration should conform to a few basic principles:

- Efficiency
- Equity
- Effectiveness

It should be noted that these three are inter-related. For instance, a lump-sum tax might be the most efficient from the point of view of minimising distortions. It might also be the most easily enforceable. However, it would fail the test of equity, since a poor person would owe exactly the same tax as a rich man.

**Efficiency:** Taxes can change decisions about what, and how much, to produce and consume. This substitution away from activities that are taxed is referred to as tax distortion. Distortions lead to a dead-weight loss, reducing the social surplus, even if the taxes improve the overall social welfare.

This analysis helps us identify two ways to reduce tax distortions. Firstly, the lower the tax rate, the lower the distortion. Governments can achieve a low tax rate by taxing a broad base of taxpayers. This is called the Broad Based Low Rate (BBLR) approach.



Secondly, the greater the drop in the demand caused by the tax, the greater the distortion. Thus, if high taxes need to be imposed, they should target inelastic tax bases.

**Equity:** While taxes are primarily aimed at financing public expenditures, they are also used to promote equity. There are two primary types of equity to consider: horizontal and vertical.

Horizontal equity is the idea that similar people should receive similar tax treatment. For instance, if two people earn similar amounts of income, their income tax outgoes ought to be similar. Vertical equity refers to the idea that those who earn more ought to pay more, through proportional (flat-rate) or progressive tax rates. Vertical equity can help redistribute income within society and reduce inequality.



Effectiveness: The effectiveness of tax administration determines how well the objectives of tax policies are met. But this effectiveness can itself be a function of tax policy. Complex tax laws are difficult to understand and enforce. In terms of administration, complexity of tax laws can lead to tax evasion and to rent-seeking by tax administrators.

**Policy questions:** In the light of the discussion above, we can now consider some key issues of tax policy in India.

Under-collection of Tax: Many countries collect much higher tax than India. Table 2 presents a comparison of India against some countries at different stages of development. It can be seen that countries such as Germany and France have very high tax rates. Even the United States, which has a powerful tradition of “small government”, has a tax rate much higher than that of India.

Country	Tax-GDP Ratio
France	46.2
Germany	37.5
United States	27.1
China	17.8
India	17.8
Pakistan	12.4

Table 2: Tax-GDP ratios in various countries. Source: IMF (2019)

The author estimates that accounting for the per-capita GDP and the share of revenue from natural resource rents, the average tax-GDP ratio of a country with India's characteristics is 20.0%. This is about 13% higher than what India collects today.

### Inequality and taxation

There is an ongoing debate about the effectiveness of tax policy in actually reducing inequality. High taxes on corporates may drive out businesses, impacting their employees negatively. Implementing a progressive tax system comes with increased costs of administration and compliance, and higher economic distortions.

However, there are also voices that strongly call for higher taxes as a path towards less inequality. In Piketty and Qian (2009), the authors claim that “Progressive taxation is one of the least distortionary policy tools available that controls the rise in inequality by redistributing the gains from growth.”

Taxation of corporates and capital gains: In India, income from Long-Term Capital Gains (LTCG) is generally taxed at a rate of 20%, after adjusting for inflation through indexation. LTCG on equity investments is taxed at just 10% (without indexation). Thus, the effective rate of tax on capital gains income is quite low. In contrast, the return to labour (wages or salaries) is taxed at a rate that can be as high as 42.7%.

This discrimination is sought to be justified by positing that tax policy should encourage capital accumulation, since accumulation of capital leads to high incomes for labour. Since Corporation

tax is already levied, it would amount to double taxation of dividends, or capital gains on equity, were taxed. Also, imposing tax on capital gains from equity, or on dividends, raises the cost of capital, which can lead to reduced entrepreneurship and fewer jobs.

While capital accumulation certainly should be encouraged, extreme tax bias towards capital and against labour can lead to a rentier society.

Municipal finances: Generally, finances should follow functions. In the context of municipalities, this would mean that they should have the ability to raise resources that are necessary to perform the necessary expenditures. However, historically, municipalities have suffered from low fiscal capacity. They rely heavily on transfers from the States and the Centre to finance their budgets.

The Constitution does not assign any power of taxation to municipalities directly. Instead, the state governments assign certain tax powers to the municipalities. They include taxes on property, advertisements, non-motorized vehicles, octroi, professions, trade and callings, and entertainment taxes. With the introduction of the Goods and Services Tax (GST), this authority has been restricted, since several of these taxes have been subsumed under the GST.

The 73<sup>rd</sup> Amendment mandated the constitution of SFCs. These were to recommend how the state's revenues were to be distributed to the urban and rural local governments. However, in many states, this has not happened effectively. In some states, SFCs have not been constituted in time. Sometimes their recommendations are rejected without reasons. Often their recommendations regarding financial issues are acted upon, but their recommendations dealing with systemic issues are ignored.

Agricultural Income: In the constitution, agricultural income is not taxable by the centre, though it can be taxed by states. In practice, there is no tax on agricultural incomes in the states either.

This violates both horizontal and vertical equity. Another major issue with the lack of taxation of agricultural income is that it enables evasion of tax.

