

# Gist of EPW October Week 3, 2020

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## Ethos of Justice and Its Adversaries

### Context:

In the backdrop of Hathras case involving the rape of a Dalit girl, the article discusses the state of justice and highlights the partisan role of police in the case and role of Savarnas in defending the accused.

### Partisan role of police:

- The Hathras rape case has been handed over to the [Central Bureau of Investigation](#) (CBI) for further proceedings.
  - With this, the rationality of the UP Police has been questioned – on the matters of dealing with the case without prejudice. Moreover, it has also been recommended that the CBI investigations be carried out under the supervision of the Supreme Court.
- It has been observed that the police have complimented the local Savarnas in their quest to take the partisan position in the case and support the accused.
- The Lucknow bench of the Allahabad High Court has been more categorical in expressing its reservation about the role of UP police in mishandling the Hathras rape case.
- The parents of the victim have blamed the police for their soft attitude towards the Savarnas.

### The attitude of the Savarnas:

- The evidence from the television reporting shows that the members of the Savarna community conducted a mass meeting in favor of the accused, thereby violating law and order.
- Some people of Savarna castes were seen holding an assembly in which all the four accused were declared innocent.
  - This response is more shocking on both ethical and legal grounds.

- An ethical conviction though not compulsory becomes necessary just to show that if one is not grieving for the victim then at least he is not siding with the accused.
- The Savarna consciousness has not been impacted by the brutal rape of the victim.
- Here, caste consciousness is the major overriding factor behind both moral and legal consciousness. The moral judgment of some of the members of the Savarnas is highly influenced by the caste consciousness.
- The matter of concern is that the meetings were held in presence of police despite section 144 being imposed in the region. It is only after the acts of Savarnas became stark, police were forced to take action against them.
- This highlights that the penal power lies not in police action but in the confidence of Savarnas to violate curfew orders and hold the assembly. This show of caste strength makes Savarnas co-sovereigns with law enforcement agencies.
- This act of upper castes becoming co-sovereign threatens the judicial system and undermines the possibility of harnessing the ethos of justice.

### **What is the ethos of justice?**

- Ethos is defined in a social context. It is a resource that has to be nurtured by enlightened people in a collective manner. This must be done under moral conditions, which form the part of the ethos.
- These conditions involve looking at people as citizens rather than through the lens of caste identities and to have faith in judicial processes that may go against the interests of a particular caste, in this case, the Savarna caste.
- The ethos also expects people of Savarna caste to be law-abiding citizens and accept the consequences of the crimes allegedly committed by people who belong to their own community.
- The ethos further calls for a commitment to the due process of law. This commitment strengthens faith in the universal principle of justice.
- This universal principle of justice provides the right to feel safe and secure, to both -oppressed sections of society and also to the Savarna community.

### **Conclusion:**

- The Dalits of Hathras are asking Savarnas to recognize their right to live with safety and dignity. By doing so they are not demanding any special consideration. Their demand for equal rights is moral minimum.

- This realization of the rights of Dalits hinges on the faith of Savarna's in the judicial system. This faith does not result from the generosity of Savarnas.
  - Savarnas must not interfere in or dilute the evidence of atrocities of the rape case.
  - Justice is a common good, hence needs to be protected by both Savarnas and Dalits, which in turn requires a commitment from Savarnas to respect the value of justice.
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## Tax on Agricultural Income – Holy Cow of the Indian Economy

### Context:

The article highlights the misuses of the provisions that exempt agricultural income from being taxed. It further argues for taxing agricultural income.

### Reports by the government agencies on agricultural income:

- In a paper on black money (2012), the [Central Board of Direct Taxes \(CBDT\)](#) has stated that providing credits to agricultural income for income tax purposes, without any verification, allows avenues for bringing black money into the economy in the name of agricultural income.
- A report by the Tax Administration Reforms Commission (TARC) (2014) stated that exemption is provided to agricultural income despite large agricultural holdings. It emphasized that there are a number of farmers who are earning huge amounts than salaried employees in the cities and still are not paying any tax.
  - The report also said that the agricultural income earned by non-agriculturists is highly used as a channel to avoid tax and for money laundering.
  - It results in the loss of crores of revenue annually.
  - It suggested that a solution to this issue could be the tax on large farmers.

