



## KARNATAKA ELECTION ON MAY 10; RESULTS ON MAY 13



Countdown begins: CEC Rajiv Kumar speaking in New Delhi on Wednesday. Commissioner Arun Goel is at right. SUSHIL KUMAR VERMA

CEC says urban apathy and money power the main challenges in holding election in the State; more than ₹80 crore has been seized, even before the Model Code of Conduct came into force

Karnataka will choose its next Assembly in a single-phase election on May 10, with the results to be announced on May 13.

Setting the ball rolling for one of the most keenly awaited electoral contests before the 2024 Lok Sabha poll, the Election Commission announced on Wednesday that while the Karnataka poll notification will be issued on April 13, April 20 is the last date for filing nominations. The last date for withdrawal of nominations is April 24.

Chief Election Commissioner Rajiv Kumar listed urban apathy and money power as the main challenges in conducting elections in the State. To encourage greater voter participation, the poll has been scheduled on a Wednesday and not on a Monday or Friday to reduce the possibility of people taking a day off and going out for a long weekend, he said.

The CEC said the panel held review meetings with enforcement agencies in Karnataka and issued directions for a strict vigil to police, income tax, excise, state civil aviation and other departments. "More than ₹80 crore has been seized so far", even before the Model Code of Conduct kicked in on Wednesday, he said.

All parties have already begun their poll campaigns in the State.

Karnataka has seen a number of political turns since the last Assembly election was held in 2018, when the BJP had emerged as the single largest party with 104 MLAs. However, the Congress and the Janata Dal (S), with 80 and 37 legislators respectively, along with some Independents and smaller parties, had come together to form the government.

The next twist came after the 2019 Lok Sabha election, when the BJP-led NDA won 26 out of 28 Lok Sabha seats from the State, while the Congress-led UPA won just two. Following this, on July 1, two Congress MLAs — Ramesh Jarkiholi and Anand Singh — submitted their resignations. Subsequently, over the next few days, 10 Congress MLAs and three JD(S) MLAs resigned. High drama followed as the ruling coalition tried to keep its flock together. It failed and the government fell, after which the BJP formed the government in Karnataka.

This time around, a total of 58,282 polling stations will be set up in the State for the Assembly election, out of which 1,320 polling stations will be managed by women officials. There will be an average of 883 voters per polling station.

The State has a total electorate of 5.24 crore with an almost equal gender ratio. Out of this, 1.5 lakh are above 80 years old and 5.6 lakh have been identified as persons with disability.

The CEC said that the facility of voting from home would be made available to voters above 80 years of age as well as for persons with disabilities.

Replying to a question on the concerns raised by Opposition parties on electronic voting machines or EVMs, Mr. Kumar said that the Commission would keep convincing them as the entire process would be done in front of party representatives. "How can you rig the process in front of everybody? Whenever doubts come, we will try to convince all," he added.

## INDIA'S DPIS, CATCHING THE NEXT WAVE

Srivatsa Krishna is an IAS officer

India's digital public infrastructure (DPI), loosely the India Stack and more, is a marvel of our times, shaped in a unique partnership between governments (Union and States), regulators, the private sector, selfless volunteers, startups, and academia/think tanks. Engendering sustained collective action at scale between so many disparate entities itself is magical and the outcomes are India's answer to Web 3, perhaps even superior in many ways.

Much has been spoken and written about India's DPIS, and as such, this article does not seek to repeat all of that, but instead about what is coming next, and who is driving it. What began as a foundation with Aadhaar created by Nandan Nilekani and R.S. Sharma in 2009 has led to many more Lego blocks, coming on top of it, and on its side, to create a superstructure which delivers consistent, affordable, and across-the-board value to citizens, government and the corporate sector — wherever it gets used imaginatively.

The rebirth of Aadhaar happened in 2014 when Prime Minister Narendra Modi gave it a canvas far wider and bigger than what was originally envisaged, and enabled it to become the rocket ship to launch good governance on. Today, over 1,700 Union and States government schemes ride atop it.

### Aadhaar and the private sector

The judgment of the Supreme Court of India had affirmed privacy to be sacrosanct, and led to an unintended slowdown of the opening of Aadhaar to the

private sector to unlock its value even further. The rapid adoption and attendant visible ease of doing business in day-to-day transactions for citizens, has now led to a gradual opening of Aadhaar, beginning with voluntary usage, for various private sector applications.