Taxation in the 2019-20 budget: The latest budget presented in July 2019 is a mixed bag as far as taxation policy is concerned. Given that the government has appointed a committee to review direct taxes, it was hoped that a beginning would be made towards simplifying the income tax law. This hope was belied. Instead, multiple new exemptions and incentives have been added to the tax laws, making it even more complex. This includes changes in the provisions regarding interest deductions on housing loans, and deductions to industries in the areas of electric vehicles, Lithium-ion batteries, semiconductors, photovoltaic cells, and laptops.

The maximum marginal rate on personal income tax has now been raised to 42.7%. This can lead to people choosing not to work, and/or attempting to evade taxes. While there was some anticipation of a reintroduction of estate tax, it did not materialise. Further, there has been no attempt to increase the base of the tax. This budget is moving further away from the ideal of a low tax on a broad base.

On the Corporation tax side, this budget has reduced the tax rate on most companies. However,

the dividend distribution tax, and the un-indexed equity capital gains tax remains on the books, which means that the same income is taxed multiple times.

Lastly, a 'faceless' assessment system for income tax is to be rolled out. While this can help reduce rent-seeking and harassment, the effects might well be counteracted by the increased complexity and higher tax rates.

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# Forest Conservation and the Forest Rights Act

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**Introduction:** The conflict between state and forest dwellers in India is not new. It increased in the past as the state started controlling forest by declaring them protected area. The network of protected forest in India has tremendously increased from just one in 1937 (Jim Corbett National Park) to 771 as of today. These forests have been traditionally providing livelihood to nearly 350 million people across the country. The increased control of the state over forest in last eight decades led to conflict with forest dwelling communities.

The Forest Department's control over forest imposes restriction on livelihood activities of people such as grazing, agricultural activities, residence of people inside the forest and collecting firewood and non-timer forest produces. These restrictions are derived from the conservationist approach, which believe in the protection of forest by restricting human activities inside the forest. On the other hand, forest dwellers (most of them are tribals) have been arguing that they know how to protect forest in sustainable manner as that is their tradition and culture.

Public policies and governance around forests conservation are largely dominated by the classic conservationist approach. Right from the colonial law the Indian Forest Act, 1927 to the Forest (Conservation) Act, 1980 insists for alienating tribal and other forest dwellers from the forest. This policy approach changed slightly from late 1980s. The National Forest Policy, 1988, The Panchayat (Extension to Scheduled Area) Act, 1996 (PESA) and the Scheduled Tribe and other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) are few legislations framed in last three decades, which recognized symbiotic relationship between forest and its traditional dwellers<sup>7</sup>.

Despite a shift in policy formulation in last few decades, the forest governance remained unchanged. The forest department still draws its motivation from laws framed with conservationist approach. Moreover, it tries to interpret new generation laws including FRA, 2006 and PESA, 1996 from the conservationist approach. Many forest officials and conservationist believe that these laws are anti-environment and will lead to further degradation of forest and wild life. A group of conservationist civil society organizations led by

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7 Dungdung Gladson, 2019, 'Proposed amendment to Indian Forest Act would deepen Injustice, Down to Earth, April 17, 2019, accessed from: <https://www.downtoearth.org.in/coverage/forests/proposed-amendment-to-indian-forest-act-would-deepen-injustice-63993>, accessed on 09.07.2019



Bangalore based organization namely 'Wildlife First' challenged the constitutional validity of the FRA, 2006 in the Supreme Court of India. In a recent order under this case, namely Wildlife First and Ors Vs Ministry of Environment and Forest and Ors directed state government to evict nearly two million people from the forest whose forest right claim has been rejected<sup>8</sup>. However, state and central governments have requested time from the Court to review rejected cases of Forest Rights claims under the FRA, 2006 before initiating the process of eviction.

It shows that the mainstream political discourse in India is sensitive towards the symbiotic relationship between forest and its traditional dwellers. However, forest conservationists to assert their arguments have used the recent order of the Supreme Court. While both sides of the debate around the Forest Rights Act, 2006 have arguments in their favour, this article attempts to highlight them here and proposes way forward.



Photo Credit: Manipadma Jena/IPS

**The Debate around Forest Conservation:** The Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 commonly known as the Forest Rights Act, 2006 (FRA) recognizes that the alienation of tribal and other forest dwellers from the forest by the state was injustice with them. This alienation took place largely because of expanding protected forest area and development projects such as mining and power projects in last many decades (both before and after independence). The FRA, 2006 provides for range of individual and community rights over forest to tribal and other forest dwellers. These rights

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<sup>8</sup> Supreme Court of India, 2019, Wildlife First vs Ministry of Forest and Environment, WP no. 109/2008, Accessed from: [http://www.wildlifefirst.info/pdfs/FRA\\_SC%20Order\\_13-Feb-2019.pdf](http://www.wildlifefirst.info/pdfs/FRA_SC%20Order_13-Feb-2019.pdf), Accessed on 07/07/2019

include right of individual forest land for agriculture and residence and community forest rights for collection of forest produce, fuel, firewood etc. Additionally it provides for habitat rights for Particularly Vulnerable Tribal Groups (PVTGs), developmental rights for village level infrastructure and in situ rehabilitation of displaced forest dwellers.

