

THE HINDU ANALYSIS



8TH JANUARY

BY PRASHANT MAVANI



IN ENGLISH



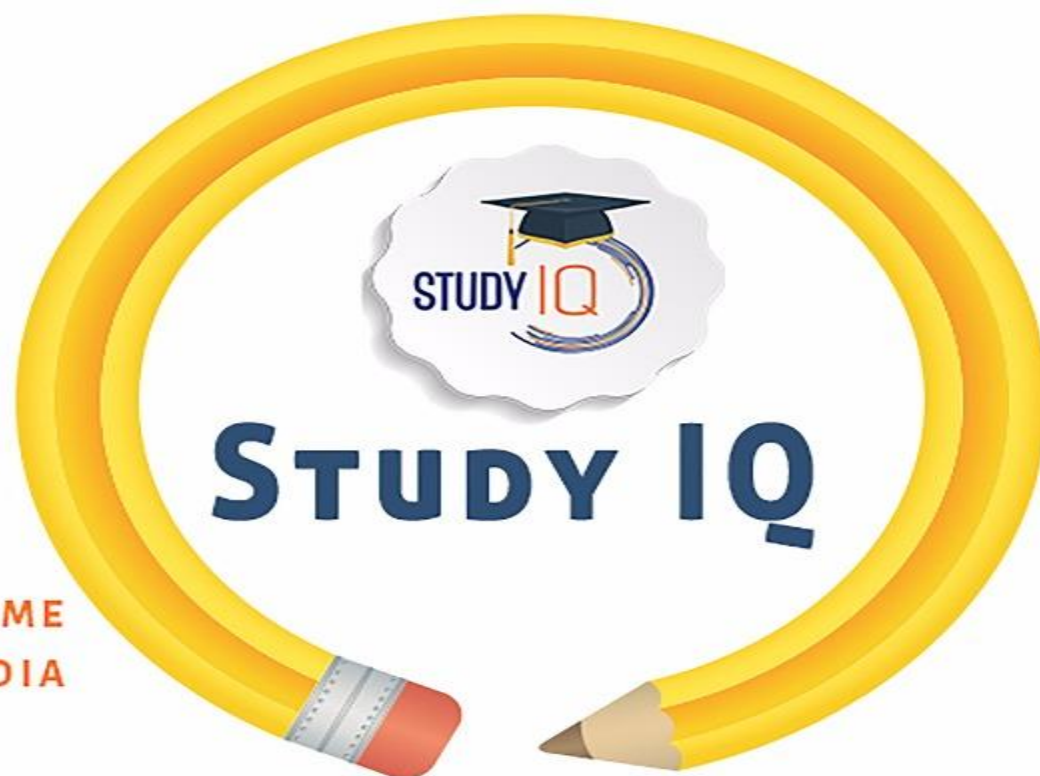


Joy does not simply
happen to us.
We have to
choose joy
and keep
choosing it every day.

~Henri J. M. Nouwen



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Examine the Bill

Concerns about the triple talaq Bill must not be dismissed as an attempt to subvert it. The winter session of Parliament saw more political positioning than appraisal of a legislation to make instant triple talaq a criminal offence. With the Muslim Women (Protection of Rights on Marriage) Bill pending in the Rajya Sabha, the best option would be to order it to a select committee to help bring about a consensus on how to address the problem of talaq-e-biddat, as there is no serious opposition to the principle that it is morally abhorrent and legally untenable. The core question is whether resorting to an illegal and arbitrary form of divorce should necessarily lead to a prison term for the offending husband. A three-year prison term, besides a fine, also raises the issue of proportionality. The Opposition has raised three concerns: whether a civil wrong, namely a breach of a marriage contract, is an arbitrary manner, ought to be treated as a crime, whether it is not a contradiction of sorts for the law to jail a husband for pronouncing instant talaq and also mandate that he pay a subsistence allowance to the wife, and whether making it a cognisable and non-bailable offence would be in keeping with the spirit of the law. Further, some see an inherent contradiction in the way the law is sought to be framed. On the one hand it says instant triple talaq in any form is void, thereby declaring that the marriage continues to subsist, but it also talks of issues such as the custody of children and maintenance, which would arise only after a divorce. These are valid concerns and cannot be dismissed by the BJP as arguments aimed to subvert the Bill.

The Bill is now in the Rajya Sabha, where the BJP and its allies do not have a majority. Some of its key allies, such as the AIADMK, the Telugu Desam Party and the Biju Janata Dal, are against the penal provision. The Congress, the main Opposition party, let the Bill sail through to the Lok Sabha, but has taken the position that referring it to a parliamentary committee may help remove some lacunae. Initially the party appeared to question the prescription of a jail term, but it has raised a new question. It wants to know whether the government would take care of the maintenance of the women concerned if her husband is jailed for uttering triple talaq. The dilemma before the Congress is that it cannot be seen as upstaging the role it had played over 20 years ago in the Shah Bano episode, when it brought in legislation to ouster a Supreme Court verdict in favour of a Muslim woman's claim for maintenance. However, hasty legislation passed in the commission of a divided House may not help the cause. A sound legal framework to deal with all issues arising from instant talaq ought to be crafted after deeper consideration.

