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International

Who Was Al-Muhandis?

- The US drone attack that assassinated Maj Gen Qassem Soleimani in Baghdad on Friday morning also killed the leader of an Iraqi militia who had long battled both the Americans and the terrorists of the Islamic State. Iran's Supreme Leader Ayatollah Ali Khamenei mourned the death of this fighter on Twitter: "The Iranian nation will honor the memory of the noble Major-General Soleimani & the martyrs with him — particularly the great Abu Mahdi al-Muhandis — & I declare 3 days of mourning across the nation. I condole & congratulate his family." He was a leader whose killing by the Americans would have been an event big enough to jolt the region even if he had not died along with Gen Soleimani. He was the second-in-command of a coalition of militias that helped Iraq defeat ISIS. While this militia operated almost entirely independently, Al-Muhandis had, over 15 years ago, founded his own fighting force, and took his orders from bosses in Iran. **Al-Muhandis's militia**, the **Kata'ib Hezbollah**, or **Hezbollah Brigades**, was attacked by the US on December 29, and the airstrikes provoked the storming of the American embassy in Baghdad two days later. Al-Muhandis, who was born Jamal Jaafar Ibrahim, was revered by many in Iraq for building an effective fighting force against the IS out of the many militias that came to occupy the political vacuum in the country after the US toppled Saddam Hussein. He also fought ceaselessly against the American occupation, and served as the spearhead of Gen Soleimani's strategic ambitions in Iraq. Both Gen Soleimani and he operated largely clandestinely — yet both were well known, with huge reputations and great fame in Iran and many enemies among the Americans and their European allies. Al-Muhandis was, in fact, active even before the US invasion of Iraq. Back in December 1983, he had been linked with the suicide bomb attacks on the embassies of France and the US in Kuwait, in which five people were killed. Subsequently, in May 1985, Al-Muhandis was linked to a failed attempt by a suicide bomber to kill Sheik Jaber al-Ahmed al-Sabah, the Emir of Kuwait. In 2007, a court in Kuwait sentenced Al-Muhandis to death in absentia. According to the US, Al-Muhandis was around 66-67 years of age. He is believed to have been born in Basra in 1953, and escaped from Iraq after Saddam Hussein's Ba'athists launched a crackdown against the Shia Islamic Dawa party, of which Al-Muhandis was a member. He is thought to have spent many years thereafter in Iran, learnt Persian, and built close ties with the Islamic Revolutionary Guards Corps. He returned to Iraq in 2003, after the US invasion, and set up the Kata'aib Hezbollah.

Iran-US Tensions

- Five days after Major General Qassem Soleimani, the Qods Force chief, was killed in a U.S. air strike outside Baghdad airport, Iran launched ballistic missile attacks at American troops in two military bases in Iraq. Initial reports suggest that there are no American casualties in the attacks on the Erbil and Al-Asad bases, though damage and military assessments are still under way. Whether there were casualties or not, this is a pivotal moment in the U.S.-Iran tensions as this is the first time Iran is launching a direct attack at the U.S. troops and owning it up. Practically, these are acts of war, though there's no formal war declaration. First, the

Shatabdi Tower, Sakchi, Jamshedpur



U.S. took out an Iranian military leader in a third country and now Iran has struck U.S. troops. Javad Zariff, the Iranian Foreign Minister, said, "Iran took and concluded proportionate measures in self-defence under Article 51 of the UN Charter targeting base from which [the] cowardly armed attack against our citizens and senior officials were launched." The Article allows states to take action in self-defence when they are under attack. Mr. Zariff has added that Iran doesn't seek "escalation or war, but will defend ourselves against any aggression".

Limited Attack

The Iranian response was expected. The call for revenge was reverberating throughout the funeral processions of Soleimani. A mosque in the Shia holy city of Qom in Iran had unfurled a red flag indicating that war was coming. Kataib Hezbollah, a unit in the Popular Mobilisation Forces (PMF), the umbrella organisation of Iraqi Shia militias that Soleimani helped build, had asked Iraqi forces to stay away from the bases that house American soldiers, indicating that U.S. troops in Iraq could be targeted. Iran has launched a calculated, limited strike that doesn't cause much damage to the Americans but yet makes good on its pledge for revenge. It was an escalating step, but not yet an all-out war. By hitting the U.S. base in Erbil, the capital of the Iraqi Kurdistan, Iran may also be sending a message to Washington. **Erbil houses not just American soldiers but also a large American consulate.** The U.S. has deep ties with the Iraqi Kurdistan and it would like to keep some U.S. troops in the autonomous region even if its forces are forced to pull back from the rest of Iraq. **It's to be noted that most Kurdish lawmakers had boycotted Sunday's Iraqi Parliament session in which lawmakers passed a resolution to expel American troops from the country.** For the U.S., some troops in Iraq are necessary to retain its presence in Syria. So, Iran's message could be that, 'you're not safe in Erbil'.

Possible Scenarios

President Trump has already indicated that he's backing away from further conflicts with Iran. In a statement issued from the White House, he said Iran appears to be standing down and urged European countries as well as Russia and China to break away from the nuclear deal. He has also threatened to slap Iran with more sanctions. But despite his message of de-escalation, the risks of further conflicts still remain. The Supreme Leader Ayatollah Ali Khamenei has hinted that more actions will follow to force the U.S. to retreat from West Asia. The Revolutionary Guard's commander Hossein Salami threatened before a mourning crowd in Kerman, Soleimani's hometown, that Iran would set ablaze "the place the U.S. loves", in a reference to Israel. Iran could target U.S. troops inside Iraq through its proxies such as the Badr Brigade and Kataib Hezbollah, like it did before the killing of Soleimani. That could drag the U.S. into a deeper conflict. **Also, the Shia militias in the region operate with relative autonomy. Tehran may not be micromanaging them. Infuriated by the loss of their commander, they could act without authorisation from Tehran against U.S. troops in Iraq, which could trigger a harsher response from the U.S. against Iran, dragging both countries into war.** All these suggest that West Asia remains on the brink.

After Trump's '52' Threat, Rouhani Speaks Of '290'. What Did He Mean?

- After President Donald Trump posted on Twitter a threat to target "52 Iranian sites" if Iran attacked US citizens or assets, Iran's President Hassan Rouhani has responded by reminding Trump of "the number 290" and "IR655". "Those who refer to the number 52 should also



remember the number 290. #IR655 Never threaten the Iranian nation,” Rouhani tweeted. In his tweet, Trump mentioned that the targeted 52 Iranian sites “represent(ed) the 52 American hostages taken by Iran many years ago” — a reference to the 1979-81 siege of the US embassy in Tehran.

ROUHANI'S 290: The 290 mentioned by Rouhani is the number of people killed after a US warship in the Strait of Hormuz shot down an Iranian passenger airliner — Iran Air Flight IR655 from Bandar Abbas, Iran to Dubai — over Iranian territorial waters on July 3, 1988. Among those killed were 66 children. The US said the airliner had been targeted after the commander of the warship mistook it for an Iranian fighter jet on a hostile mission. President Ronald Reagan expressed “deep regret” for the loss of lives. According to a report and timeline published by The New York Times on the morning after the mishap, based on a briefing at the Pentagon by then Chairman of the US Joint Chiefs of Staff Admiral William J Crowe Jr, this is what happened:

IR655 took off from Bandar Abbas at 10.15 am local time, on the second leg of its Tehran-Bandar Abbas-Dubai journey. The USS Vincennes was in the Strait of Hormuz, along with the USS Montgomery. The Iran-Iraq war was still on. Iran too, had several ships out on the water — and according to the American account, about five minutes before IR655 took off, one of a group of Iranian gunboats had fired at a helicopter from the Vincennes. The boats had then rushed towards the Vincennes, as if to fire, according to the US account, prompting both the Vincennes and the Montgomery to open fire, sinking two of the boats. At 10.47 am, the US Navy detected an “aircraft headed directly for Vincennes on a constant bearing at high speed”, The NYT report quoted Adm. Crowe as having said. Beginning 10.49 am, several warnings were sent “on both military and civilian distress signals”, according to the US account, “but the aircraft neither answered nor changed its course”. Meanwhile, radar operators aboard the Vincennes had concluded that the plane was an F-14, one of the world’s most powerful fighters at the time. “The aircraft was declared hostile at 10.51 am,” Adm. Crowe said. “At 10.54 am, when the aircraft was about nine miles away, Vincennes fired two Standard surface-to-air missiles, at least one of which hit at an approximate range of six miles.”