*Status of Forest Rights Claim under FRA, 2006, as of March, 2019*

Claim Status	Individual Claims	Community Claim	Total
Total Claim received	40,89,035	1,48,818	42,37,853
Total Titles Distributed	18,87,894	76,157	19,64,048
Total Land Distributed (in Acres)	41,33,891.33	84,04,870.81	1,29,38,762.14

Source: <https://tribal.nic.in/FRA/data/MPRMar2019.pdf>

The Forest Rights Act, 2006 has allotted 41.33 lakh acres land to 18.87 lakh tribes and other forest dwellers for their individual use including agriculture and residence. Similarly, in the case of community forest right, 84.04 lakh acres of forest has been allotted for 0.76 lakh communities for their common use, which includes collection of firewood and minor forest produces. Data shows that more than half of claimants have not received any land under the law.

The classic conservationist paradigm argues that people causes destruction of biodiversity<sup>9</sup>. This destruction is termed as 'biotic interference'. The term 'biotic interference' is used to describe the assaults made on the forest by local communities seeking fuel, fodder, other forest produce and using forest land for agriculture<sup>10</sup>. The conservationist approach argues that the Forest Rights Act actually promotes biotic interference and therefore forest will further degrade. Major objections of this group against the law are as follows: -

**1 “An anti-environmental law”:** The conservationist group argues that this law is anti-environment, as it does not take in account the basic principles of classic forest conservation. It allows people to live and earn livelihood from the forest. According to them both living and earning livelihood from the forest will lead to the degradation of forest. It has also been argued that the law does not distinguish between landowner forest dweller and land less forest dwellers. According to the law, all tribal and other forest dwellers can claim maximum of 2 Hectare of forest land they occupied before December 2005. It actually allows influential people who already have land in their name to occupy more forest land.

In the contrast tribal right activists and tribals believe that the FRA is a progressive law and it provides for due rights of forest dwellers. They argue that they have been residing in forest for generations, and they have conserved the forest by their environmental friendly traditions and sustainable management of forest land and forest produces. In few cases, it is true that the land for agriculture occupied by tribal is relatively new, but they have been residing there for many generations depending on forest produce and forest land. Many studies in the last few years, analyzing impact of community forest rights found that the

<sup>9</sup> IUCN, 2019, Forest Rights Lost: Evictions Loom over a Million of Adivasis, Accessed from <https://www.iucn.org/news/world-commission-environmental-law/201903/forest-rights-lost-evictions-loom-over-a-million-adivasis>, Accessed on 08.07.2019

<sup>10</sup> Bhaviskar, 1994, 'Fate of the Forest: Conservation and Tribal Right', Economic and Political Weekly, September 17, 1994.

community control over forest has resulted into better management of the forest<sup>11</sup>. Moreover, both conservationists and tribal activist have used the FRA, 2006 to save forests and other natural resources in many places including Niyamgiri in Odisha<sup>12</sup>. A similar struggle is going on in Chhattisgarh, where tribal are struggling to stop mining in Bailadila in Bastar region.

- 2 “Fragmentation of the Forest”:** The second objection is that the distribution of individual forest rights has fragmented the forest land. According to them, allocation of agricultural plots inside the forest for villagers has fragmented the forest. It has been argued that fragmented forest is not only harmful for the forest but it will adversely affect wild life.

Tribals living inside the forest area are largely dependent on minor forest produces for their livelihood. For every season, they have something to collect from the forest. Agriculture makes small contribution in their livelihood. For example in the Bastar region of Chhattisgarh, tribal in deep forest have some agricultural land from where they get only one crop in a year. Moreover, the forest and agricultural land are intertwined and amalgamated in such a way, that in a non-agriculture season, it is difficult to distinguish land from the forest.

- 3 “Cultivation Inside Forests is Harmful”:** The third criticism of the law is that with increasing mechanization of the agriculture in rural India, tribals too have started mechanizing their cultivation by using machines and equipments. The threat is that with the use of machine, modern equipments and chemical fertilizers for maximizing output will eventually take tribal away from their traditional system of agriculture. The mechanization of agriculture in forest has higher potential to harm forest and wildlife. Such mechanization will disturb forest ecosystem servicing.

Agriculture is a sub-set of tribal occupation, however, it is true that harmful cultivation inside the forest is bound to destroy local ecology and adversely affect forest and wildlife. The mechanization of agriculture and use of chemical fertilizer to increase production are harmful but it is rapidly expanding in India. However, largely tribals are not into it. They still are practicing their traditional agriculture. In the Bastar region of Chhattisgarh, tribals residing inside the forest are dependent on cow dung for fertilizer needs. Moreover, they only take one crop per year and keep the field fallow for the rest of time. Their agricultural production is entirely dependent on nature, as they do not even use irrigation technology. While mechanization of agriculture is harmful to the forest and wildlife, it can be argued that as long as tribal traditions, culture and values are there, one has to not worry about cultivation inside the forest.