Aadhaar holders can voluntarily use their Aadhaar for private sector purposes, and private sector entities need not seek special permission for such usage. Also, between government departments (intra- and inter-State) Aadhaar data can be shared, but with the prior informed consent of the citizen. Banks and other regulated entities can store Aadhaar numbers as long as they protect it using vault and other similar means, as in Unique Identification Authority of India security regulations. A new private sector-friendly UIDAI is racing ahead to incentivise Aadhaar usage, to become richer and more meaningful.

These three changes will lead to the next leapfrogging of the India Stack as a whole, under a rare alignment of a dynamic political executive and inspired volunteers. Proof that this is work in progress is that Aadhaar authentications have shot up to 2.2 billion per month, and the cumulative number over the past 12 years has crossed 100 billion. Taking just one example, the Goods and Service Tax Network (GSTN) and then account aggregator could not have happened without an Aadhaar number and Permanent Account Number (PAN) database existing. Thus, the Lego blocks keep building one on top of the other.

## DigiYatra and DigiLocker

Think of the kind of greenfield market innovation on top of Aadhaar which it can potentially create or unlock. The United States CLEAR programme (an expedited airport security/airport identity verification process) is now active at 51 airports with about 15 million members at a cost of \$369 per annum for a family of four. In contrast is a slightly different variant, the DigiYatra, which is totally free of cost for the Indian traveller. Digi Yatra is a Biometric Enabled Seamless Travel (BEST) experience based on a facial recognition system (FRS), again through a partnership between industry and government, which ensures seamless identification of passengers at key check points such as airport entry, security check and boarding gate clearance. The pilots have shown that about two lakh passengers have utilised this successfully. Air passenger traffic in India was estimated to be over 188 million in airports across India in the financial year 2022, out of whom over 22 million were international passengers. When Digi Yatra reaches a third of them, it will lead to further second order effects and more innovation.

Take DigiLocker, one of the least known DPIs, which today has 150 million users, six billion stored documents, and done with a tiny budget of ₹50 crore over seven years. Plans are afoot to expand it to many countries around the world, and with this microscopic budget. When one applies for a passport now, one need not even upload any portable document format (PDF) any more or submit some notarised papers. A simple consent on the passport application form allowing it to fetch the relevant data from DigiLocker does the magic. Zerodha, Upstox, RazorPay, Equal and many other insurance and fintechs would not exist today but for the DigiLocker APIs, for their Know Your Customer/Client happens

through it, almost instantly.

Here is another example. When DigiLocker was used in a Karnataka Police recruitment drive to verify the academic credentials of candidates, it led to the process being cut down by about six months.

Today, it is a travesty that there is no single portal where industry can see all the necessary (and many unnecessary) compliances, whether at the Union or the State level. If an Enterprise DigiLocker can be created, then it can lead to as many downloads of PAN, GSTN and the other documents as needed by multiple departments across many States, saving huge costs and headaches for businesses.

## UPI's impact

Let us consider just one more metric, namely, the unified payment interface or UPI which is breaking records under the visionary leadership at the National Payments Corporation of India. It has now crossed eight billion transactions per month and transacts a value of \$180 billion a month, or about a staggering 65% of India's GDP per annum. This does beg the question whether the growth of UPI impacts GDP significantly. Or, is it GDP neutral? In other words, does it merely take away a part of the existing payments through UPI transactions? Or, does it allow those who never transacted before to come onto the platform and increase the size of the cake? The jury is still out on this.

India's DPI marks our second war for independence — economic freedom from the day-to-day drudgery of life and transactions, which has made it become our new business backbone that is powering India towards a \$25 trillion economy by the 100th year of our political independence. Imagine what new Cambrian explosion will happen when ChatGPT meets India Stack!

## UNDERSTANDING THE RUSSIA-BELARUS NEXUS

## EXPLAINER

## The story so far:

In the latest escalation to the Russia-Ukraine war, Russian President Vladimir Putin announced last Saturday that Russia plans to station tactical nuclear weapons in Belarus. Tactical nuclear weapons refer to small nuclear warheads and delivery systems meant for use on the battlefield or for limited strikes.