AFTERMATH: In a diplomatic note sent to Iran, President Reagan described the incident as a “terrible human tragedy”, and expressed “deep regret”, “sympathy and condolences”. However, he defended the action taken by the commander of the Vincennes, William C Rogers III, saying the airliner was “headed directly” for the warship, which had fired to protect itself. A US Navy investigation board concluded that the downing had been a mistake, but that “Iran must share the responsibility for the tragedy by hazarding one of their civilian airliners by allowing it to fly a relatively low altitude air route in close proximity to hostilities that had been ongoing for several hours, and where IRGC (Islamic Revolutionary Guard Corps) boats were actively engaged in armed conflict with US naval vessels.” Iran did not accept that there had been a mistake — it said that the airliner was shot down even though its aircraft identification transponder was squawking in Mode III, a signal that identified it as a civilian commercial aircraft. In a submission to the International Court of Justice it said the US action “in shooting down IR655, and its response to this criminal act, all involve violations of international law of the most serious kind”.



Weinstein's NY Trial — Accusers and Charges

- The New York Supreme Court began the selection of a jury in the rape trial of **celebrity Hollywood producer Harvey Weinstein**. A look at the charges he faces, and the significance of the trial

What Is Weinstein Accused Of?

In what has become one of the defining stories of the #MeToo movement over the last two years, **more than 80 women have accused Weinstein of sexually assaulting or harassing them**. In the New York trial, the criminal charges relate to just three women.

- ❖ Mimi Haleyi, a former production assistant on a Weinstein Company television show, has accused Weinstein of forcibly performing a sexual act on her in his home in 2006. He is charged with a criminal sexual act in the first degree.
- ❖ Another woman, whose identity has not been made public, has accused him of raping her in 2013. Here, he is charged with rape. On both allegations, Weinstein is additionally charged with predatory sexual assault.
- ❖ Actress Annabella Sciorra (The Sopranos) has accused Weinstein of raping her in her home in 1993. This allegation is too old to be the basis of a separate charge. However, Sciorra's allegations are part of the predatory sexual assault charges.

What Is Predatory Sexual Assault?

It is the most serious charge against Weinstein, with life imprisonment as the maximum punishment. Prosecutors will seek to establish a pattern of serious sex crimes against multiple women. These are expected to include Haleyi, Sciorra and the 2013 accuser. Additionally, other women may be called to testify against Weinstein. While Weinstein is not charged with crimes against them, their testimony can help build a prosecution case by showing that Weinstein had a consistent pattern of behaviour. Also, likely to be called is Barbara Ziv, a professor at Temple University and an expert on the trauma resulting from sexual assault.

What Is Weinstein's Defence?

Weinstein has pleaded not guilty to charges of rape and criminal sexual assault. He has claimed that his sexual encounters were consensual. Reuters quoted Weinstein's lead lawyer, Donna Rotunno, as saying that Weinstein had a "slew of witnesses ready to go". She has said the defence would be introducing emails and text messages to prove that Weinstein's accusers-maintained relationships with him after his alleged assaults. According to the Reuters report, his lawyers have also said they plan to call psychologist Deborah Davis, of the University of Nevada, to testify as an expert on memory. This suggests that Weinstein may try to raise questions over his accusers' recollections.

What Makes the Trial So Significant?

It will be a marker of the extent to which **#MeToo** has impacted the American justice system. It was the allegations against Weinstein that had given steam to the movement. For Weinstein himself, the trial will be seen as a referendum on how strong a comeback, if at all, he can make in the film production business. Beyond New York, Weinstein also faces



separate criminal charges by prosecutors in Los Angeles. There, he was charged with raping one woman and sexually assaulting another in 2013

Foreign Affairs

The New Worry of Depleting Diplomatic Capital

- In the initial year of Prime Minister Narendra Modi's first tenure (2014-19), his foreign policy moves were given priority. Putting the past with the United States behind him — it had cancelled his visa for nearly a decade and criticised his actions in Gujarat — Mr. Modi's government forged an extra close bond with the Barack Obama administration, opening a new chapter in Indo-Pacific policy. With China, he also cast domestic sentiments aside to welcome its President, Xi Jinping to India, following it up with a visit to China. Finally, with India's neighbours, he signalled a new start from his party, the Bharatiya Janata Party's traditionally hard-line policies on Pakistan, Bangladesh, even Sri Lanka, putting bilateral ties over domestic concerns. The contrast between that period and the first year in his second tenure (2019-2020) could not be more pronounced; rather than dealing with bilateral ties, the Ministry of External Affairs and its missions abroad are now fully devoted to dealing with India's domestic concerns and their fallout. Among them, the decision to amend Article 370 of the Constitution on Jammu and Kashmir, the Citizenship (Amendment) Act, 2019, or the CAA, 2019, and the proposal for the National Register of Citizens (NRC) have been called into question by several countries and international organisations.

State of U.S., European Ties

The impact of these policies has been most keenly felt in ties with the U.S., where bipartisan support for India has been the norm for at least two decades. The whittling away of Democrat support was evident early on during the "Howdy Modi" event in September 2019, where only three out of the two dozen lawmakers at the event were from the Democratic Party; the party, especially under Mr. Obama, had been very supportive of the Modi government. While the ostensible reason was that they did not wish to share a stage with U.S. President Donald Trump, it was significant that even among the five Indian-American lawmakers, only one was present. Nor has the discomfort in Washington been limited to the Opposition party alone. In the weeks that followed "Howdy Modi", the State Department and several bipartisan committees have issued statements of concern over continued detentions in Kashmir and the CAA, held hearings in the U.S. Congress, and even inserted language on Kashmir into the annual Foreign Appropriations Act for 2020. A resolution urging India to lift restrictions in Kashmir, sponsored by Indian-American lawmaker Pramila Jayapal, now has 29 co-sponsors, including two Republicans, and a lawmaker who had earlier attended "Howdy Modi". The same issues found voice in the U.K. Parliament. In the European Parliament, last September, there were also discussions on Kashmir. It also led to heated battles within their polities, as Kashmir became a campaign talking point between Labour and Conservative candidates in the U.K. elections. The Modi government's invitation to far-right Members of the European Parliament (MEPs) to visit Kashmir (last October) has riled European diplomats from various countries — they have been denied similar access.