- 4 “Pressure on Forest for NTFPs”:** the Non-Timber Forest Produces (NTFPs) contribute substantially in the total income of tribal population in many parts of the country. For example the tribal dominated Bastar region in Chhattisgarh, NTFPs accounts more than two-third of tribal livelihood. They consume the larger portion of collected forest produce without any processing and value addition. However, now with the increase in number of

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11 Sahu Geetanjoy, 2019, 'Wildlife and Forest Rights Groups Have Shared Interests. Why Don't They Work Together?' The Wire, January 24, 2019, Accessed from: <https://thewire.in/environment/wildlife-and-forest-rights-groups-have-shared-interests-why-dont-they-work-together>, Accessed on 07/07/2019

12 Sahu Geetanjoy, 2018, 'Forest Governance and Collective Action in India' Accessed from: [http://ocean.ait.ac.th/wp-content/uploads/sites/10/2018/07/Geetanjoy-Sahu\\_Forest-Governance-and-Collective-Action-in-India.pdf](http://ocean.ait.ac.th/wp-content/uploads/sites/10/2018/07/Geetanjoy-Sahu_Forest-Governance-and-Collective-Action-in-India.pdf), Accessed on 08/07/2019



forest produce based industry and system of trade, tribals have option to sale them in the market. The conservationist approach suggests that the increasing demand for forest produce will lead to over-exploitation of NTFPs and hence harm forest and wildlife.

Tribal and other forest dwellers have been collecting non-timber forest produces (NTFPs) for generation. In many tribal dominated regions, NTFP contributes around two-third in their total income. It is true that the increasing market for NTFPs has increased pressure on the forest. However, it is also true that the local traders are known for exploiting tribals in the name NTFP trade. The NTFP does not only meets human demand it also provides food for wildlife. Over extraction of NTFPs will certainly affect ecosystem. Therefore, again it is necessary to go back to value based tradition and culture of tribals to understand sustainable ways of NTFP harvesting. They have traditional system to harvest them in sustainable manner for centuries now.

The conservationist paradigm believes that tribal are encroacher in the forest and they need to be evicted from there. The objections to the Forest Rights Act mentioned above stems from this approach. However, tribal and forest rights activists argues that tribals are natural habitants of the forest and therefore providing legal rights of forest land to them is not going to change the characteristics of forest.