- *The **winter session** of Parliament saw more **political positioning than appraisal** of a legislation to make instant **triple talaq** a **criminal offence**.
- *The core question is whether resorting to an **illegal and arbitrary form of divorce** should necessarily lead to a **prison term** for the offending husband.
- ***Three concerns**: Prison, Subsistence and **Misuse of Law**
- *The Bill is now in the **Rajya Sabha**
- ***Will the government** would take care of the sustenance of the woman concerned if her husband is jailed for uttering triple talaq?
- *A **sound legal framework** to deal with all issues arising from instant talaq ought to be crafted after **deeper consideration**.

Underwhelming growth estimates come amid worrying data on agriculture

Five months after Chief Economic Adviser Arvind Subramanian predicted that economic growth was likely to be closer to 6.5% in the current fiscal year, the Central Statistics Office has forecast that the gross domestic product (GDP) would expand at precisely that pace in the 12 months ending in March. The forecasts that had been flagged by Mr. Subramanian at that time are proving to be the crucial factors shaping government. For now, gross value added, or GVA – which excludes taxes that feature in the GDP number – is projected to grow by 6.1%, slowing from a provisional 6.6% in 2016-17 to 2016-17, as manufacturing and the agriculture, forestry and fishing components of GVA decelerate. Second, the key investment metric of gross fixed capital formation, though estimated to show faster growth, is expected to shrink in terms of proportion to GDP, from 35.9% in 2016-17 to 35.4% in 2016-17. With the index of Industrial Production (IP) data released in mid-December also reflecting a sharp slowdown over the seven-month period from April to October, there are signs that the rebound seen in the second quarter may be far more vulnerable to a second round of previously considered. With agriculture struggling for traction, despite a 'normal' monsoon, the prospect of private final consumption expenditure regaining vigour in a hurry seems remote, especially since rural households make a sizeable contribution to aggregate demand. The forecast for consumption spending points both a slowdown in growth to 6.2% in 2017-18, from 6.7% a year earlier, and a marginal contraction in share of GDP.

That slower growth estimate have come at a time when the government's fiscal deficit has already crossed the budget estimate for the full year, and GST collections are underwhelming, in particular cause for concern. With fixed capital hovering around \$67 a barrel, oil prices are now well above the \$40-\$50 range that the Economic Survey had flagged as having the potential to undermine both consumption and public and private investment. Data on third-quarter production used by the CSO in computing GVA in agriculture, while provisional, project a sharp drop in output in 2017-18. This raises the possibility of stronger inflationary pressures on food prices in the coming months. With consumer price inflation having accelerated in November to 4.88%, the latest pace in 12 months, monetary authorities at the Reserve Bank of India will have little in the way of policy tools to curb inflation in support of growth. On the flip side, policymakers must look on building on the measures taken to unblock the credit pipeline, including the recent steps to recapitalize state-owned lenders. Other initiatives must include moves to re-energise the export sector, there may be no better time to make the most of the 'fair winds' of a strong global economic rebound that are blowing.

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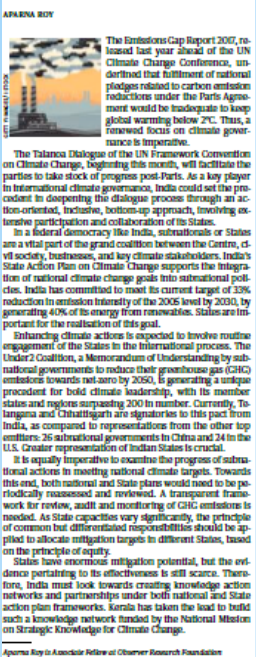
* GVA — *which excludes taxes that feature in the GDP number* — is projected to grow by 6.1%, slowing from a provisional 6.6% in 2016-17

* **Because:** manufacturing and the agriculture, forestry and fishing components of GVA decelerate.

* Gross Fixed Capital formation is likely to slow down.

* With agriculture struggling for traction, despite a 'normal' monsoon, the prospect of private final consumption expenditure regaining vigour in a hurry seems remote

- *Government's **fiscal deficit** has already crossed the budget estimate for the full year.
- *GST **collections** are **underwhelming**, is a particular cause for concern.
- *With **Brent crude** hovering around \$67 a barrel, oil prices are now well above the \$60-65 range that the Economic Survey had flagged as having the potential to undermine both consumption and public and private investment.
- ***Reserve Bank of India** will have little to no leeway to mull interest rate reductions to support growth.



***Emissions Gap Report 2017**: national **pledges** would be inadequate to keep global warming below **2°C**.

*The **Talanoa Dialogue** of the UN Framework Convention on Climate Change, beginning this month, will facilitate the parties to take **stock of progress post-Paris**.