Denting Bangladesh Relations



In the neighbourhood, the government has upset both friend and foe with its wording of the CAA. Pakistan is predictably angry, while Afghanistan is more muted. But the real damage has been done to ties with Bangladesh. In the past decade, and especially after completing the Land Boundary Agreement, Dhaka and New Delhi had worked hard on building connectivity, opening energy routes, trade and developing travel links. The relationship was seen as a “win-win” in contrast to the preceding years when terror safe-havens and border killings dominated the India-Bangladesh narrative. By clubbing Bangladesh with Pakistan and Afghanistan on treatment of minorities, India has introduced a note of bitterness that is hard to mistake in the bilateral engagement. Some in Sheikh Hasina’s government have pointed out that the Modi government’s desire to naturalise only one group of immigrants from Bangladesh but castigate the others as “illegal immigrants” and “termites” cannot but be seen in a communal light. If India’s motivation was compassion for the religiously persecuted, they ask, then why was the Modi government so impervious to Ms. Hasina’s repeated requests for help in the Rohingya refugee issue? Regardless of the reasoning, India’s diplomats, including new Foreign Secretary Harsh Vardhan Shringla, who had earlier served in Dhaka, will have their work cut out in repairing the damage. If close friend Bangladesh that defends India at the Organisation of Islamic Cooperation feels that India’s actions are religiously discriminatory, it is only a matter of time before others in the Islamic world, most notably the Arab countries, who have been muted so far, will become more vocal. The OIC’s plans for a special meet on Kashmir and the CAA in April 2020, possibly in Islamabad, is one such indicator. Both Saudi Arabia and the United Arab Emirates have been muted in their comments on the government’s actions in Kashmir as well as the CAA subsequently. Diplomats say the decision of the Saudi leadership to send its foreign minister on his first visit abroad to Pakistan, as well as to agree to an OIC statement on the Citizenship (Amendment) Act last week stems from Riyadh’s concerns over losing control of key Islamic nations to a parallel formation, headed by Malaysia and Turkey, more than a desire to turn away from India. On Dec 19, **Malaysian PM Mahathir Mohammad had convened the “Kuala Lumpur” summit, with the leaders of Turkey, Iran and Qatar, calling for reforms in the Muslim world.** Pakistan PM Imran Khan, who had agreed to attend the summit, pulled out at the last minute, after the Saudi Crown Prince reportedly advised him to. “The bargain is clear: Saudi Arabia leads OIC nations to showcase its control of the Islamic world, while allowing its members to use the forum to attack their own rivals,” said India’s former Ambassador to KSA, Oman and the UAE, Talmiz Ahmed. “While OIC resolutions mean very little in real terms, Pakistan wants to use the forum against India.”

It would be easy to dismiss all of the above with the simple line that they constitute interference in India’s internal affairs. Even if countries issue statements and world bodies pass resolutions on the detentions and the Internet ban in Kashmir, the crackdown in Uttar Pradesh and protests across the country, does New Delhi really need to worry? There are, in fact, a number of reasons why the government must weigh its diplomatic posture on these issues carefully, as all of them are likely to dominate its time in 2020.

Steps That Could Pack A Punch

First, not all statements and resolutions are empty rhetoric, and could lead to worrisome measures against India. The U.S. Commission for International Religious Freedom (USCIRF) has already recommended sanctions be considered for Home Minister Amit Shah and other officials. While this may be considered an extreme step, even laughable, it must be remembered that it was the USCIRF that first recommended a visa ban against Mr. Modi, as



Gujarat Chief Minister, in 2005. To date, he remains the only individual worldwide sanctioned thus under the U.S.'s International Religious Freedom Act of 1998. In the U.S. Congress too, lawmakers can effectively block defence sales to India, or pursue sanctions on the S-400 missile system purchase from Russia, for example, regardless of support in the Trump administration for India. On the international stage, the United Nations and its affiliated bodies, which often seem toothless, could provide a platform for India to be targeted. In December 2019, a suit by a relatively remote player, the Gambia, ensured that Myanmar's top leadership was made to appear for a public hearing at the International Court of Justice at The Hague in connection with the Rohingya issue. New Delhi's break in ties with Turkey and Malaysia for their comments at the UN on Kashmir could also lead to them vetoing India's legitimate position at the Financial Action Task Force (FATF), where it hopes to blacklist Pakistan for terror financing this year. At the very least, the unrest that has emerged from the policies will lead to a lower number of foreign visitors, and visit cancellations/postponements by leaders, recent examples being Japan's Prime Minister Shinzō Abe, or Bangladesh's Foreign and Home Ministers.

Getting Boggled Down

The government must also evaluate the toll on its diplomatic resources that have been diverted for much of the year in firefighting negative international opinion. The skills of the Minister of External Affairs, himself a trained diplomat, for example, could be better used than they have been; he has had to give a barrage of interviews to the European and U.S. media and the "think-tank blitz" in Washington and New York to deal with questions about Kashmir and the NRC. Missions everywhere, including in friendly countries, have been overworked, disseminating FAQs and lobbying with lawmakers on Article 370, the Ayodhya verdict and the CAA. Many are occupied martialling their strengths to prevent resolutions with objectionable wording from being drafted, and UN Security Council meetings from being held. Finally, the government must consider the impact of its domestic actions on India's diplomatic capital. This capital is a complex combination of the goodwill the country has banked on over decades as a democratic, secular, stable power, bilateral transactions it can conduct in the present, and the potential it holds for future ties, particularly in terms of its economic and geopolitical strengths. At a time when the western world is in flux, the economy under stress and the rules-based order in recess, India's diplomatic capital is being depleted at a rate unseen in the last few decades. And to paraphrase Cassius in Shakespeare's "Julius Caesar", the fault may not lie in our diplomatic stars, but in ourselves, and the problematic message the government is now trying to convey.

Afghan Citizenship, Defined and Redefined Over Decades of Change

- The Citizenship Amendment Act (CAA), 2019 makes it easier for non-Muslim migrants from three countries to get Indian citizenship. This series has previously looked at the Constitutions of Pakistan and Bangladesh. The third country is Afghanistan

Constitutional History

In a long history of conflict and multiple invasions, no empire or nation could control Afghanistan for long. Even the British, in spite of three wars since 1839, could not keep Afghanistan under their control and were defeated in the third of these wars in 1919. Afghanistan was not part of British India and was not partitioned from India, which was cited



among the reasons for enacting CAA. Under the Treaty of Rawalpindi, Afghanistan got independence in 1919. Simultaneously, a treaty of friendship was signed with Russia. King Amanullah got a Constitution for Afghanistan in 1921 and again in 1923 but the Tajiks removed him in 1929. A new Constitution was enacted in 1931. A coalition of rightist groups came to power in 1952 and General Dawood Khan became PM in 1954. A new Constitution was adopted in 1964 by the Grand Assembly, or Loya Jirga. Signed by King Zahir Shah, it provided for a constitutional monarchy and a bicameral legislature. Sovereignty was vested in the nation, not Allah. Article 2 declared Islam the state religion and, unlike Pakistan and Bangladesh, mentioned that religious rites of the state shall be performed as per the Sunni Hanafi doctrine. Thus, other Muslim sects were in a way minority. But the same Article also said non-Muslims shall be free to perform their rituals within limits determined by the laws for public decency and public peace. Title Three of the Constitution talked about Rights and Duties (in India, Fundamental Duties were inserted in 1976). The first Article declared the people of Afghanistan, without discrimination or preference, have equal rights and obligations before law. Right to liberty under Article 26 was said to have no limitations except liberty of others and public interest. It said the state has a duty to protect liberty and dignity of every human being. The Constitution did not mention freedom of religion of Muslims or others.

Soviet Invasion

In a coup in 1978, the Communist Party took over power and introduced radical reforms. The United Nations condemned the invasion and the US supported the Afghan rebels in a decade-long war with the USSR. India supported the Soviet invasion. Eventually the Soviet army withdrew in 1989 and Soviet Union-backed government collapsed in 1992. Thus until 1992, under the communist regime, no religious persecution of minorities could be alleged. In 1995, the Islamic militia Taliban came to power and introduced regressive restrictions on female education and dated Islamic law and punishments. In 2001, they destroyed Buddhist statues in Bamiyan. During their six-year rule, even Muslims were persecuted. On December 22, 2001, Hamid Karzai took over as head of an interim government. The current Constitution was adopted and ratified in January 2004.