## Why the sudden announcement?

Mr. Putin said the announcement was prompted by the U.K.'s decision last week to supply armour-piercing rounds containing depleted uranium to Ukraine. Depleted uranium munitions augment the ability to overcome defences on tanks and have been described by the United Nations Environment Programme (UNEP) as "chemically and radiologically toxic heavy metal". Russia claims that the positioning of tactical nuclear weapons in Belarus by Russia does not violate any international agreements that Moscow has signed because the control over the weapons would remain with Russia just as the U.S. retains control over its nuclear weapons on its allies' territories. Moreover, there have been no arms control agreements between the U.S. and Russia on tactical nuclear weapons unlike in the case of strategic nuclear weapons. As Mr. Putin has said, "The U.S. has been doing this for decades. They have long placed their tactical nuclear weapons on the territory of their allies", referring to U.S. nuclear weapons stationed in Belgium, Germany, Italy, the Netherlands, and Turkey.

Interestingly, the announcement contradicts the joint statement made by Mr. Putin and Chinese President Xi Jinping last week where they asked nuclear states to refrain from deploying nuclear weapons abroad. Russia has already helped Belarus upgrade its warplanes so that they can carry nuclear weapons. It is for the first time ever that Russia is deploying nuclear weapons outside its borders. Stationing such weapons in Belarus will enable Russia to carry out strikes easier and faster.

## Why Belarus?

A former Soviet state, which like Kazakhstan and Ukraine handed over its nuclear weapons to Russia after the dissolution of the Soviet Union, Belarus has developed close military and political ties with Russia. It is one of the closest and few remaining allies of Russia. It is predominantly Orthodox like Russia with its population almost entirely-Russian speaking. There are also only a few border controls between the two countries. Belarus is a member of the Russian-led military alliance, the Collective Security Treaty Organization, as well as the Eurasian Economic Union. Russia leases two military installations in Belarus, both inherited from Soviet times. Moreover, Belarus gets subsidised oil and natural gas imports from Russia. As was the case with Ukraine, Russia wants to keep Belarus in its sphere of influence and therefore supports the regime of Belorussian President Alexander Lukashenko (often dubbed 'Europe's last dictator'), which is seen as friendly by Russia.



Next level: Vladimir Putin and Alexander Lukashenko in Moscow, Russia on February 17.AP

*Why is Russia planning to station tactical nuclear weapons in Belarus? Is Russia violating any international agreements by stationing such weapons in an ally country? Has the U.S. done the same with its allies? How are relations between Russia and Belarus? Will this escalate the Russia-Ukraine war?*

Belarus' geo-strategic position, between Russia and Ukraine and between Russia and Poland, makes it very important for Russia. It also shares borders with three NATO members — Lithuania, Latvia, and Poland. For long, Belarus has been used as a forward base by Russia for power projection, to give it strategic depth. In fact, Belarus has been used as a launchpad by Russia to send troops and launch strikes in the ongoing war. However, Russia-Belarus relations have had their fair share of trouble.

In 2014, Belarus refused to acknowledge the annexation of Crimea by Russia and even hosted the Minsk talks. It also resisted pressure from Russia to host a permanent military base. However, all this changed in 2020 when



Belarus was rocked by anti-government protests following what is widely seen as rigged Presidential elections. Mr. Lukashenko was isolated by the West while Russia helped him with a \$1.5 billion loan, accepting the results of the elections and promising to intervene if required. The protests were suppressed brutally and a referendum in February 2022 changed the country's Constitution which specified that Belarus would be a nuclear-free zone and would remain neutral. However, in March 2021, Belarus had already agreed to the presence of a joint Belarusian-Russian military unit on its territory, effectively ending its neutrality. Since the outbreak of the Russia-Ukraine war, Belarus has time and again supported Russia during voting at the UN General Assembly resolutions. So, now Mr. Putin sees Mr. Lukashenko as a dependable ally. Belarus, on its part,

is happy about Putin's announcement as it says it has long wanted nuclear weapons because of Western pressure aimed at changing its political and geopolitical trajectory. Minsk says that it needs these weapons to counter NATO's military build-up near its borders.

#### What lies ahead?

The latest move by the Kremlin clearly escalates the Russia-Ukraine war to an entirely new dimension — the nuclear realm — by bringing tactical nuclear weapons literally next door to NATO members. It is probably also meant to dissuade the West from giving more advanced weapons to Ukraine. But it also gives the West an opportunity to use this pretext to further escalate the war. The move does not bode well for peace.