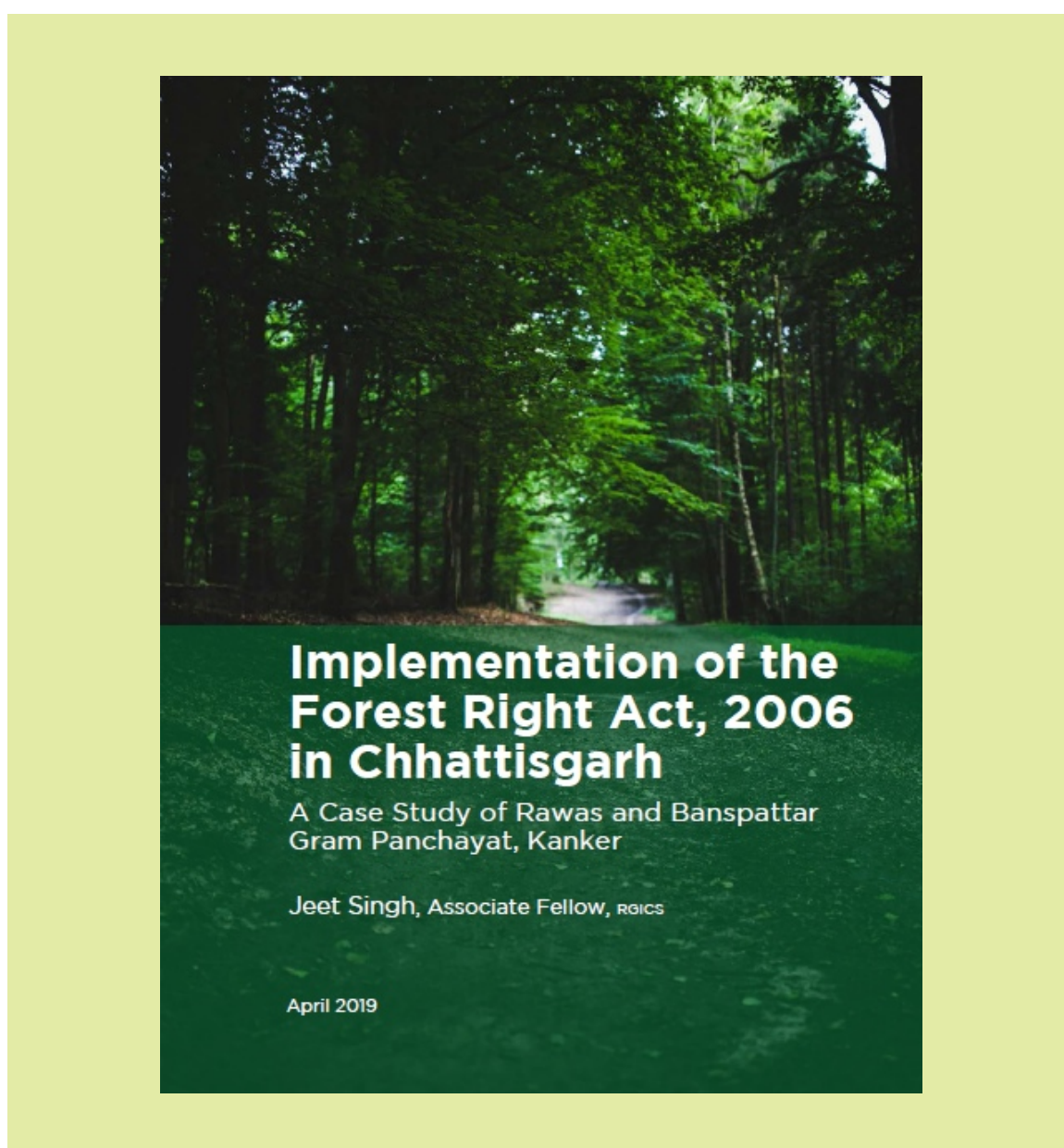
## Conclusion

Forest dwellers, who are now right holder of the forest land under the Forest Rights Act, 2006 have fought a long battle against conservationist forest laws and governance. Forest laws describe these tribals and other forest dwellers as illegal encroacher. In contrast to conservationist approach the tribal perspective, believe that forest and tribal are complementary to each other. The government took a very long time to understand and realize that the tribal livelihood is the integral part of the healthy forest.

After enactment of the Forest Rights Act, there are several instances, where this Act was used both by tribal and classic conservationist to protect natural resources across the country. Niyamgiri in Odisha and Bailadila in Chhattisgarh are two prominent examples of this sort. Moreover, villagers who have been given community rights under the law in many places demonstrated that they could manage forest in more equitably, efficiently and sustainably. However, there seems to be very less exchange between classic conservationists and tribal. No

exchange of ideas and experiences between these two sections, have maintained the ongoing dislike and mistrust between them.

This further has led to delay and effective implementation of the Forest Rights Act. This ongoing mistrust is further galvanized due to lack of transparency/accountability in the system, unavailability of comprehensive data related to the FRA implementation and lack of sound environmental study of land title distributed to the communities. A comprehensive database available, updated on real time basis can help in reducing mistrust between these two sections and improve the transparency in the implementation of the Forest Rights Act. It can also help us to monitor the quality of forest land allotted to the tribal communities.



The case study is available on our website: <http://www.rgics.org/case-study/>



## India's Place in the World

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# India-China Trade and Investments

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**Features of India China Trade:** The total value of exports of India to China add to USD 13.33 billion while total imports come to USD 76.38 billion (2017-18), leaving a trade deficit USD 63.04 billion, which is almost 39% of India's total trade deficit of USD 162 billion<sup>13</sup>. The level of India-China trade deficit accounts for around two-thirds of India's total non-oil trade deficit. In addition to this there is substantial indirect import from China via Singapore,

Malaysia, etc. The composition of India's trade with China is also of real concern as some of the key sectors of the Indian economy are critically dependent on China. In 2017-18, almost 60 percent of India's import requirements of electrical and electronic equipment were met by China, as were more than 75 per cent of the active pharmaceutical ingredients, the raw material used by India's generic pharmaceutical industry. In sharp contrast, India's top exports

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13 International Monetary Fund 2019

were mostly intermediate products and raw materials. Last year, manufactured products constituted 55 per cent of India's non-oil exports to China, while the corresponding figure for China was as high as 95 per cent. India's trade deficit with China is part of a larger challenge of trade competitiveness, which encompasses a range of issues from domestic macroeconomic imbalances to the failure to plug into global supply chains. However, there are also good reasons to focus on the trade deficit with China as a specific policy challenge. India's new Ambassador to China in 2019 stated that "this trade deficit is not really sustainable in the long term".

"India is China's fastest growing demand base for visas," said Mr. Tang Guocai. For the first time demand for Chinese Visa at Mumbai Consulate crossed 100,000. We want to increase to one more visa office to meet this growing demand". There is also a demand for a direct flight from Mumbai to Guangdong and Shanghai.

**Size and Nature of Chinese Investment in India:** It is estimated in July 2018 that Chinese FDI investments in India are in the range of USD 11-12 billion with ~700 active companies in the market. Start-ups, infrastructure and electronic manufacturing especially mobile telephones, are the key areas of Chinese investment. Since 2015 around USD 7 billion in Chinese funding has poured into the Indian tech sector. From 2015 till 2017-end, the biggest sectors have been e-commerce (USD 3 billion), transportation (USD 1.7 billion), fin tech (USD 750 million) and travel (USD 450 million), according to a KPMG study. A dizzying range of acquisitions has now left Chinese companies as major shareholders of some of India's biggest tech companies and many such investors see India as the next big frontier. Unlike acquisitions and investments in the west, the objectives here are slightly different — it is not about acquiring new technology (India is widely seen as lagging behind China on this front), but sharing the successes of the Chinese e-commerce experience and helping Indian companies to scale up in a similar way. As of last year, of the 100 most popular Android apps used in India, 44 were Chinese, including five in the top ten said one recent report, describing it as "a Chinese takeover of the Indian app ecosystem".

So far, majority of Chinese manufacturing FDI in India has landed in provinces Andhra Pradesh (Sricity, Vishakhapatnam), Telangana (Hyderabad), Maharashtra (Pune, Chakan, Ranjangaon), Gujarat (Vadodara, Sanand), Karnataka (Bengaluru), Uttar Pradesh (Noida, Greater Noida), and Haryana (Gurugram, Bawal, Manesar).