Religion & Minority Rights

Unlike the Pakistan and Bangladesh Constitutions, the Afghanistan Constitution begins with praise of Allah and also blessings for the last Prophet and his followers. The Preamble makes a categorical statement that Afghanistan belongs to all its tribes and peoples. Unlike the Indian Constitution, it mentions its commitment to the United Nations Charter as well as Universal Declaration of Human Rights and thus broadens the ambit of non-Muslims' rights and non-discrimination. While it declares Islam the state religion, Article 2 says followers of other religions shall be free within the bounds of law in exercise and performance of their religious rituals. Article 3 is problematic as it lays down that no law shall contravene tenets and provisions of Islam. Unlike Pakistan, sovereignty here (under Article 4) rests with the people, not Allah. Article 35 prohibits formation of any party on the basis of religious sectarianism in addition to tribalism, parochialism and language. Article 80 prohibits ministers on tour from using their position for religious purposes. Article 149 prohibits amendment of principles of Islam and Islamic republicanism. It says fundamental rights can be amended only to improve and enlarge guarantees, not to diminish or restrict them. The First Fundamental Right under Article 22 prohibits any discrimination and distinction



between citizens and states that all citizens have equal rights and duties. India has given right to equality even to non-citizens. Article 57 of the Afghanistan Constitution does say foreigners will have rights and liberties in accordance with the law. Unlike in India, Pakistan and Bangladesh, **Article 29 of the Afghanistan Constitution specifically uses the term "persecution". It forbids persecution of human beings. Thus, the allegation of religious persecution in Afghanistan is not supported by the text of the Constitution; in practice, except during the short regime of the Taliban, no such case is made out.** Unlike in India (only the SC, ST & OBC Commissions have constitutional status), Article 58 gives constitutional status to the independent Human Rights Commission. **Only a Muslim citizen born to Afghan parents can become President (in India, a naturalised citizen can become President) but the Afghanistan Chief Justice, judges and ministers can be naturalised citizens.**

Nation

No Country for Procedural Justice (Anuj Bhunia - The Author Of 'Courting the People: Public Interest Litigation in Post-Emergency India'.)

- In early December 2019, the Supreme Court heard a petition on the extrajudicial killing of four men who had been arrested on charges of rape and murder of a veterinarian near Hyderabad. Following the incident, the Telangana government had assured the courts that it had already initiated an investigation and inquest into the killing. The judges were surprised, however, that the FIR registered by the police was not against the policemen who had killed the four accused, but against the four men killed, for 'attempt to murder'. The court found it "rather odd" as it is "obvious that no prosecution could be contemplated against dead persons who can neither be tried nor convicted". What the court found odd has long been the norm in such extrajudicial killings — a FIR is usually filed against the killed, and not against the killers.

Investigating Encounter Killings

In a landmark judgment in **A.P. Civil Liberties Committee v. Government of A.P.(2009)**, a five-judge Bench of the Andhra Pradesh High Court recognised the perversity of such a practice. **The Bench made it mandatory for the police to register an FIR against police officers after every 'encounter' death.** The court held that the finding of the police after such investigation would be examined by a judicial magistrate, who would then decide the next course of action. The court said that the **policemen were free to claim the right to private defence, but such a defence could not pre-empt the investigation and would only be decided upon by the judicial magistrate at the appropriate stage.** However, the Supreme Court stayed this judgment soon after, when an appeal was filed against it by the Andhra Pradesh Police Officers Association. The appeal was kept pending in the Supreme Court for 10 years only to be disposed of in July 2019. Meanwhile, the Supreme Court heard another appeal from the Mumbai High Court and framed guidelines to be followed in 'encounter' cases, in **People's Union for Civil Liberties v. State of Maharashtra (2014)**. These guidelines were ambiguously worded, however, and have been interpreted by the police to allow the practice of filing FIR against the dead to continue. Additionally, the requirement of government sanction to prosecute police officers gives the police further legal immunity for 'encounters. In the case following the infamous Pathribal



encounter in Anantnag district in 2000, the Supreme Court gave a particularly expansive meaning to the requirement of sanction. Although the Central Bureau of Investigation argued that cold-blooded murder by security forces would not require any sanction for prosecution, the court interpreted the requirement of sanction widely. As a result, unless the government concerned sanctions such prosecution, as happens rarely, the police enjoy impunity. In a few instances police officials have been convicted for such killings, but these have been few and far between. The 2009 judgment of the Andhra Pradesh High Court was especially remarkable as the State has a bloody history of encounter killings, with more than 4,000 people allegedly killed in 'encounters' since 1968. This case itself stemmed from a series of writ petitions asking the court to order investigations against the police in four different 'encounters', three of which were against alleged Naxalites. A report titled 'Encounters are murders', published by the Civil Rights Committee, documented 77 'encounter' killings during the Emergency alone. These campaigns led to the passing of guidelines in 1997 by the National Human Rights Commission on the standard operating procedure in encounter cases, largely ignored by the States. While such killings had been condoned in the case of Naxalites, they slowly began to be carried out for other crimes too.

Hierarchy of Offences

In recent years, there has been a clamour for exceptional treatment for certain offences, resulting in stringent statutes for terror cases, narcotics offences, economic offences and sexual offences. These offences increasingly invite harsher punishments but more importantly lead to fundamental departures from the basic principles of criminal justice. From strict liability to presumptions of guilt to minimum mandatory sentencing to the question of bail, these offences are often deemed to require special treatment. Recently, while arguing for bail for former Union Minister P. Chidambaram, it was repeatedly argued that economic offenders cannot be given bail. In anti-terror and narcotics cases, in order to grant bail, the court has to be satisfied that the accused is not guilty even before trial, which is impossible. The clamour for exceptional treatment of sexual crimes has reached unprecedented levels in recent times — as seen in the President's wish that mercy petitions be withdrawn from child sexual abuse cases and the Andhra Pradesh government's proposed law which requires rape cases to be completed within 21 days. There is a kind of a hierarchy of heinousness of offences within which this discourse of criminal reform has unfolded. The result is an acceptance of differential standards for such offences.

Procedure Seen as A Problem

When these parallel tracks are adopted for these exceptional offences, procedure itself is seen as a problem. Already the dilution of procedural safeguards is seen as acceptable for heinous offences. But now even that is perceived as not going far enough. Extrajudicial killings by the police therefore are thought by many as just and necessary. **The ideal of substantive justice dominates the Indian public sphere, with complete impatience for procedural justice.** The language of judicial reform since the 1970s has embraced this disdain for procedure, as seen in tribunalisation, Lok Adalats, and Public Interest Litigation. Procedural safeguards have come to be seen as un-Indian, no less. Popular cinema has long sensed this disdain for due process and has egged us on. Last year, for instance, began with Simmba in which the protagonist, a policeman, heroically murders two rape accused in his custody and gets away with it. Celebrations after the killing of the four accused in Hyderabad



showed that due process is widely seen as a pesky hindrance to the rough and ready solutions promising substantive justice. Vigilantism is acceptable by many, their judgment in each instance predicated only upon the socio-political profile of the victim and perpetrators. Ideas of popular justice and legal justice have diverged so far in India that even the fig leaf of rule of law is disappearing fast, largely unmourned.