***India** could set the precedent in **deepening** the dialogue process by

1. action-oriented
2. Inclusive
3. bottom-up approach
4. involving extensive participation and collaboration of its States.

- * India has committed to meet its current target of **33%** reduction in emission intensity of the **2005 level by 2030**, by **generating 40%** of its energy from renewables. States are important for the realisation of this goal.
- * Grand coalition of **stakeholders** is must for India.
 - * **Continuously** examine the progress
 - * State capacities vary: common but **differentiated responsibilities**
- * **Under2 Coalition**
 - * MoU by subnational governments to reduce their GHG emissions towards net-zero by 2050.
 - * **Telangana** and **Chhattisgarh** are signatories
 - * 200+ members
 - * 26 subnational governments in China and 24 in the U.S.

The problem of land hoarding

The government owns more land than it admits, large swathes of which are unused or underutilised



RAM SINGH

The Centre, by its own admission, does not know exactly how much property it owns. Imagine what would happen if a citizen or a private entity made such a claim before the taxman – they would be fined and very likely end up in jail. The actual size and value of government-owned land resources is thus a matter of speculation. The Information provided by the Government Land Information System (GLIS) is both incomplete and patchy. While various Central Ministries admit to owning only about 13,50,500 hectares of land, disparate official sources suggest that the correct figure is several times more than what is disclosed.

The problem of unused land
What is worse is that a large proportion of government land lies unused. The Ministries of Railways and Defence, respectively, have 43,000 hectares and 32,780 hectares of land lying vacant, without even any proposed use. According to reports of the Comptroller and Auditor General of India (CAG), the 13 major port trusts have 14,728 hectares of land lying idle.

These numbers are staggering, but they are only the tip of the iceberg. They exclude several departments of the Centre and, more importantly, don't take into account excess land holding by the States. What is really unfortunate is that a large part of the unused land is high-value property in prime areas in major cities.

Land hoarding by government agencies has created artificial scarcity and is one of the main drivers of skyrocketing urban real estate prices. Even after the recent correction in property prices, middle- and lower-income households find adequate housing unaffordable. High land prices also reduce competitiveness by increasing the cost of industrial and development projects.

Moreover, the allocation of unused land is rife with corruption. Scams involving the Adarsh Cooperative Housing Society, the Srinagar air-



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field project, and the Kandla Port Trust are a few of the many examples of alleged complicity between private developers and local officials to misuse government land. At the State level too, instances abound of public land being resold to private entities in dubious deals.

The CAG also reports that none of the government agencies maintains adequate ownership records. For instance, the 13 major ports have failed to produce title deeds for as much as 45% of their land holdings. This makes squatters difficult to evict, and so they gravitate to these areas.

Land use patterns

Land is a crucial and often constraining input for production, not only in agriculture but also in secondary and tertiary sectors. The problem of land scarcity has been aggravated by grossly wasteful land use by government agencies. While stock of land is fixed, its supply as an input in production is not – it crucially depends on land use patterns. A useful measure of this is the floor space index (FSI), which is the total floor area built per square metre of land. For example, if a single-storey building occupies 50% of a plot, the FSI would be 1/2. If the building is expanded vertically to have four stories, the FSI will go up to two (4 times 1/2), as the effective floor area has quadrupled.

The demand for land increases with both population density and economic growth. Therefore, to maintain efficiency, the FSI should also increase. By this token, the FSI

should be the highest in major city centres, where the demand for space is highest, and it should taper off gradually towards the periphery. Apart from supplying space for economic activities, such an arrangement would also help maximise the gains from transport infrastructure.

However, most Indian cities defy these basic tenets of urban planning. The main reason is the large areas of unused or underutilised government land with an irresponsibly low FSI. Residential zones in Lutyens' Delhi and Nungambakam in Chennai are examples of this gross underutilisation of land. Other cities don't fare much better. The problem is most acute in government residences and office locales. Indian metros thus have the lowest FSI compared to those in other developing countries with similar population densities. The FSI in Shanghai is four times of that of Delhi and Mumbai. Moreover, the investment per square metre gradient of Indian cities is very low and haphazard. This is a pity as solving the problem of wastage could generate employment and pull masses out of poverty, thereby adding to the economy to grow fast.

People have the right to know the size and use of land holding by government agencies, since most of the official land has been acquired from them by paying pittance by way of compensation. It is because of this subsidy that government agencies, and in many cases private companies, have been able to amass large stocks of unused land. For instance,

another report by the CAG on Special Economic Zones shows that as much as 31,886 hectares, or 53% of the total land acquired by the government for these zones, remains unused – land which would have been put to more productive use by its original owners.

In a welcome initiative, the Centre has asked departments to identify surplus land. Unfortunately, agencies seem to be loathe to cooperate.

The need of the hour is a comprehensive inventory of land resources and usage patterns for all government branches. It should include information on the location of each property, its dimensions, the legal title, current and planned use, and any applicable land use restrictions. This will enable effective identification of suboptimal land use, as well as of the land that is surplus.