**Issues of establishing business and investing in India:** Although tech-savvy industries seem to be prospering, their ability to create jobs and generate exports is actually dwarfed by the low-end industries like apparel, stationery and household items. Channeling Chinese investments into priority sectors, such as infrastructure, or into sectors where substantial job creation can occur still remains a challenge for the Indian government. People in China have limited access to the information about the Indian economy and business environment. This has restricted the relatively mid-scale businesses from China to invest in India.

India's trade and investment strategy with China has primarily had two areas of focus – opening up China's market, particularly for IT and pharma and bringing in Chinese investments in green field infrastructure projects in India and to manufacture in India. A lot of energy has been – and is being – expended in both areas. Both have largely failed to bear fruit for various reasons, one of which is neither suits the objectives nor interests of China. Consider IT and pharma. What China is seeking here is to develop and acquire the capacities on its own

in both areas, including through acquisitions – hence, for example, Fosun's USD 2 billion acquisition of Indian company Gland pharma. Or, for instance, if we consider the fact that the only Indian IT company to be successful in China is NIIT, which isn't selling Indian IT services or products, but training tens of thousands of young Chinese in IT skills ever year, so they can bolster Chinese IT companies rather than rely on Indian ones.



The commerce department has recently prepared a strategy paper<sup>14</sup>, aimed at reducing India's trade deficit with China. It proposes a detailed sector-wise strategy for import substitution in electronics, telecom, electrical equipment and pharmaceuticals, which form the bulk of the country's purchases from China. It includes a strategy to gain market access in China for its farm and pharmaceutical exports and attract foreign companies looking to shift out their manufacturing bases from there in the wake of the trade war between the US and China. Sectoral policy documents give a vision, but there is no detail or framework on steps and measures for implementation. Even with our own investments, Indians find it difficult to manufacture in India, leave alone the Chinese.

When an idea is generated by an Indian entrepreneur, for example a factory for a semiconductor chip, he/she faces massive bureaucratic hurdles while applying for approvals, apart from land acquisition issues. Hence by the time the factory is ready to start manufacturing, the idea/product by itself would have become outdated. In China many businesses are using new concepts such as office space sharing or renting a factory space. This enables quicker and hassle free platforms for the product to be manufactured. Once the product's sales are saturated, the manufacturer moves on to working on the next idea while perhaps vacating that space.

14 <https://economictimes.indiatimes.com:strategy-in-the-works-to-woo-companies-looking-to-exit-china//> May 2019



**Trust, Security, Regulation and Visa issues:** Issues for India include the infusion of capital, which has allowed hundreds of Indian tech start-ups to scale up, thanks to their financing. So it should certainly be welcomed, in some sectors. But are there wider, longer-term concerns of Chinese companies acquiring controlling stakes in certain start-ups in certain sectors, and if so, how do we regulate the process and ensure transparent regulation? Regulation – and deciding what sectors are sensitive – isn't easy in an industry that's changing rapidly. India happens to be a market with among the poorest regulations and protections when it comes to data security.

Just two of China's three big BAT (Baidu, Alibaba and Tencent) tech firms – Alibaba and Tencent – have invested close to USD 3 billion in various Indian start-ups. In 2015, Alibaba pumped in close to USD 700 million in Paytm's parent company, giving it a 40% stake. If we consider banks to be strategically sensitive assets, is it only a matter of time before online wallets that are increasingly offering all of the services that banks do, fall in a similar category? If so, are we okay with Alibaba, a Chinese company with close ties to the state, essentially being the biggest shareholder in India's biggest online wallet Paytm. The Government of India is wary of the China deep state and possible PLA connection of its enterprises. India does not open Chinese investment in certain sectors and categories e.g. for switchback equipment. Chinese companies/ investors in India are looked at with suspicion. Indian IT sector companies were hesitating to host a Chinese delegation from Shenzhen because they did not trust the Chinese to respect IPRs. This is in spite of the fact that Indian IT companies have investments and significant presence in China.



Issues for China include the amendment of the Enemy Property has made Chinese investors jittery about the safety of their assets or personnel as there is lack of clarity on it. The political turmoil between India and China (such as the recent Doklam standoff) and even India and Pakistan, affects and discourages investment in India. There is a basic safety-net missing for investment from China. Most people in China know very little India and there is a lot of negative reportage and news about India, and that is something that needs to be worked upon.

The most prominent issue for China is the Indian government's visa policies vis-a-vis the Chinese fluctuate from time to time and there are many restrictions. Chinese can now avail a one-year multiple entry e-business-visa, with a provision to stay up to 183 days without any registration with local authorities. This has made the process a little simpler. Most of the time, the Indian embassy and consulates provide the business visa to the Chinese for 60 days only, after which the visa holder has to go back to China to renew the visa. Chinese investors who have to set up factories here, start construction on fixed assets or undertake other bona fide long term business activities need more time to stay in India, so that they can get the required work done. It is very difficult and takes a long time for Chinese to get employment visa in India. Reporting to the FRRO (Foreigner Regional Registration Offices) is not an issue, but the process is very long. Chinese who stay in India for five years have to go back to China to renew their employment visa. During that period, there is a high possibility that their visa renewal may be rejected by India.