When Defection Is A Mere Detour for An MLA (S.Y. Quraishi - Former Chief Election Commissioner of India)

- They defected, re-contested, and became members again, all in six months. Some are even likely to become Ministers soon. The Karnataka byelection results have widely put to display the ineffectiveness of the Anti-Defection Law. Of the 17 defecting Congress-Janata Dal (Secular) MLAs, 11 were re-elected on a Bharatiya Janata Party (BJP) ticket. Not only did this set of events lay down a well-structured framework to sidestep the law, it even set a dangerous precedent for neutralising the consequences of the law altogether. The phenomenon of defections is not new to Indian politics. It has been plaguing the political landscape for over five decades. The most prominent case was that of Haryana's Gaya Lal, originally an independent MLA who, in 1967, juggled between the Congress and Janata Party for two weeks, during which he switched his loyalty thrice. The recurrence of this evil phenomenon led to the 1985 Anti-Defection Law, which defined three grounds of disqualification of MLAs — giving up party membership; going against party whip; and abstaining from voting.

Resignation Not A Condition

Resignation as MLA was not one of the conditions. Exploiting this loophole, the 17 rebel MLAs in Karnataka resigned, their act aimed at ending the majority of the ruling coalition and, at the same time, avoiding disqualification. However, the Speaker refused to accept the resignations and declared them disqualified. This was possible as the legislation empowers the presiding officer of the House (i.e. the Speaker) to decide on complaints of defection under no time constraint. The law originally protected the Speaker's decision from judicial review. However, this safeguard was struck down in *Kihoto Hollohan v. Zachillhu and Others (1992)*. While the SC upheld the Speaker's discretionary power, it underscored that the Speaker functioned as a tribunal under the anti-defection law, thereby making her/his decisions subject to judicial review. This judgment enabled judiciary to become the watchdog of the anti-defection law, instead of the Speaker, who increasingly had become a political character contrary to the expected neutral constitutional role. The same could be witnessed in *Shrimanth Balasaheb Patel & Ors vs Speaker Karnataka Legislative Assembly & Ors (2019)*, where the three-judge SC bench upheld the then Karnataka Speaker's decision of disqualification of the 17 rebel MLAs. However, it struck down his ban on the MLAs from contesting elections till 2023, negating the only possible permanent solution to the problem. The Supreme Court played the role of a neutral umpire in this political slugfest. But, the spectacle of MLAs hoarded in a bus, and being sent to a resort, openly exposed not just the absence of ideological ties between a leader and his party, but also her/his weak moral character. It was also upsetting to see public acceptance of such malpractices as part of politics, with some even calling it *Chanakya niti!*

Exit, And Swift Return



The Anti-Defection Law provided a safeguard for defections made on genuine ideological differences. It accepted “split” within a party if at least **one-third** of the members of the legislative party defect, and allowed the formation of a new party or “merger” with other political party if not less than two-thirds of the party’s members commit to it. **The 91st Constitutional Amendment introduced in 2003 deleted the provision allowing split. The 91st Amendment also barred the appointment of defectors as Ministers until their disqualification period is over or they are re-elected, whichever is earlier.** But, obviously, such laws have not put to rest the trend of defections. The main issue, as witnessed in Karnataka, is that the defectors treat disqualification as a mere detour, before they return to the House or government by re-contesting. This can only be stopped by extending the disqualification period from re-contesting and appointment to Chairmanships/Ministries to at least six years. The minimum period limit of six years is needed to ensure that the defectors are not allowed to enter the election fray for least one election cycle, which is five years. Of course, MLAs can still be bought from the ruling dispensation to bring it to a minority by being paid hefty sums, simply to stay at home for six years. Almost every political outfit has been party to such devious games, with hardly any political will to find a solution.

The Two Holidays Scrapped In J&K

- The government in Jammu and Kashmir has cancelled two existing public holidays and introduced a new one. The Muslim majority in Jammu and Kashmir see this as a reflection of the Centre’s assertion, and as a move against their own assertion of their Muslim identity.

The Three Holidays

The government order has cancelled public holidays on December 5 and July 13. **December 5 is commemorated as the birth anniversary of Sheikh Mohd Abdullah, National Conference founder, former J&K Prime Minister, and former Chief Minister. July 13 is observed as Martyrs’ Day in Jammu and Kashmir. On that date in 1931, 22 Kashmiris were killed outside the Srinagar Central Jail, where they had assembled to protest against autocratic Dogra rulers.** The new holiday is on **October 26**, the date in 1947 when the former state of Jammu and Kashmir acceded to the Dominion of India. A day later, Indian troops reached Srinagar to drive out tribal raiders. **October 27 is observed as a Black Day in Kashmir, marked with a shutdown.**

History & Significance

In 1846, under the Treaty of Amritsar, the British sold Jammu and Kashmir state to the Dogra king Maharaja Gulab Singh. The Dogras hailed from Jammu and their rule lasted for over a century. In 1931, Muslims of Jammu and Kashmir rose against the autocracy of Dogra rule. The uprising, which led to the killing of 22 Muslims, is seen as the first assertion of Muslim identity in Jammu and Kashmir. Since the BJP formed a coalition government with the PDP, its leaders and ministers had started to demand a holiday on the birth anniversary of Maharaja Hari Singh, the Dogra king who ruled Kashmir when the 1931 killings took place. The BJP leaders, most of whom hailed from Jammu, also stayed away from government functions organised to commemorate those killed in 1931. December 5, meanwhile, is significant because of the efforts of Sheikh Mohd Abdullah to integrate Jammu and Kashmir with India. It was Abdullah, a close friend and political ally of Jawaharlal Nehru, who converted the Muslim Conference into the secular National Conference in 1939. Unlike the Muslim Conference, the NC



advocated a future with secular India rather than with Pakistan. Once the tallest leader of Kashmir, Abdullah saw his popularity dwindle over the years, but his party continued to advocate Kashmir's future with India.

The Signals

The move is seen as a departure from the politics of Jammu and Kashmir since 1939. Many people see this as an effort to erase the role of Sheikh Abdullah, and J&K's Muslim assertion. They see it also as a refusal to recognise Kashmir's popular Muslim leaders who sided with India in 1947, and leaders who continue to identify with India. It also raises a question mark over the revival of a political process in Jammu and Kashmir. After the abrogation of Jammu & Kashmir's special status and division of the state into two Union Territories, the government has cracked down even on mainstream political parties, jailed their leaders and workers including three former Chief Ministers, and stayed away from any political engagement. The move comes when normalcy is yet to return even five months after the abrogation.

The Age of Agitations (Mathew Idiculla - Lawyer and Researcher Based in Bengaluru)

- Last year saw mass agitations across continents, causing 2019 to be referred to as "the year of the street protester". There were protests on issues ranging from political freedom, to economic inequality and corruption, in **Hong Kong, Chile, Catalonia, West Asia** and other parts of the world. Most of these agitations continue this year in some form. The triggers for the protests varied. In **Hong Kong**, they grew out of **opposition to an Extradition Bill** that would have allowed the city's residents to be prosecuted in mainland China. After getting the Bill withdrawn, the protesters began seeking an inquiry into police violence and broader democratic reforms. In **Chile**, the protests that were initially against a **hike in Santiago's metro fares** grew into a wider campaign against inequality. The protests in **Barcelona** were triggered by the **conviction of Catalan activists** for sedition. **Lebanon, Egypt and Iraq** also saw mass protests on issues related to **corruption and overall mistrust in government**. While the causes driving these protests are different, there are some commonalities in their character, composition and methods. The agitations are mostly leaderless, just like those in India against the Citizenship (Amendment) Act and the National Register of Citizens; they are not driven by Opposition parties; and they operate through decentralised networks. Also, they have been mostly non-violent and used novel agitational techniques. They are also characterised by the important role played by the youth, especially students.