The use of surplus land

Surplus land should be utilised to meet the ever-growing demands for services, such as water and waste disposal, as well for government-sponsored housing and transportation projects. It is crucial to avoid the temptation to sell surplus land as excessive acquisition of land may become the norm and unwilling sellers are typically under-compensated. Land intended for future use can be rented out till such time it is needed, through a transparent auctioning process. This will not only buoy the public exchequer but prevent plots of land lying waste for years.

The problem of inefficient land use by government departments and public sector units is complicated and endemic. Correcting such inefficiency is no mean feat. However, given the importance of land for the country, we need to be creative in finding solutions. A public-government partnership seems to be the way out. We could take a cue from Britain. There, the government has pledged to provide details of ownership, location, and intended use for all properties. Citizens are invited to contest official land use and suggest alternatives.

Therefore, as a first step, the government should agree to disclose its land use and release of excess land, the use of which it cannot justify.

- *The **Centre**, by its own admission, does not know exactly how much property it owns. Imagine what would happen if a citizen or a private entity made such a claim before the taxman — **they would be fined and very likely end up in jail.**
- *What is really unfortunate is that a **large part of the unused land is high-value property** in prime areas in major cities.
 - *Land hoarding by government agencies has created artificial scarcity and is one of the main drivers of skyrocketing urban real estate prices.
- *The **CAG** also reports that none of the government agencies maintains **adequate ownership records.**

- * Land is a crucial and often **constraining input for production**, not only in agriculture but also in **secondary** and **tertiary sectors**.
- * The problem of land scarcity has been aggravated by **grossly wasteful land use** by government agencies.
- * A useful measure of this is the **floor space index** (FSI), which is the total floor area built per square metre of land.
 - * For example, if a single-storey building occupies 50% of a plot, the FSI would be $1/2$. If the building is expanded vertically to have four stories, the FSI will go up to two (4 times $1/2$), as the effective floor area has quadrupled.
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- *Surplus land should be utilised to meet the **ever-growing** demands for services
- *Land intended for future use can be **rented** out till such time it is needed, **through a transparent auctioning process**.
- *We could take a cue from **Britain**. There, the government has pledged to provide details of ownership, location, and intended use for all properties. **Citizens are invited to contest official land use and suggest alternatives.**

INS Arihant left crippled after 'accident' 10 months ago

* **Indigenous nuclear submarine** INS Arihant suffered major damage because of possible human error and has not sailed now for months, according to Navy sources.



* **Arihant** is the **most important platform** within India's nuclear triad covering land-air-sea modes.

* Arihant's propulsion compartment suffered damage after **water entered the area more than 10 months ago**, according to details available with The Hindu.

* Water rushed in because a hatch on the rear side was **left open by mistake**.

- *The indigenous nuclear submarine, **built** under the **Advanced Technology Vessel project (ATV)**, suffered damage while it was at harbour. Since the accident, the submarine has been undergoing repairs and clean up, and has not sailed, sources said.
- *INS Chakra has only a peripheral role in the nuclear triad, for both training and escorting, since it is INS Arihant that would carry **nuclear missiles**.
- *Equipped with nuclear-tipped ballistic missiles, Arihant is India's only operational Ship Submersible Ballistic Nuclear (**SSBN**) asset.

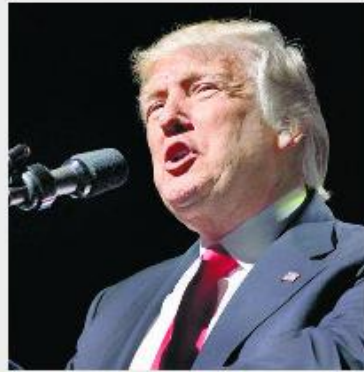
Willing to talk to Kim, says Trump

*U.S. President Donald Trump said **talks** between **North Korea and South Korea** scheduled for next week were an outcome of his “**firm** stance” and he could talk to North Korean leader Kim Jong-un on the phone.

*It is likely to pave the way for the North’s participation in the **Winter Olympics** in the South next month.

*Mr. Trump’s position on talking to the North has changed many times. He had once said his negotiating skills could lead to resolution of the conflict with North Korea, but in recent times, he dismissed Secretary of State Rex Tillerson’s diplomatic efforts as a “waste of time.”

 Our stance, you know what it is. We’re very firm... but I would be... absolutely, I would do that [speak with Kim]. No problem with that, at all. He [Kim] knows I’m not messing around
DONALD TRUMP
U.S. President



5 athletes killed in Delhi car crash

*Five power-lifters, including an international level athlete, were killed early on Sunday and another was critically injured after their **car rammed a divider** in the Alipur area on the Delhi-Haryana border.



Tourism boost for Meghalaya

- * Ahead of the announcement of Assembly elections in **Meghalaya**, Union Minister of State for Tourism K.J. Alphons on Sunday announced a tourism package of ₹70 crore to **develop religious** and **spiritual circuits** in the State.
- * Denying that the announcement was aimed at catching votes, the Minister accused the Congress government of obstructing the Centre from implementing an inclusive project to bring about religious harmony in the State.
- * The Ministry had sanctioned ₹61.38 crore for illumination, landscaping and construction of parking lots and toilets and other facilities in 37 churches.
- * Another ₹8.61 crore will be given for similar projects to 11 other religious groups.

