

Book Discussion on
'Supreme Court and the Indian Economy'
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Good morning everyone,

The roots of the idea behind writing this book can be traced to many reasons, some of them being the pressing issues around governance, institutions and policy are not sexy and simple and thus there is need for indulgence and engagement, and more need to be explained in detail.

An attempt has been tried via the book to put out a limited point to a fore that the SC enjoys the constitutionally guaranteed independence as an institution and is expected to be a temple of morality and righteousness where justice is served. Therefore, it is also bound by the duty of ensuring maximum good for the society and economy, and in doing so it needs to balance complex areas including the interface between 'law and economics'.

The inspiration behind this book are moreover the challenges and alongwith it a hope to fire up another debate on the judicial system and economy. The last 40 years of my career as a consumer activist and public policy advocate, has taught me that we must create a questioning culture rather than resign to our fate.

The choice of the cases discussed in this book were in such a manner that it can highlight the basis of the concept and importance of 'balancing law and economics' and would help me drive home this point better. They have been

written keeping in mind the lay reader and in each of them have an economic impact as a consequence of the SC judgement, which has been discussed. An attempt has also been made to highlight an alternative way these cases could have been viewed and resolved by the SC.

The text of the book nowhere intends to question the power of the judiciary to adjudicate and on the other hand tries to find answers whether the remedy prescribed by the apex court was the best way to go about it, knowing that many such practices thrive in an overarching decadence irrespective of which political regime is in power. Even though the book raises questions over the role of the Supreme Court but I must not miss out highlighting the fact that the Supreme Court has come a long way in mainstreaming public interest and successfully endeavored on various occasions to further consumer and citizen welfare.

Another reason that adds up to importance of this discussion is that the sensitive issues like this have still not made it to the public policy domain because there is lack of dedicated policy practitioners who would have the urge to create awareness and enlighten citizens and policy makers on the same. The role of civil society as well as of media come into play and becomes crucial bringing forth such issues and sensitizing the debate.

Even the time when I presented the proposal of conducting study on five cases before the Supreme Court and the National Green Tribunal before the NITI Aayog sometimes in 2019, it was reiterated that the Prime Minister, who is also the Chairman of the Aayog, had expressed the same concerns, of court actions impacting the economy adversely, and that our proposal is thus very timely and in national interest.

Via the book I want to emphasize on the fact that the judiciary while adjudicating matters or passing orders in such important matters should be cautious about the role it has to play as the aftermath of it can be sometime more worse. The Chair at the courts has an important duty to perform, which has a higher obligation of keeping the ship of judiciary afloat on even keel, to ensure their judgements should be neatly and precisely analyzed and weighted on the balances of ‘law as well economics’. It must also avoid making any ad hoc decision, particularly, just focusing on one side of a coin, rather the judgements must be logical, clear, sober and should weigh all the aspects of the impact it would have on society.

The COVID 19 pandemic has amplified the need to strengthen digital capabilities and pushed toward adopting an approach that supports scale, speed, and sustainability. The use of information and communication technology (ICT) as well as artificial intelligence can be one of the means to strengthen the judicial system in terms of improving the quality, reducing the congestion and the most important ensuring the time duration for the cases.

The adoption of use of technology in their judicial proceedings have been very common in many countries and have also displayed positive outcomes. While on our part, the idea of eCourts project has been just floating in the public policy domain to fully modernise the process of justice delivery. To achieve the same, it is also important to complement the skills within the judiciary with personnel that bring in specialized and functional skills.

At last, I would just like to conclude by emphasising that being economically responsible is not akin to being environmentally, equitably or socially irresponsible. The ongoing study of ours has carved out that orders that were

supposed to uphold environmental interests are significantly and adversely impacting vulnerable stakeholders who had no direct role in environment degradation.

It is not something that is unachievable, in fact there have been many cases wherein the courts have been able to achieve such fine balance, such as the Supreme Court's intervention that led to the adoption of CNG and consequent economic benefits and when it directed that overhead power transmission lines in Rajasthan to be laid underground to shore up the plummeting numbers of the Great Indian Bustard. The same should be considered more often in practice and doing so is well within the powers of courts.

As India cannot afford to deflect or take a step back in strengthening its economic growth story and potential, for it is in the country's best interest to move forward economically. Therefore, the constituency of their readers is limited while their relevance is universal – a painful paradox indeed. Thus, in the spirit of upholding Article 51A, which deals with Fundamental Duties particularly, I have questioned the *raison d'etre* of those judgments in this book and sought reforms *so that the nation continues to rise to higher levels of endeavour.*