The State Responds with Force

The state's response to these protests has ranged from acceptance of certain demands to brutal violence. Ironically, while **India is the only long-standing constitutional democracy among these countries, it has arguably been the most brutal in repressing this entirely democratic form of expression.** The Indian state has used various strategies: **shutting down the Internet; imposing Section 144 across cities; denying permission; detaining protesters; and ruthlessly using police power.** Action by the Delhi police against students in Jamia Millia Islamia and inaction by the same personnel when it came to protecting students at the Jawaharlal Nehru University; and the disproportionate use of force in Uttar Pradesh particularly raise alarming questions. The ongoing agitations bring to memory the **protests of 2011, a year that saw the Arab Spring, the Occupy Movement and India's anti-corruption**



agitation. However, a more apt parallel would be the movements of 1968. What characterised those, especially in Paris, was the solidarity between the students and the working class. The French philosopher Henri Lefebvre's *The Right to the City* (*Le Droit à la ville*) had just come out and it provided a clarion call to challenge the structures of capitalism and articulate an alternative "contract of citizenship" whereby all inhabitants (not just formal "citizens") collectively re-appropriate urban space. The current protests have mostly not yet taken such a radical form. However, there have been strategic alliances, with Catalonia adopting the "#BeWater" methods used in Hong Kong. Inspired by Bruce Lee's quote "Be water, my friend", protesters there employed a fluid agitational tactic. If the Indian state becomes more repressive, the agitators in India may consider this approach. Further, while the protests in Hong Kong and Chile have resulted in their governments rolling back their proposed measures, it is unclear what the Indian government will decide. However, irrespective of their future, the CAA-NRC protests have enabled the youth to articulate a new form of resistance, build cross-group solidarities and puncture the myth of an invincible monolithic regime.

Missing the Wood

- The Kerala Assembly's resolution calling upon the Centre to repeal the Citizenship (Amendment) Act, 2019, reflects the widespread unease and disquiet the legislation has caused. Rather than treat it as a controversy over the question whether a State Assembly is competent to question the law on a matter under the Union government's domain, the Centre should reflect on the core issue: that the CAA may be in violation of the equality norm and secular principles enshrined in the Constitution. Given how deeply the country is divided on the changes in the law, Kerala's example may set the stage for a wider confrontation between the Centre and States that have expressed their disinclination to give effect to the Centre's policy in this regard. The resolution reflects a legitimate concern that in enacting the CAA, the Centre has written a patently discriminatory norm into the law. There is justified opposition across India on the amendment's implications, especially in combination with the expected follow-up action in the form of establishing a citizenship register. Kerala Chief Minister Pinarayi Vijayan is among several CMs who have spoken out against the CAA's discriminatory nature, but his has been the first regime to adopt a formal resolution for repeal. The Centre must make an effort to understand the underpinnings of the ongoing protests against its amendments, of which the Kerala resolution is surely a part. Union Minister Ravi Shankar Prasad and Kerala Governor Arif Mohammad Khan have denounced the adoption of such a resolution, the former arguing that all States had a constitutional duty to implement central laws. However, the principal objection — that citizenship being a matter concerning the Union, it is not open to State Assemblies to give their opinion on it — is not valid. To the extent that a State government believes that a parliamentary law is not constitutional, it is entirely in order for the State legislature to call for its repeal. Further, **a resolution is not legislation, and is not governed by the principle of legislative competence.** It is only an expression of a political opinion. **Tamil Nadu, for instance, has passed several resolutions concerning India's foreign policy — such as asking for a war crimes probe against Sri Lanka and even a referendum on 'Tamil Eelam'.** There is a *technical problem on the resolution's admissibility*. Kerala Assembly rules say **matters pending before a court or those that do not concern the State should not be admitted in the form of a resolution.** However, these are minor issues. Ultimately, the House Speaker decides on admitting a resolution, and it is an internal matter. Voicing support for the CAA and disapproval of Kerala's resolution



are also valid political opinions, but these should not translate into any ill-advised action such as hauling up the Chief Minister before the Privileges Committee of Parliament.

Defying the Legalisation of The Unjustifiable (Satish Deshpande - Teacher of Sociology at Delhi University)

- Widespread protests against the National Register of Citizens (NRC) and the Citizenship (Amendment) Act, or CAA, 2019, have severely dented the image of the Narendra Modi government. Trying to repair the damage while pushing ahead with their divisive agenda, the regime's spokespersons have repeatedly asserted that the recently approved National Population Register (NPR) is not new, not related to the NRC, and not something to worry about. Only the first of these three claims are partially true, and only in a literal sense.

A Powerful Instrument

It is indeed true that the NPR is envisioned in the Citizenship Act of 1955, and that it was revived by the Atal Bihari Vajpayee-led National Democratic Alliance (NDA) government when it amended the citizenship Act and rules in 2003. It is also true that the Congress-led United Progressive Alliance (UPA) first implemented it in 2010 along with the 2011 Census. However, to say that there is nothing new about the NPR in today's transformed context is to speak in bad faith. The addition of unnecessary intrusive questions — on the place and date of birth of each parent, place of last residence, and Aadhaar, PAN (Permanent Account Number), driving licence, voter card and mobile phone numbers — makes it far more potent as an instrument of surveillance and harassment. Add the statements linking it to the NRC made in the recent past by representatives of the present government, and it is obvious why, unlike its first incarnation, the 2020 avatar of the NPR is being seen as a rudra or terrifying avatar.

Violation of Norms

Modern governance requires states to collect two broad kinds of data based on **individuation** and **aggregation**. **Individuating data** provides information on specific individuals, while **aggregating data** profiles groups or collectivities. Group-oriented data also begins with particular persons, but aggregation masks or "anonymises" them, thus yielding information only on collectivities such as **illiterate persons** or **taxpayers**. **Individual-oriented data is also pooled and consolidated, but the specific persons it covers remain identifiable**. Norms of good governance dictate that the scope of individuating data be restricted, and that, on the other hand, databases with universal or wide coverage be confined to aggregated data that cannot identify individuals. The government's relentless effort to push for maximum individuation along with maximum coverage violates and reverses established norms regulating the collection of social statistics. The probable consequences of this reversal are illustrated by the contrary example of the Indian census, where the assurance of anonymity balances the coercive legal force of the state. **The Census Act, 1948 requires all persons residing on Indian territory to truthfully answer the schedules canvassed by the enumerators of the Census of India — failure to do so is punishable with a fine**. However, most Indians may not be aware that Section 11 of the same Act imposes even **higher penalties on officials who falsify or disclose census data** — they may also be jailed for three years. In fact, **unpublished census data cannot be accessed by government departments, and Section 15 of the Census Act exempts it from the Indian Evidence Act so that it cannot be used in courts of law**.



Weakening of Anonymity

To appreciate the full significance of this commitment to anonymity, consider the fact that the **2011 Census revealed that, between 2007 and 2011, 74 lakh Indians were married below the legal age of 18.** Under the Prohibition of Child Marriage Act, 2006, those responsible are liable to be fined up to ₹1 lakh and/or imprisoned for up to two years. And yet the Census data cannot be used to identify them — it can only tell us, at best, that the incidence of under-age marriages is the highest in districts like Bhilwara and Chittorgarh, Rajasthan. In sharp contrast, **the NPR, and especially the NRC offer no anonymity while collecting actionable personal data, but nevertheless impose coercive, census-like universal coverage.** To be sure, states do need to collect individuating data, which is usually justified by invoking national security or the efficient targeting of welfare benefits. We also know that throughout history, states have collected information on groups such as criminals or political rivals. However, such exercises are of limited scope; they do not compulsorily include the entire population. They also have internal safeguards and/or offer clear benefits for respondents. It is noteworthy that the NPR and the NRC include none of these features. Actually, the NPR is nothing like the Census – it is only logistical efficiency that makes the former use the proven field machinery of the latter. It is also a logically, practically and politically necessary precondition for the NRC, without which it is pointless.