Sushma urges NRIs to come back

*Setting the tone for the government's outreach to the Indian diaspora, External Affairs Minister Sushma Swaraj on Sunday urged people of Indian origin to take advantage of India's projects for connectivity to **Southeast Asian countries**.

*“Today, 16 Indian cities are connected to Singapore, a trilateral highway project from India to Thailand is making progress, and we plan to extend this further to connect India with other **ASEAN countries**. India has become a dominant power in the world, and that influence and that sense of power reaches every Indian,” she said.



Rohingya insurgents justify fighting

- *Rohingya insurgents said on Sunday that they **have no option but to fight** what they called Myanmar's '**state-sponsored terrorism**' to defend the Rohingya community, and they demanded that the Rohingya be consulted on all decisions affecting their future.
- *The Arakan Rohingya Salvation Army (**ARSA**) launched raids on the Myanmar security forces on August 25, which sparked sweeping counter-insurgency operations in the Muslim-majority north of Rakhine State that led to widespread violence and arson and an exodus of some 6,50,000 Rohingya villagers to Bangladesh.
- *The **UN condemned** the Myanmar military campaign as **ethnic cleansing**. Myanmar **rejected** that.

On way to insolvency, firms scout for fronts

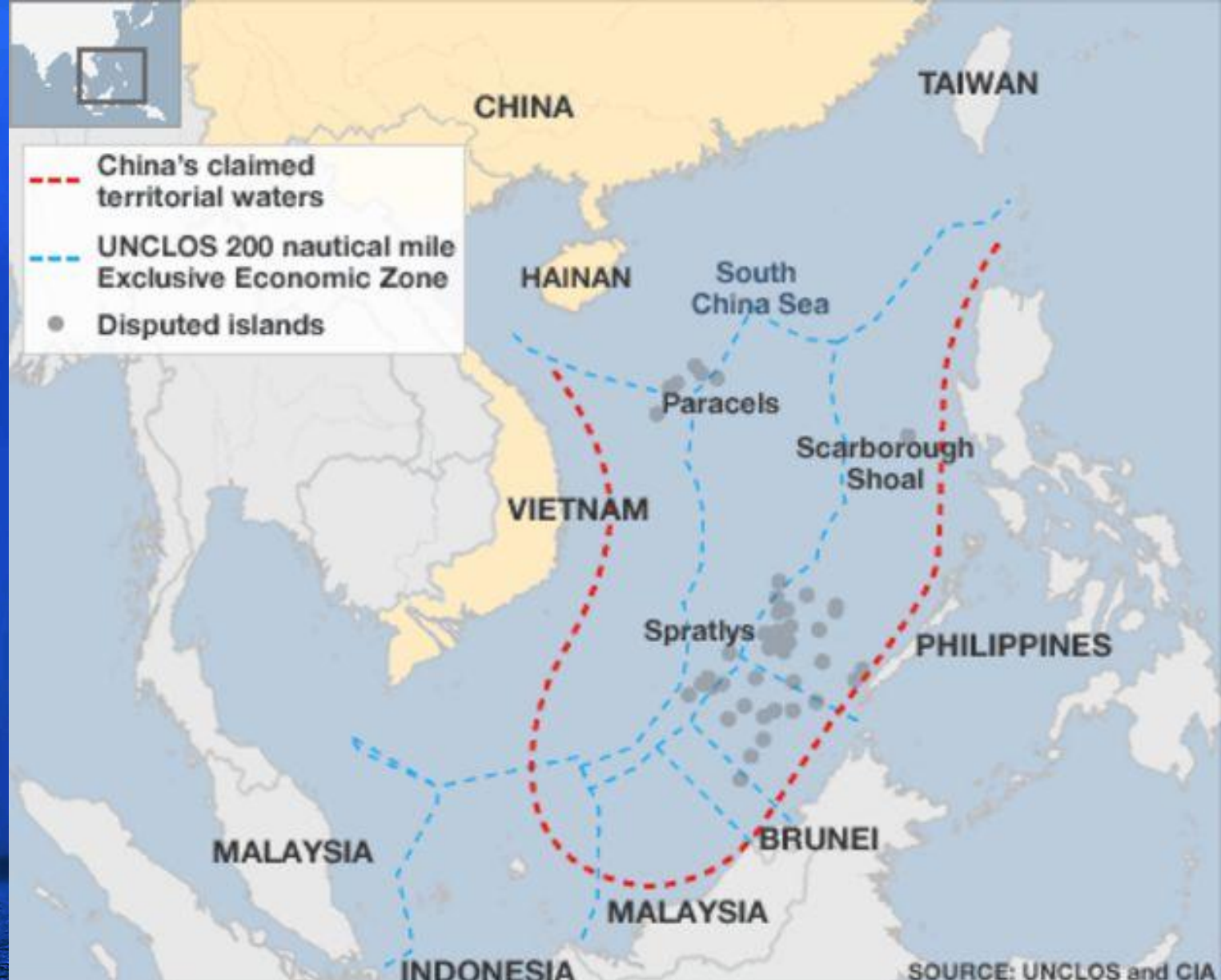
- *A number of **insolvency-bound companies**, reeling under huge unserved loans, are scouting for front entities to buy them out in a distress sale under an '**asset reconstruction**' model with the help of '**friendly**' IRPs, but have landed themselves under the regulatory scanner.
- *The companies which are currently under the scanner include those from the steel, power and textile sectors, the official said, but refused to divulge the names as an investigation is currently underway.