## CHINA THREATENS RETALIATION IF TSAI AND MCCARTHY MEET



*Bon voyage: Tsai Ing-wen (centre) waving before departing on an overseas trip at Taoyuan Airport in Taipei on Wednesday. AP*

*Taiwan President is expected to stop over in Los Angeles on April 5 while returning from her tour of Central America and meet Kevin McCarthy, Speaker of the U.S. House of Representatives*

China has threatened "resolute countermeasures" over a planned meeting between Taiwanese President Tsai Ing-wen and Speaker of the U.S. House Speaker Kevin McCarthy during an upcoming visit in Los Angeles by the

head of the island.

Ms. Tsai framed the trip as a chance to show Taiwan's commitment to democratic values on the world stage, as she left Taiwan Wednesday afternoon to begin her 10-day tour of the Americas.

"I want to tell the whole world democratic Taiwan will resolutely safeguard the values of freedom and democracy, and will continue to be a force for good in the world, continuing a cycle of goodness, strengthening the resilience of democracy in the world," she told reporters before she boarded the plane. "External pressure will not obstruct our resolution to engage with the world."

Ms. Tsai is scheduled to transit through New York on March 30 before heading to Guatemala and Belize.

On April 5, she's expected to stop in Los Angeles on her way back to Taiwan, at which time the meeting with McCarthy is tentatively scheduled.

#### 'Concrete actions'

Spokesperson for the Cabinet's Taiwan Affairs Office Zhu Fenglian at a news conference on Wednesday denounced Ms. Tsai's stopover on her way to diplomatic allies in Central America and demanded that no U.S. officials meet with her.

"We firmly oppose this and will take resolute countermeasures," Ms. Zhu said. The U.S. should "refrain from arranging Tsai Ing-wen's transit visits and even contact with American officials, and take concrete actions to fulfil its solemn commitment not to support Taiwan independence," she said.

Transit visits through the U.S. during broader international travel by the Taiwanese President have been routine over the years, senior U.S. officials in Washington and Beijing have underscored to their Chinese counterparts.

In such unofficial visits in recent years, Ms. Tsai has met with members of Congress and the Taiwanese diaspora.

## SAUDI ARABIA AGREES TO JOIN SCO AS A DIALOGUE PARTNER

Saudi Arabia has agreed to join the Shanghai Cooperation Organisation (SCO) as a "dialogue partner", state media reported on Wednesday, the latest indication of closer political ties with China. The SCO was established in 2001 as a political, economic and security organisation.

Besides China, its eight members include India, Pakistan and Russia, as well as four central Asian countries — Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan. The cabinet approved the decision at a meeting on Tuesday chaired by King Salman, the official Saudi Press Agency reported.

The move would grant Riyadh "the status of a dialogue partner in the

Shanghai Cooperation Organisation", it said. Other countries with either observer or dialogue partner status include Egypt, Iran and Qatar. Riyadh's move to partner with the bloc comes less than three weeks after the unveiling of a landmark China-brokered reconciliation deal with Iran.

Mr. Xi's role in the rapprochement raised eyebrows given Saudi Arabia's traditionally close partnership with Washington.

In his first comments on the matter, Mr. Xi said the dialogue promoted by China would "play a major role in strengthening regional cooperation".

## TRADE DEFICIT WITH CHINA CROSSED \$71 BN IN FIRST 10 MONTHS OF FY23

India's trade deficit with China touched \$71.56 billion in the first 10 months of 2022-23, just \$1.7 billion short of the record high of \$73.31 billion in 2021-22, data shared by the Commerce Ministry in the Lok Sabha show.

Responding to a query from MP Manickam Tagore on whether the trade deficit with China had been increasing every year, Minister of State for Commerce and Industry Anupriya Patel said that the trade deficit with China had progressively decreased every year from 2017-18 to 2020-21. "It increased in 2021-22 compared to 2020-21," the Minister added.

"The trade deficit with China in 2004-05 was \$1.48 billion, which increased to \$36.21 billion in 2013-14," Ms. Patel said in reply to another MP's query.

"Against this massive increase, the trade deficit with China has since increased by only about 102% to \$73.31 billion in 2021-22," Ms. Patel said, contrasting the numbers under the present government with that clocked under the previous one.