Faith in The State

Ultimately, the key question is that of the people's faith in the state. In ex-colonies such as India that have won their independence through a freedom struggle, the post-colonial state gains a priceless inheritance of popular trust. After all, most people are unaware of the safeguards for anonymity built into the census; and yet they freely provide information because they trust the government. It is this trust that the present government seems determined to squander. What is all this for? Imagine that the NPR-NRC exercise has been completed successfully, and has identified 'x' lakh "non-citizens". What then? The only "plan" the government seems to have is to convert these 'x' lakh self-supporting persons, who have presumably contributed to their local economies, into permanent inmates of detention centres and eternal wards of the state. Since such a plan clearly makes no sense as policy, we have to turn to alternative explanations. As Kautilya, Machiavelli and Foucault remind us in their various ways, the point of the law is to exercise power. **Laws are not necessarily meant to abolish whatever they render illegal; they are meant to trap particular subjects and practices in zones of illegality where they will be most susceptible to power. Graded or hierarchical citizenship has been unjustifiable in our republic, though it has been integral to our social practice.** The NPR-NRC and CAA initiatives seem designed to coerce us into legalising the unjustifiable and normalising indefensible prejudices. And once the forces behind these initiatives have tasted victory, why will they stop? For there is no end to prejudices in our hierarchy-saturated culture. But the nation-wide protests tell us that the story is far from finished. They remind those who think they are our rulers of two crucial truths. First, that civil liberties and democratic rights are defined by the inconvenient fact that they must also be granted to those whom we may fear, hate or despise. And second, that the most rudra of Rudra avatars are a people who have lost faith in their state.



The Abiding Power of Protest (Pulapre Balakrishnan - Professor, Ashoka University and Senior Fellow IIM Kozhikode)

- On the back of their improved majority in Parliament following the 2019 general election, Prime Minister Narendra Modi and Home Minister Amit Shah have accomplished the unimaginable in a democracy of India's size and diversity: they have negated nearly every potential political challenge to their ascendancy. Apart from the Opposition, potential challengers in a democracy with India's characteristics are the media and corporate sector. The astonishing thing is that much of the negation has been achieved without obviously violating democratic procedures. It has been achieved either through parliamentary majority or using the legitimate powers of the Indian state.

Impervious to Criticism So Far

However, democracy is also about norms unwritten, such as giving the Opposition time to respond and never using brute force in Parliament to push bills through or deploying the threat of criminal investigation outside it to rein in dissenting journalists, intellectuals and corporate leaders. Two areas where the Modi government has had remarkable success in having its way, or at least has so far remained impervious to criticism, are Kashmir and the economy. One does not have to be an enthusiast of Article 370 of the Constitution to disagree with Mr. Modi's policy in that area. First, however irrelevant an erstwhile provision, for the Centre to change the constitutional status of a State without so much as giving notice constitutes an abuse of power. Then came the simultaneous bifurcation of Jammu and Kashmir and the conversion of the parts into Union Territories. Finally, the detention of its political leadership, who have not been charged with any wrongdoing, and the communication channels blockade are despotic. The slowing growth of the economy does not even begin to capture the condition of the unemployed. There is also evidence that consumption expenditure may have declined. Unperturbed by evidence of these phenomena, Mr. Modi continues to assert that the economy is poised to attain the \$5 billion mark, and his government has shelved the report that points to the decline in consumption on grounds of "adverse findings". Few prime ministers have gotten away so easily. In the 1950s, in response to Rammanohar Lohia's assertion that poverty was not declining, erstwhile Prime Minister Jawaharlal Nehru constituted a committee headed by India's pre-eminent statistician to investigate the claim.

Protests That Show Some Truths

Nothing it seemed could unsettle the present leaders of India. That was until its youth had spoken. They have now, and we may be witnessing a transformation of India's democracy. Starting at Delhi's Jamia Millia Islamia students in campuses have arisen in protest. There has always been student participation in political movements, but in the past, they may have been parochial, even when democratic ideals were at stake. In the 1960s the students of erstwhile Madras State had agitated successfully against the imposition of Hindi as the sole official language; later the students of Osmania University at Hyderabad had agitated for a separate Telangana; and in the 80s the students of Assam succeeded in bringing about the Assam Accord. Now students are agitating for a constitutional democracy expressing their dissent towards the Citizenship Amendment Act which they perceive as blatantly communal. We cannot say where this will lead us, but their protest shows us some truths. First, it disproves the perception that the present generation is only concerned with entitlements.



Many of the campuses on which the protests are taking place are solidly middle class, but the students are protesting the violation of democracy not agitating for privileges for themselves. Second, the campuses where the protests are occurring far outnumber Jamia and Aligarh Muslim University. This busts the idea fashionable in some circles that India has been irretrievably communalised. Finally, the student protests appear to be spontaneous. Political parties of every hue — the nationalists, the secularists and the identity mongers — could not but have taken note.

Uncovering the CAA's Larger Stratagem (Mahmood Mamdani - Herbert Lehman Professor of Government at Columbia University)

- Student protesters have exacted their first concession from the powers that be. The Prime Minister has denied any official intent to compile a countrywide National Register of Citizens (NRC), nor to build detention centres to contain those classified as non-citizens. The implication is to delink any connection between the NRC and the Citizenship (Amendment) Act (CAA), 2019. This signals an official intent to shift the focus of public attention from the NRC to the CAA. The reworked message: What could be more benign than an Act that reaches out to oppressed religious minorities in the neighbourhood? Those who continue to protest must either be misinformed, misguided or ill-intentioned.

The Larger Picture

There is a fourth possibility: the student protesters may be right. To make sense of the protester's point of view, one needs to look beyond the list of those included, which is indeed the benign half of the picture. The other half is the list of those excluded. Only a grasp of reasons that explain both sides of the list, those included and those excluded, can give a sense of the whole picture. Why does the list of minorities include only those from Pakistan, Bangladesh and Afghanistan? Why not from other neighbours such as Sri Lanka, China and Myanmar? Could it be because the ruling powers in these countries are not officially Muslim? I can think of only one reason why a government pledged to Hindutva would exclude 'persecuted Hindu', such as the Tamils of Sri Lanka, from the list — because their oppressor does not claim to be an official representative of Islam. Here is one clue to the logic that informs the CAA: **the legislation intends to present the perpetrator as Muslim, and only Muslim.**

No 'Victim'

For a second clue as to the kind of reasoning that informs this double process of exclusion and inclusion, let us focus on the exclusion of the most persecuted minorities in the region, such as the Rohingya of Myanmar or the Uighurs of China. Just as the legislation recognises only Muslim perpetrators, it recognises no Muslim victim. To complete the list of those excluded, we need to focus on oppressed Muslims in countries where the ruling power officially claims to be Muslim. Those oppressed may be targeted as groups such as Ahmadiyya or Shia, or they may be identified as individual critics. One such instance was headlined by the Karachi daily, The Dawn, of December 23, 2019: "Academic Junaid Hafeez Sentenced to Death on Blasphemy Charges by Multan Court." Whether intended or not, it is these reasons that make the CAA a demonic rather than a benign legislation. More than helping out persecuted minorities, its effect will be to demonise and isolate one group,



Muslims, as exclusively a group of perpetrators. The official discourse thus seeks to present Muslims as a politically and morally legitimate target for persecution by a government-mobilised majority. It is this stratagem that student protesters have exposed. The student protesters consciously claim to follow an earlier generation of nationalist leaders — evoking names such as Gandhi, Ambedkar, Azad. Inspired by the Independence movement, they pledge non-violent action. Indeed, these non-violent protests have exploded in the face of brutal official repression.