Bad loans: 1,463 entities each owe PSBs ₹100 cr.

- *As many as **1,463 entities** account for bad loans of **₹100 crore** or more in 21 public sector banks (**PSBs**), Finance Ministry data showed.
- *In State Bank of India alone, 265 accounts had bad loans of more than ₹100 crore each, totalling ₹77,538 crore, at the end of the September quarter.
- *PNB had 143 non-performing asset accounts carrying more than ₹100 crore each, totalling ₹45,973 crore.

Boost to gravitational wave study

- * India's role in studying gravitational waves — touted as one of the most important discoveries of the recent past — will increase once the proposed gravitational wave observatory is set up in the country, David Reitze, executive director of Laser Interferometer Gravitational-Wave Observatory (**LIGO**), said.
- * The observatory is expected to start functioning by **2025**.
- * Gravitational waves are '**ripples**' in the fabric of space-time, caused by some of the most violent and energetic processes in the universe such as the **merger of black holes or neutron stars**.



Deadly collision A Panama-registered tanker carrying Iranian oil on fire after it collided with a Chinese bulk ship in the East China Sea, 160 nautical miles off Shanghai, on Saturday. The tanker's 32 crew members were missing.

Yet another tectonic shift?

Rajinikanth's plunge into politics is well considered, and could transform Tamil Nadu's electoral landscape



S. GURUMURTHY

The decision of Tamil superstar Rajinikanth to try his hand at politics has added a totally new dimension to the Tamil Nadu political theatre, which has been in turmoil for more than a year now. Except for a hiccup in 1988-90, Tamil Nadu politics has never been in such turmoil and uncertainty since the demise of Jayalithaa in end 2016. Mr. Rajinikanth's decision to wear the political hat appears to be well thought out, as the State seems to be poised for yet another tectonic shift in its political history. A recall of how such shifts in Tamil Nadu politics in the past have changed the political landscape of the State may help one make an intelligent guess about the likely impact of yet another shift.

In the past
Politics in Tamil Nadu had experienced three major tectonic shifts since the advent of democratic polity. The first one fully dismantled the State's politics and the next two partly de-Dravidianised it. The first shift was the ouster of the national party, the Congress, from power in 1967, and forever thereafter. The next was the expulsion of the redoubtable M.G. Ramachandran (MGR) from the Dravida Munnetra Kazhagam (DMK) in 1972 and the emergence of the All India Anna Dravida Munnetra Kazhagam (AIADMK) as the main challenger to the DMK, re-creating Tamil Nadu politics to just a play between two Dravidian cousthe thereafter. This historic Dindi-



gel Lok Sabha by-election in 1973, which the newly formed AIADMK won, signalled the transfer of anti-DMK votes to the AIADMK as MGR was seen as more capable of defeating the DMK. The AIADMK re-legalised the Congress led by the legendary K. Kamaraj and the DMK led by the mighty M. Karunanidhi to the second and third spots, respectively. Since then, the anti-DMK voters have been unwaveringly loyal to the AIADMK, except perhaps only once in 1996.

The third shift was the split in the AIADMK following MGR's death and the advent of Jayalithaa, who rejuvenated the party as more powerful than before. While the first shift in 1967 drove Tamil Nadu into Dravidian exclusivism, the second and the third diluted the Dravidian content of the State polity, by forcing the AIADMK and DMK to align with national parties. Slowly, the national-minded voters increasingly turned to the AIADMK, seeing it as less exclusivist Dravidian in its impulses, further shrinking the space for national parties in the State.

Vacuum and uncertainty
But, recently, the sudden demise of Jayalithaa and the equally abrupt retreat of Mr. Karunanidhi from politics forced by age – both occurring almost simultaneously

sembly polls, whenever it was held. But, with that eventuality nowhere near, Mr. Rajinikanth seems to have bought for himself enough time to organise his party, shape its philosophy and policies before launching it. The way he has handled the major announcement and managed the excitement it has generated, and now consolidating his fan clubs with the use of technology, indicates that he seems to have been well advised not to rush in, but instead gather his forces for what he first called as the war that lay ahead. The announcement of the virtual entry far ahead of the actual one seems to make strategic sense. He has undoubtedly taken advantage of the uncertainty in the State's politics by registering himself with its people as the new force strongly in the reckoning in the next elections.