Most of the imports were capital goods, intermediate goods and raw materials and were used for meeting the demand of fast expanding sectors like electronics, telecom and power, she said.





## SEBI PUSHES NORMS TO ENSURE BETTER DISCLOSURES, BOOST TRANSPARENCY

The Securities & Exchange Board of India on Wednesday moved to improve disclosure norms and transparency by mandating that large listed companies must confirm or deny price-sensitive market rumours, and in the case of material board decisions disclose them to exchanges within 30 minutes.

To bring more transparency and to ensure timely disclosure of information by listed entities, SEBI made it mandatory for the top 100 listed companies by market capitalisation to verify, confirm or deny or clarify any market rumours. This would come into effect from October 1. And the top 250 listed entities by market value, would need to adhere to the norm by April 2024.

The markets regulator also made it mandatory for upstreaming of clients' funds by stock brokers and clearing members to clearing corporations, a move aimed at protecting retail investors' funds.

"This will mitigate credit risk on intermediaries and risk of potential misuse of clients' funds," SEBI chairperson Madhabi Puri Buch told reporters after a board meeting.

Ms. Buch declined to comment on the issues concerning the Adani Group, observing that the matter was in the Supreme Court and that the apex court had asked SEBI to submit a report on the status of the investigation to the committee set up by the court.

SEBI has also now allowed Private Equity (PE) firms to own stakes in Asset Management Companies (AMCs) that operate mutual funds.



*Eye on investor: SEBI chairperson Madhabi Puri Buch unveiled norms to mitigate credit risk and protect investors' funds. PTI*  
*Market regulator's board clears reforms aimed at better protecting investors' interest; from October 1, 2023, top 100 listed companies must confirm or deny price sensitive market rumours; SEBI allows PE firms to own stakes in AMCs*

## COMPETITION LAW AMENDED TO TIGHTEN SCRUTINY OF BIG TECH FIRMS

The Lok Sabha on Wednesday cleared the Competition (Amendment) Bill, 2022, aimed at bringing in greater regulation of corporates, particularly Big Tech firms, by introducing deal value threshold for approvals by the Competition Commission of India (CCI), and enabling cartels to avail of the CCI's settlement mechanism.

A major change in the Bill, that now awaits the Rajya Sabha's nod, is the provision relating to penalties that the CCI can levy. Presently, the CCI can impose a penalty of up to 10% of a firm's average turnover in the "relevant market."

**'Global turnover'**

Now, the phrase "turnover" will refer to the "global turnover derived from all the

products and services by a person or an enterprise" which, experts said, is a highly contentious provision that will result in higher penalties for global multi-product companies.

"The introduction of deal value thresholds will bring transactions involving 'asset lite' and 'low revenue' companies, under the CCI's scrutiny," said Unnati Agrawal, partner at IndusLaw.

Moreover, the settlements and commitments mechanism would ensure swift correction of anti-competitive behaviour and practices and spare "willing and legally compliant companies" to face the rigours of an extensive investigation, she pointed out. The actual implementation of these changes will hinge on the regulations that the CCI will issue, following the Bill's enactment.

## NO CHARGE ON NORMAL UPI PAYMENTS: NPCI



The National Payments Corporation of India (NPCI) on Wednesday clarified that the interchange charge of 1.1% on merchant transactions exceeding ₹2,000 done using Prepaid Payment Instruments (PPI Wallets) on UPI would 'only be applicable for PPI merchant transactions and there would be no charge to customers'.

"It is further clarified that there are no charges for the bank account to bank account based UPI payments" or normal UPI payments, the NPCI added in a statement.

PPI Wallets had been permitted to be part of the interoperable UPI ecosystem, NPCI said.

"We believe this is a positive development for the Indian economy and the banking system as a whole," said Rajsri Rengan, India Head of Development, Banking and Payments, at FIS.