**Potential and strategy for attracting Chinese Investment:** Investment in India should be seen as part of a global strategy for Chinese companies. The China India Institute, a Washington DC based leading research consultancy, has researched and analyzed the growing corporate linkages between India and China<sup>15</sup>, and how winning in each other's markets is also making them stronger and whetting their appetite for further global expansion. The odds of success go up dramatically when executives adopt a global rather than local-for-local perspective. Investment should be for a global company with China and India operations as global hubs rather than periphery. The idea of mutual FDI for addressing global markets at global scale and quality should be explored, treating the two economies as linked to each other so that investment, technology and management may flow from either side, to capture global markets and create jobs and growth in both economies.

The ongoing trade war between the US and China will help India tap export opportunities in both the countries in areas such as garments, agriculture, automobile and machinery, according to trade experts<sup>16</sup>. Says FIEO Director, "All investments in China with prime focus on the US market may seek relocation and India would definitely be the option. There is a need to move aggressively to woo such investors before they are allured by others".

Aligning Industry and Labour Interests for profitability and sustainability is important. The Confederation of Indian Industry (CII) views that for investments to be successful in India, there should be proper cooperation between the Government, Industries and the labor representatives. CII also opines that the labor policies in the country are not very fair. This was especially with respect to the electronics industry. Business models have changed with models like "uberization". Under Indian Labour Laws some rules like Factory Act and others are very old so some are not even pertinent or implementable. These should be examined and revised.

The process of seeking and facilitating Investments needs to be worked through. The Government needs to bring consistency in its announcements for inviting investors and ground reality of policy, implementation and treatment of foreign investment and investors. The Indian delegations that go to other countries for seeking investment have to be well prepared with prior groundwork and offering by the State. Sending big delegations of

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15 Anil K. Gupta, Girija Pande, and Haiyan Wang, (2014) "The Silk Route Re-Discovered How Indian and Chinese Companies are becoming Globally Stronger by Winning in Each Other's Markets"  
<http://www.chinaindiainstitute.com>

16 <https://www.business-standard.com/article/pti-stories/india-to-benefit-from-us-china-trade-war-experts>



Ministers, bureaucrats etc. to China and making PPTs with broad announcement of the potential in the State, is of no use. For example, the Govt. of Telangana followed a successful approach by first sending a small (2-3 person) preparatory visit followed by a larger detailed business delegation that was properly focused.

In China every Industry has an Industry Association. It is important for State Govt. to have policy and investment consultations with them. The Indian embassy in the visiting country helps organize the visits and meetings. Rather than going only through the embassy, engaging simultaneously and directly with the local clusters is needed for follow up work.

Leveraging Indian market to demand more job-creating investments and better trade deals is necessary. Prof. Joe Thomas Karackattu, Director, Centre for China Studies, IIT Madras said there is a strong economic logic for China to invest in India due to the large and expanding market and economic growth. No other nation in the world offers this kind of large and growing market.

India is an important market for Chinese internet investors/entrepreneurs; some 50 of them reportedly set up shop in the country last year. While it is important to attract investors, it's also important to set clear requirements based on our interests<sup>17</sup>. The Indian ban on Bytedance's short video app TikTok has been lifted, although given the serious issues that remain with the content on TikTok, the company has to pull up its socks. Such instances are actually a really good opportunity to demand greater investments and job creation in India by Chinese giants.

Labor intensive and export-oriented industries, which tap into India's abundant labor endowment and bring about new market opportunities for fatigue Chinese capital, are the perfect candidates, if India can thoroughly reform itself in areas like labour regulation and land acquisition.

**Reducing Trade Deficit through Export Promotion to China:** In the IT, Pharmaceuticals, Processed foods sectors, India should use the strength of its service and software industry strength to get a bigger market footprint in China. India should also negotiate with China for increase of exports to China in pharma sector, where the Chinese market is good and Indian Industry is well developed. China uses non-trade barriers on Indian exports to China, the Indian Government needs to sort this out with Chinese Government. Unlike most Western countries, it is remarkable India doesn't have an equipped chamber of commerce in Beijing to help navigate the complex legal and regulatory requirements of the China market. The Confederation of Indian Industry (CII) has had a representative office in Shanghai that has admirably championed Indian firms, but with very modest resources.