Of the many factors that may go in his favour, the anti-DMK voters who have been loyal to the AIADMK may shift to him as now he, and not the weakened AIADMK, may be seen as the one who can do it. Also, the anti-AIADMK votes, of which the DMK has been the main beneficiary, may shift to him. Another factor that may favour him is the entry of more than 37 lakh new voters crossing 18 by the 2019 Lok Sabha polls, and a further 23 lakh by 2023 on the electoral rolls of Tamil Nadu. With the two Dravidian parties not as attractive to the youth as before – the DMK leader M.K. Stalin himself has lamented that politics does not attract the youth – it is logical for Mr. Rajinikanth to position himself as the new face.

Perhaps one will argue that Mr. Rajinikanth's entry will promote a personality cult that undermines merit and principles in politics. While no one can say that a personality cult is good, equally, no one will

disagree that dynastic politics is worse as it is a personality cult by inheritance as in the example of Indira Gandhi passing on the baton to Rajiv Gandhi to Sonia Gandhi to Rahul Gandhi now. Given the experience of the DMK, Mr. Rajinikanth should know that if he avoids the dynastic shadow over his politics, his family will be his personal asset; otherwise, it will become a political liability.

Making a connect
Significantly, his entry has not met with any major opposition though some fringe groups have questioned his being an 'outsider' in terms of his roots. The apparent Tamil chauvinistic impulses of the Dravidian movement did not inhibit MGR, a Malayali, from winning and ruling Tamil Nadu, nor did that undermine Jayalithaa's domination in the State. The inclusive cultural DNA of Tamil Nadu, which the chauvinist image of Tamil Nadu masks, is bound to accommodate Mr. Rajinikanth as well. More importantly, most new political parties in Tamil Nadu have connected themselves to Dravidian ancestry. But Mr. Rajinikanth's branding of his politics as "spiritual" too seems a well-thought-out idea to distinguish and distance himself from the anti-god moorings of the politics of the State where people are becoming increasingly religious.

In sum, Mr. Rajinikanth's political advent has the potential to erode the stagnating and intriguing DMK and AIADMK and sweep away the smaller local parties. With profound changes in the offing, interesting days lie ahead.

S. Gurumurthy is Editor of *Thuglak* Tamil magazine, and a political and economic commentator

Standing up for human rights

India must hasten to bring in an anti-torture law



ASHWANI KUMAR

In his new year message, UN Secretary-General António Guterres referred to the pervasive and large-scale infraction of human rights across the world as a global challenge that defies our vision of a humane and just world order. The message is particularly relevant for us. This is because the torture of individuals in state custody remains a brazen human rights abuse that mocks our governance even as we claim human dignity as the end objective of the Indian state, with the Supreme Court affirming it as "an intrinsic value, constitutionally protected in itself" (Puttaswamy, 2017, M. Nagaraj, 2006).

Cause for concern
As we move into the new year with hope in the future, we must pause to reflect on whether in our approach towards eliminating torture as an affront to human dignity, we have been caught between legislative lassitude and judicial abdication. I do confess to a disappointment while propounding the necessity of a purposive and comprehensive anti-torture legislation through a public interest litigation. The necessity to move the highest

court arose because even years after India became a signatory to the Convention Against Torture in 1997, we have not been able to ratify it or have in place a domestic legislation to effectuate the right to life with dignity read into Article 21 of the Constitution. In a departure from judicial precedents established in *Vishakha* (1997), *D.K. Basu* (1997), *Vineet Narain* (1997), *Association for Democratic Reforms* (2002), *Swami Achyutanand Thirth* (2016) and the *Triple Tiling* (2017) case, the Supreme Court refrained from exercising even its limited nudge function to prompt the government into bringing the necessary anti-torture law. Acts of custodial torture continue to defy constitutional dictat and mock the Supreme Court's declaration of torture as "...synonymous with the darker side of human civilization, is a naked violation of human dignity..." (D.K. Basu, 1997). The recent Constitution Bench Judgment in *Puttaswamy* (Supra), citing its earlier judgments, reaffirmed that torture infringes on human dignity which is "inalienable and inseparable from human existence".

Baffling stand
The court's disinclination to exercise its expansive review jurisdiction for enforcing the non-negotiable right to dignity in the face of legislative and government inaction is inexplicable given the court's activism as sentinel on the



quilt the *qua* enforcement of constitutional rights. And this despite the 2010 recommendation of the Select Committee of the Rajya Sabha supported by the National Human Rights Commission, the Law Commission of India and repeated assurances given on behalf of the Indian government at the UN Universal Periodic Review. The court remained impervious to its own jurisprudence expounded in *Puttaswamy* and *NALSA* (2014), among others, that unless there is a manifest intent expressed to the contrary, domestic laws should be aligned with the international legal regime on the subject. Those facing criminal trials and extradition proceedings abroad including Abu Salem, Kim Dary, Jagtar Singh Johal and others have questioned the country's investigative and criminal justice system in the absence of an effective and enforceable law against custodial torture. The damning slur on the nation's trial process and commitment to the rule of law itself was also not enough to move the court to exercise its "suggestive" jurisdiction. It

seemed legitimate to expect the highest constitutional court to inspire legislation that would vindicate the ethic of human rights as it has done so often in the past. Its decision, to the contrary, in a petition seeking a comprehensive legal framework against torture betrays, with respect, judicial inconsistency and an irrational flexibility destructive of legal certitude necessary for law to serve a stabilising function in our polity.