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## HUMAN LIFE, ABOVE ALL

*Opposition of doctors to the right to health comes from baseless misgivings*

It is confounding how something that is stridently 'good' in ethical and legal terms can run into a wall of opposition built on narrow professional and commercial interests. As in the case of the Right to Health Act that was passed in Rajasthan last week, and the unprecedented kerfuffle that followed, with doctors in the State vehemently protesting what they called a 'draconian law'. The Right to Health is in sync with the constitutional guarantee of right to life, and other components of the Directive Principles. That no person seeking health care should be denied it, on the grounds of access and affordability, is an acceptable proviso. The Rajasthan Right to Health Act, 2022, addresses these key issues of access and affordability. It "seeks to provide protection and fulfilment of rights, equity in relation to health and well-being for achieving the goal of health care for all through guaranteed access to quality health care for all residents of the State, without any catastrophic out-of-pocket expenditure". The law, which also provides for a social audit and grievance redress, gives every resident of the State the right to emergency treatment without paying a single paisa to any health-care institution, and specifies that private health-care institutions would be

compensated for the charges incurred for such treatment.

The doctors who came out in large numbers to protest the law on the streets of Jaipur said they were distrustful of the government's promise of recompense for expenses incurred for treating patients during an emergency. To the charge that there is no detailing of the process, health right activists have pointed out that it would be a function of the Rules, not the law itself. The protesting doctors also claimed to be apprehensive of the government's interference in their functioning once the law is enforced. Ironically, all of them believe that health care is a right of the people; only, they believe that the State would have to be the sole provider. However, this is scarcely the first such exposition of the right to health. In 1989, the Supreme Court observed that "every injured citizen brought for medical treatment should instantaneously be given medical aid to preserve life and thereafter the procedural criminal law should be allowed to operate in order to avoid negligent death". Having transformed a progressive ideal into law, Rajasthan should now strive to gain the trust of the doctors through demonstrable action. It is also incumbent upon the doctors to rise above the differences, and work with the government to save human lives.

## A HARDHANDED RESPONSE THAT STRIKES AT THE ROOT OF RIGHTS

*K.R. Shyam Sundar, is Adjunct Professor at the Management Development Institute (MDI), Gurgaon*

An estimated 19 lakh government and semi-government employees, including those in schools, colleges, zilla parishads, and government hospitals, to name a few, have been on strike demanding that the government return to the Old Pension Scheme (OPS); they have been on the National Pension Scheme since 2005. In several States such as Rajasthan, Chhattisgarh, Himachal Pradesh and Punjab, there has been a return to the OPS. Employees in Maharashtra desire that their State does the same.

The government's response has been predictable. It constituted a panel to study the implications of a return to the OPS, which is to submit a report in three months. The absence of union leaders in this panel is striking. But, most importantly, the Maharashtra Assembly has passed the Maharashtra Essential Services Maintenance and Normal Life of community Act (MESMA). Negotiations took place and the government made the assurance in writing that, in principle, it accepts the OPS. Based on this, the unions called off the strike on March 20, 2023. What is of interest now is the principal and typical method by which the State seeks to handle the strike by its employees.

### **An unchanged response**

Since 1960, the government's approach, be it central or State government, to strikes by their employees has been to invoke ESMA, or the Essential Services Maintenance Act. It was historically a colonial instrument, though clothed differently under the Defence of India Rules. And, since 1950, several States, on numerous occasions, have promulgated ESMA.

Therefore, the question is this: is this the right response on the part of the government? In fact, private sector employers argue, not without reason, that the government which is supposed to be a model employer, often uses its elaborate legislative and police powers, while in contrast, they do not have any choice but to face a strike in the industrial relations sense and attempt negotiations with striking employees.

Second, who defines what is essential? What are the criteria for defining essential services? How long can an industry be called as an essential service in order to prohibit strikes or protests? ESMA empowers the government to define any economic activity as essential, which is an example of a dangerous weaponisation of the government (which tilts the balance in industrial relations in the government sector dangerously towards the government).

### **International situation, essential services**

What is the global picture like? The International Labour Organiza-

tion is the global organisation universally regarded to be the authoritative and legitimate body that can answer issues in connection with labour. The ILO's supervisory institution, the Committee on Freedom of Association (the Committee), among others, constructed the principles on the right to strike; this is worth noting as they serve as the guidepost to assess the government's actions.

The basic principle is that workers enjoy the right to strike, which is one of the principal means to legitimately promote and defend their economic and social interests. Purely political strikes are rare just as purely economic strikes are. However, it may prove to be difficult to label a strike to be political or otherwise. Who can go on strike? The committee recognises "a general right to strike" while allowing for an imposition of restrictions on strikes by some categories of public servants and workers in essential services. There could be a prohibition of strike action during acute national emergencies. Public servants who exercise "the right in the name of the State" cannot enjoy the right to strike — an example is public servants working in public sector enterprises (central or State), oil, banking and metropolitan transport undertakings, and those employed in the education sector.