### Concerns:

- In May 2015, in response to an [RTI](#) application, the Income Tax Department stated that there has been an exponential growth in agricultural income between 2004 and 2013.
  - This amounted to 20 times higher than the gross domestic product, even though there was no change in the area under cultivation and agricultural production over the period of time.

- Another RTI was filed seeking the details of the top 100 assesseees.
  - The IT Department refused it on the grounds that section 8 1 (J) of the RTI prohibits the disclosure of personal information unless there was an overriding public interest, which according to the IT Department was not existing.
- However, the IT Department was forced to conduct an investigation in regards to the huge agricultural income of more than 1 crore.
  - There were 307 such cases during the assessment year 2015-17.
  - In January 2017, the investigation was clarified by stating that this huge agricultural income was falsely reported and it was a data entry error.
- In 2016, in a Rajasva Gyan Sangam conference of tax administration, it was stated that there is a need to target the income of the non-agriculturists beyond a threshold limit, failing which, it would act as a hindrance in enhancing the tax base.
  - According to the estimates produced at the conference, there are 25 crore taxpayers in the country out of which 15 crores are registered as agriculturists and the other 10 crores as non-agriculturists.

#### **Laws related to taxation of agricultural income:**

- Union and state can impose a tax on an item only if that item is mentioned under the [Seventh Schedule of the Constitution](#).
- The tax on agricultural income is listed under the state list (entry 46), and hence the central government cannot tax such income.
- Agricultural income is defined by the Income-tax Act as the rent/revenue from land, income derive from this land through agriculture, and the income derived from buildings on that land.
- An exemption has been provided to agricultural income under section 2 (1A) of the Act.
- Section 10 (1) of the Income Tax Act, a Central Act, excludes agricultural income from the computation of total income.
  - This exemption would, however, be available only in cases where the income in question constitutes agricultural income within the meaning of Section 2(1A) of the Income Tax Act.
  - Therefore, it is not necessary to file income tax returns by those farmers who do not have any other sources of income. It is only applicable to those farmers who earn income through other sources than agriculture as well.

- It is only those farmers who derive income from sources other than agriculture that are required to file returns in which any agricultural income exceeding ₹5,000, where the total income excluding net agricultural income that exceeds ₹2.5 lakh in a year, is to be reported for determination of their appropriate income slab for imposition of tax.
- Tax on agricultural income is then deducted from the total tax, and thus computed for the assessee.

**Note:**

- Agricultural income used to be taxed till 1886 under the Income Tax Act of 1860 (now replaced by the Income Tax Act of 1961).
- Uttar Pradesh introduced agricultural income tax in 1948 but repealed it in 1957.
- Income from tea, coffee, and rubber plantations is still being taxed.

**CAG's report on verification of claims for exemption of income tax on agricultural income:**

- In 2013-14, nearly 4 lakh people declared their farm income and were granted exemptions.
  - The total agriculture income exempted was Rs. 9,338 crore
- To test the robustness of the mechanism for verification of such exemption claims, the [Comptroller and Auditor General of India](#) (CAG) instituted an audit.
  - On analysis of the audit report, it was found that more than 50% of the cases, exemptions were allowed without any verification.
- The CAG has questioned the robustness of the mechanism besides highlighting many other lacunae and deficiencies like incorrect exemptions granted for income derived from agricultural land or for partial agricultural income as well as non-agricultural incomes, mismatch of exemption figures in assessment orders and income tax database, etc.
- Also, data entry errors were found in 11% of the cases, where reported agricultural income exceeded Rs. 1 crore each.
- The CAG opined that such errors make the database unreliable. CAG further recommended IT Department to tighten its system to reduce the misuse of exemptions.
- Unless the distortion due to exemption of agricultural income is corrected, such irregularities will beset tax administration and much-needed modernization of agriculture.