Walk the talk
The Prime Minister must surely know that when the dignity of a large section of its citizens is denuded, a diminished nation in default of its international commitments cannot expect to have its voice heard with respect in the chanceries of the world. The Vice President and Chairman of the Rajya Sabha, M. Venkiah Naidu, who believes that human rights are guaranteed "...because of being a part of our DNA..." must walk the talk, also because a 2010 unanimous recommendation of the Rajya Sabha's Select Committee proposing an anti-torture law remains unimplemented. The Attorney General likewise owes a moral responsibility to the nation in supporting the proposed dignitarian legislation against torture which is unburdened by a partisan political agenda. After all, it was his assurance to the court that the government was seriously considering the October 2017 recom-

mendation of the Law Commission in support of a standalone anti-torture law which persuaded it to dispose of the petition without suggestive observations that would have strengthened a compelling constitutional cause with the court's moral authority. Parliamentarians who are privileged to represent the concerns of the people must keep faith and ensure the passage of a humanitarian law.

Whether or not the court was right in abdicating jurisdiction to enforce a dignitarian constitutional value in the premises aforesaid is best left to be determined at a later date, considering that the court itself has repeatedly disavowed any claim to infallibility. In the meanwhile, we must strive to set higher standards of accountability for our constitutional functionaries in 2018. I wish to be able to remember this year as one in which we invested our democracy with dignity in an inseparable coalescence, when hope triumphed over despair and sensitivity prevailed over apathy. This year should be the year of a fulsome affirmation of our right to question, lest our silence be seen as acquiescence in constitutional aberration. Let us keep digging in for the values that define our nation.

Ashwani Kumar is senior advocate, Supreme Court and former Union Minister for Law and Justice. The views expressed are personal

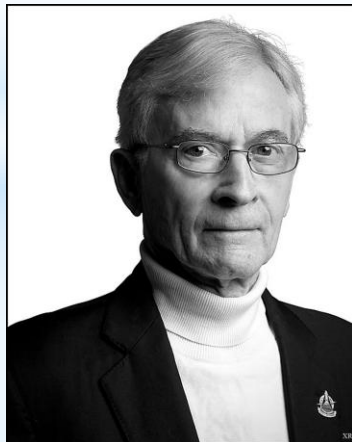
1. El Nino current appears along the coast of which one of the following?

- A. Brazil
- B. Peru
- C. Alaska
- D. Western Australia

2. Identify cold ocean current/s from the below given list

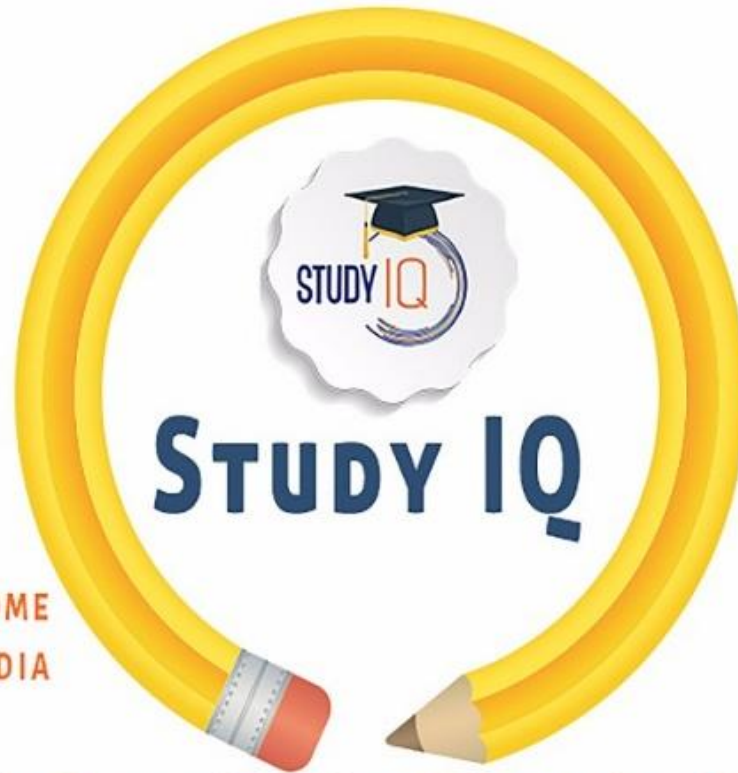
- A. Canary
- B. Humboldt
- C. Brazil
- D. Oyasiwo

3. Identify:





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