### **The point of other dispute mechanisms**

According to the Committee, employees in essential services do not enjoy the right to strike. Essential services are those where "the interruption of which would endanger the life, personal safety or health of the whole or part of the population" (ILO). The question of essentiality will, of course, depend on the peculiarities prevalent in countries. It has identified essential services such as the hospital sector, and services such as electricity, water supply, telephone, and air traffic control. Strikes in these may even be prohibited or strictly regulated. What is important is that where the right to strike is prohibited or strictly regulated, alternate dispute-resolution mechanisms must be put in place. In fact, it has mentioned a negative list of industries which are not essential which includes the transportation and education sectors.

The urgency with which governments promulgate ESMA, the "regulatory itch", betrays their colonial mindset. Governments have clothed themselves with wide powers to include any economic activity as essential, which is "irresponsible, unwise and anti-democratic". Democracy means an equitable distribution of power and ESMA monopolises power while suppressing the democratic rights of stakeholders. India is a pluralistic democracy where protests hold an important place and their sanctity needs to be respected by the government. Social dialogue rather than authoritarian measures will promote amicable and long-lasting solutions.

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## SC SLAMS 'SILENCE OF STATE' ON 'VICIOUS CIRCLE' OF HATE AGAINST MINORITIES

The Supreme Court on Wednesday slammed the "silence of the state" on spiralling incidents of hate speeches made against minority communities, including Muslims.

However, the Centre pushed back, and asked the court why it did not take suo motu cognisance of a video clip from Kerala showing a child being made to threaten Hindus and even Christians.

When a Bench of Justices K.M. Joseph and B.V. Nagarathna asked the Maharashtra government for an explanation about hate speech incidents in the State, Solicitor-General Tushar Mehta asked the court to take a moment and see what was happening in other States such as Kerala and Tamil Nadu.

"A spokesperson of the DMK party says that if you want equality you should butcher all the Brahmins.... No FIR has been registered. He continues to be a spokesperson of the party... Now, please hear this clip from Kerala. This is shocking. It should shock the conscience of this court. A child has been made to say this. We should be embarrassed. He says 'Hindus and Christians should prepare for final rites'," Mr. Mehta addressed the court.

"Yes, we know," Justice Joseph responded. "Then Your Lordships should have taken suo motu cognisance," Mr. Mehta said.

Justice Joseph said the country was caught in a "vicious circle of hate" and the solution lay in expunging religion from politics. "The moment religion is separated from politics, all this will stop," Justice Joseph said.

But Mr. Mehta refused to agree that hate had anything to do with politics. "No, this has everything to do with politics. Politicians make use of religion," Justice Joseph stood firm.

Justice Nagarathna said hate speeches have made cracks in the idea of fraternity. She said hate speeches were made by "fringe elements" of all sides who have "no stuff in them".

"When Vajpayee and Nehru spoke, people came from rural areas to hear them... Unfortunately now, people with no stuff in them, fringe elements from every side are making these hate speeches... where are you taking India? Now are we going to start taking contempt action against every person in India... where are we taking this court... is there no restraint on freedom of speech... If there is intellectual deprivation, you can never take this country to the number one position in the world. Intellectual deprivation comes only when there is intolerance, lack of knowledge and lack of education. That is where we should concentrate first... We should as a society take a pledge to restrain ourselves from saying these things," Justice Nagarathna said. Justice Joseph said "before we think of trying to be a superpower, we should first follow the rule of law". The court said hate speech strikes a mortal blow to dignity.



*Centre pushes back and asks the court why it did not take suo motu cognisance of a video clip of Kerala child; Justice Joseph stresses the need to separate religion and politics and adds that hate speech strikes a mortal blow to dignity*

"The most important thing is dignity. If it is demolished on a regular basis... look at the statements being made 'Go to Pakistan'... They are people who chose this country. They are like your brothers and sisters. Remember what you pledged in school 'All Indians are my brothers and sisters... Maybe I am too old-fashioned... I am retiring in four months, turning 65... Seventy-five years ago we as a nation started a journey. Our objective was to be a country that will follow the rule of law... We should never go down to that level of hate," he said.



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