According to Retd. Ambassador Bambawale<sup>18</sup>, trade imbalance cannot be only by enhancing Indian primary exports. He suggests the following sectors:

- Attract Chinese tourists in large numbers,
- Attract students for undergraduate study so they can learn good English and go for higher studies to the US, etc.
- Export Indian films, Yoga and other products/services of our creative and cultural industries

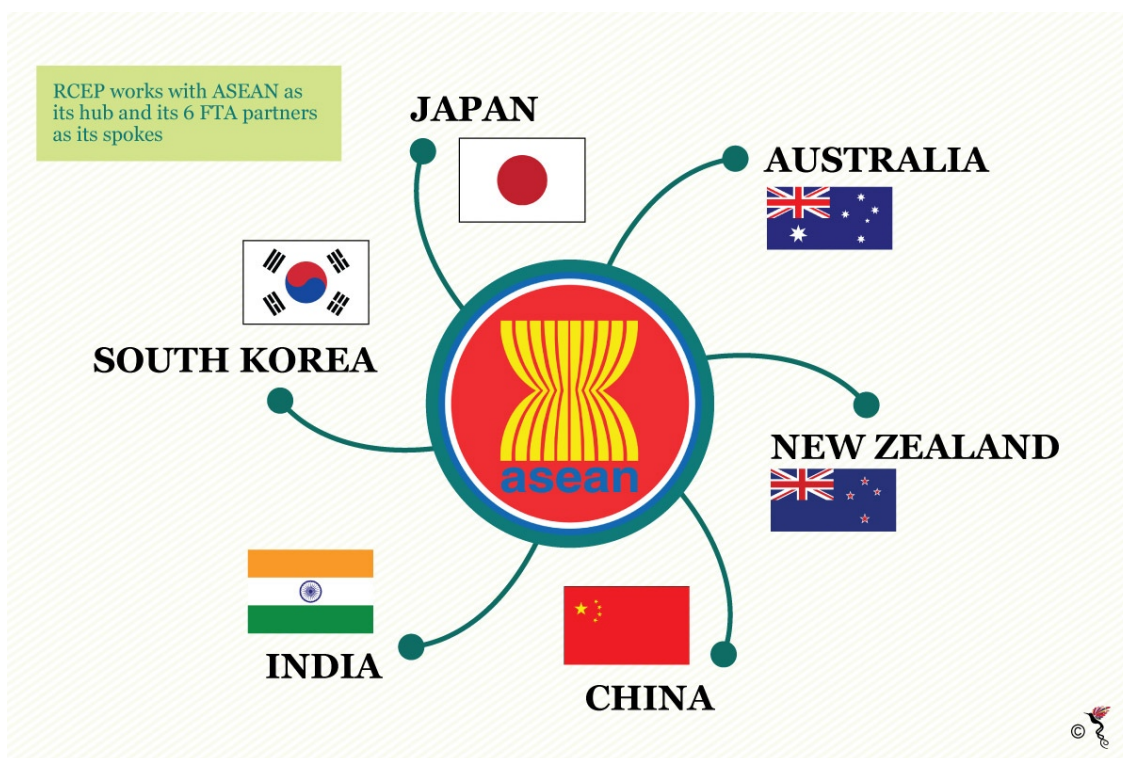
<sup>17</sup> <https://www.thequint.com/voices/opinion/opinion-china-india-economic-partnership-indian-startup-ecosystem>

<sup>18</sup> Gautam\_Bambawale, a former Indian Ambassador to Bhutan, Pakistan and China.

China is a large supplier of the world's outbound tourists. India is practically a virgin market for Chinese tourists. India is geographically close to China and a relatively an inexpensive destination. China is now interested in everything Bollywood — from partnership and distribution rights to Indian directors and writers. China offers a great business potential for Bollywood with its more than 25,000 screens (3 times of India) at (10 times) average ticket price.

Handicraft exports are likely to more than double from Rs. 3 bn. (~USD 45 mn ) in FY15 to Rs. 6 bn. (~ USD 90 mn) this year (FY16-17)<sup>19</sup>. "China is taking a lot of interest in our handicrafts because this is a dying craft there and it is also facing higher labour costs," said Rakesh Kumar, executive director, Export Promotion Council for Handicrafts. Although Indian handicrafts are slowly gaining popularity in China but the potential that exists is still largely unexplored. Besides the well-known markets like Beijing and Shanghai, there are many emerging markets, which are still unexplored<sup>20</sup>.

Bambawale<sup>21</sup> recommends that India should also proactively engage and work with China in the Cooperation on International Solar Alliance, Shanghai Cooperation Organisation, trans-border rivers and railway station technology. The RCEP is the only mega regional trade agreement in Asia-Pacific of which both India and China are members which seeks to create the world's largest free-trade agreement under the Regional Comprehensive Economic Partnership (RCEP). Greater cooperation and collaboration between the two countries in creating green economies will also go a long way in lowering carbon emissions globally. This common vision towards clean energy will ensure increased trade opportunities between India and China.



19 //economicstimes.indiatimes.com/articleshow/57525885.cms (2017)

20 <http://www.icec-council.org/promoting-indian-handicrafts-in-china-icec-participates-in-international-expo>

21 <https://indianexpress.com/article/opinion/columns/pune-china-india-relations-trade> by Mr. Bambawale, a former Indian Ambassador to Bhutan, Pakistan and China.

Engagement needs to be channelised through lower levels of government and society. For this model to be effective, it is better if cities and provinces, as opposed to the central leadership, take the lead. Importantly, there appears to be an appetite for this developing in China, but much work needs to be done for such cooperation to take shape. As Mr. Tang Guocai, Chinese Consulate in Mumbai said: “for sustainable relations, there is a need to develop business relations as well as cultural relations.”

## India-China Trade and Investment

Working Paper 2



A working paper on India-China Trade and Investment is available on our website:  
<http://www.rgics.org/working-papers/>

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