**Devising mechanism to tax agricultural income:**

- In order to tax agricultural income, a constitutional amendment is required.
- Appropriate changes would have to be made in part XII of the constitution and a mechanism for sharing the tax with states has to be devised.
  - This has to be done with the help of states, as only states can tax income derived from agriculture.
- An alternative mechanism has also been proposed by TARC which is called a tax-rental arrangement.
  - According to this only farmers having very high income say more than Rs. 50 lakh should be taxed.
  - This will serve the dual purpose of keeping smaller farmers out of the tax net as well as closing the avenues for channelling black money.
- For this, states need to pass a resolution under article 252, empowering the taxation power to the center. The center can then assign net tax proceeds to states.

#### **Hurdles in taxing agricultural income:**

- Taxing agricultural income seems to be unrealistic on two accounts.
  - States are facing protests by farmers,
  - Farm lobbyists and large farmers will lobby at the center for dropping the idea altogether.
- So, it can be said that agriculture will be used as an avenue for absorption of black money into the economy.
- It would continue to distort social equity – putting hurdles in reforms in agriculture and for expansion of the tax base.
- Although many committees have recommended taxing agricultural income, it has remained untouched by political parties due to fear of backlash from agrarian vote banks.
- However, this fear is a myth because in case agricultural income is being taxed, only a minuscule portion of farmers will fall under the tax net.

#### **Busting the myths related to taxation of agricultural income:**

- According to the Agriculture Census 2015–16, released by the Ministry of Agriculture and Farmers' Welfare, about 86% of the operational holdings (total 146.45 million hectares) are with the small and marginal farmers only.

- 40% of the total operational holdings and 38% of the total operated area falls under the Hindi belt states (Uttar Pradesh, Bihar, Madhya Pradesh, and Rajasthan), where feudal relationship and castes play an important role in shaping voting patterns.
- At all India levels, large, semi-medium and medium holdings together account for only about 14% of the total number of holdings, with a disproportionately large share of more than 53% of the total operated area.
- If agricultural income will be taxed, the income threshold of small and large farmers will remain outside the taxation limits and only the income of semi-medium, medium, and large farmers would be taxed.
- Using the data of the agricultural census, it can be estimated that the number of small and marginal farmers was 118 million, which is about 93% of the total number of farmers. Hence only 7% of the total farmers (9 million) would be covered under the tax net if agricultural income is going to be taxed in the future.
- These medium and large farmers do not constitute a major vote bank, albeit they can be politically influential.
- Also, it has been observed that the number of small and marginal farmers is increasing and will continue to increase.
- Hence, the number of medium and large farmers are not going to increase drastically to bother political parties for their vote bank.
- According to the latest Situation Assessment Survey of Agricultural Households, conducted in the 70th Round of NSS from January 2013 to December 2013, average monthly income per agricultural households during the agricultural year July 2012–June 2013 was estimated at Rs. 6,426.90 and average monthly consumption expenditure per agricultural household were estimated at Rs. 6,223, thus leaving no scope for saving or capital investment in agriculture.
- Only large farmers (>10 ha of holding) having a monthly income of 41,388, fall under the tax net. Taxing these large farmers will not affect the electoral future of any political party.
- If agricultural taxation is being left to states, then tax rates will vary along with states and thus will distort the agricultural market. Further, administering agricultural tax will become problematic due to the informal nature of the agriculture business.

### **Conclusion:**

- In 2017-18, only 7% of the Indian population paid any taxes as compared to that of 44% in the United States.

- Even among those who paid income tax, the majority (3.61 crores) fell under the lowest tax slab of 10%.
  - Only 37 lakh people paid tax at the highest rate and most of them belong to the organized sector.
  - In 1925, the Indian Taxation Enquiry Committee had noted that there are administrative and political reasons behind not taxing agricultural income and not any historical and theoretical justification for doing so.
  - Even after nine decades, no government has dared to remove this political and administrative objection.
  - Bringing agriculture under taxation is necessary to expand the tax base and instil a culture of tax payment.
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