When Hospitals Become A Theatre of Police Brutality

- Arrogance of power and misuse of authority were on full display when Delhi police stormed the library at Jamia Millia Islamia in December and indulged in a mindless attack on students. If this shocked the nation, the wanton abuse of power by Karnataka police inside a hospital in Mangaluru a few days later set an even more dangerous precedent. Shocking video footage has emerged of police personnel inside the hospital charging at people injured during protests against the Citizenship Amendment Act, 2019 (CAA). They were also seen trying to force open the door of many wards. There were also reports of a tear gas lobbed inside the hospital building, quite close to the intensive care unit, and two thrown near the parking area inside the hospital premises.

Geneva Convention Rules

Even wars have rules of engagement, especially with respect to hospitals. Article 18 of the fourth Geneva Convention, of which India is a signatory, underlines the special protection accorded to hospitals even during times of war. It says: “civilian hospitals organised to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.” The situation in Mangaluru was nowhere even close to a war-like situation and the hospital was in no way being used for acts that could be deemed to be ‘harmful’ to the state. Even if that were the case, the Geneva Convention mandates that protection conferred to hospitals will cease only after “due warning has been given” and after a “reasonable time limit”. Not one of these conditions existed, yet the sanctity of the hospital premises was grossly violated when the police treated it like a conflict zone. It is not yet known what provocation made the police run amok inside the hospital. But it is a fact that three protesters, who had been shot by the police, had been brought to hospital. Two were dead even at the time they were brought and the third person required surgery after sustaining bullet injuries. Elsewhere, in Delhi, a team of doctors belonging to the Progressive Medicos and Scientists Forum (PMSF), which has been providing medical assistance to protesters, was denied access inside Daryaganj police station for about an hour. Further, near Assam Bhawan, the Delhi police attacked a medical van and detained two volunteers who were providing medical assistance.

IMA's New-Found Courage

The Indian Medical Association, which has denounced attacks on hospitals in other countries during armed conflict, condemned police action inside the hospital and for denying protesters access to medical care. “No violence is acceptable in a hospital. Hospitals are sacrosanct and are exempted even in a war zone,” said a statement by the IMA. “Disturbing reports of denial of access to medical care are merging. This is unacceptable. Everyone has



the right of access to medical care. The government and its establishment have no right to deny anyone their right of access." While the IMA has strongly, rightfully and without delay condemned the police action, that by itself will be insufficient. The possibility of the police, who are not facing any public opprobrium at present, resorting to similar action on medical infrastructure in the future cannot be ruled out. As an aside, the more surprising element in the IMA statement was its new-found courage to speak truth to power. "The visuals of a policeman violently opening an ICU door by stomping is [sic] a clear indication of the New Truth and the New Standards," it said. It ended the statement by saying: "Indian doctors will never let down whoever requires care. No politics can dilute this resolve." The stand taken was in stark contrast to the IMA's position on British medical journal The Lancet's editorial on Kashmir published in August 2019 soon after the dilution of Article 370. The editorial had mainly emphasised on the deaths and gross human rights violations by security forces and armed groups, and the mental health crisis due to prolonged "instability". In a letter to Richard Horton, editor-in-chief of The Lancet, the IMA had said the journal had "committed breach of propriety in commenting on [a] political issue" and was interfering in an internal matter of the country. It even questioned the journal's intention for writing such an editorial. Nearly five months later, did the near-complete shutdown of the two Union Territories lead to a belated realisation for the IMA of the brewing mental health crisis?

Payment for Destruction of Property

- In its crackdown on protesters against the Citizenship Amendment Act, the Uttar Pradesh government has directed district administrations to serve notices on persons allegedly involved in arson and damage of public property, and direct them to pay a penalty. The quantum of the penalty is being determined according to the total cost of the damaged property, according to the FIR lodged by the police. While issuing these notices, the administration has said it derives such powers on the basis of an Allahabad High Court order of December 2, 2010 in Mohammad Shujuddin vs State of Uttar Pradesh. It has said the police are empowered to take penal action under The Prevention of Damage to Public Property Act, 1984. The High Court order, due to lacunae in the 1984 Act, has also empowered the civil administration to take action against the accused.

What Was the High Court Case About?

The order, passed by Justice Sudhir Agarwal, relates to a scuffle between two persons from different political parties that had resulted in injuries and loss of public property. Justice Agarwal asked the state government to file an affidavit on the number of cases filed by the police under the 1984 Act. The police replied that in 26 years, only 585 cases had been filed, and only 11 cases had been disposed of. "It appears that everybody believes that public property has no custodian. It is like orphan. It is the birth right to destruct and damage it in a manner they like without any sense of responsibility... What is more disturbing is that law enforcement machinery mostly is a silent spectator watching destruction of public property," Justice Agarwal observed. The High Court then referred to a 2009 judgment of the Supreme Court relating to the destruction of public and private properties. The Supreme Court had issued guidelines on the basis of recommendations made by two committees, headed by former Supreme Court Justice K T Thomas and senior advocate Fali Nariman. In particular, the Nariman Committee's recommendations had dealt with extracting damages for destruction. Accepting the recommendations, the Supreme Court had said that the rioters would be made strictly liable for the damage, and compensation would be collected to "make



good” the damage. “Where persons, whether jointly or otherwise, are part of a protest which turns violent, results in damage to private or public property, the persons who have caused the damage, or were part of the protest or who have organized it will be deemed to be strictly liable for the damage so caused, which may be assessed by the ordinary courts or by any special procedure created to enforce the right,” the Supreme Court said.

What Directions Did the HC Issue?

On the basis of the Supreme Court observations, the High Court directed that:

- ❖ As and when any incident of damage of public property takes place, if such agitation has been called at the “invitation of a political party or a sitting or former people’s representative”, a “report” shall be registered by the police against the political party/person by name.
- ❖ A “concerned department, local body, public corporation” — that is, the owner of the property — would assess the damage and shall file a claim for realization of such amount before a “competent authority”. The competent authority will be nominated by the government, and claims have to be filed within seven days after the nomination.
- ❖ “Any person” belonging to the area where the public property is damaged can also approach the competent authority. However, when the money is awarded, it has to be furnished only to the concerned department to whom the property belongs.
- ❖ There will be an “opportunity of hearing” against whom the claims is filed; and the competent authority is mandated to pass the “appropriate order” with a month after the hearing is complete.
- ❖ If the person is found guilty by the competent authority (an official of the rank of Additional District Magistrate will be responsible for collecting the amount), and if the guilty is unable to pay the entire amount in a single instalment, the district magistrate has to issue a certificate, by which the person is made to pay in arrears under the relevant provisions of the Revenue Recovery Act.

Guarantee Internet Rights (Jayna Kothari - Senior Advocate and Executive Director, Centre for Law & Policy Research)

- ➔ The Software Freedom Law Centre data says there have been more than 100 Internet shutdowns in different parts of India in 2019 alone. In Kashmir, the government imposed a complete Internet shutdown on August 4, which still continues. The enactment of the Citizenship (Amendment) Act led to protests all over the country and State governments responded by suspending the Internet. Assam witnessed a suspension of mobile and broadband Internet services in many places, including in Guwahati for 10 days. There were Internet bans in Mangaluru, Delhi and Uttar Pradesh. These bans are being imposed under different provisions of the law — some are imposed under Section 144 of the Criminal Procedure Code (CrPC), some under Section 5(2) of the Indian Telegraph Act, 1885 and some without any legal provisions at all.

Lifeline for People

It is time that we recognise the right to Internet access as a fundamental right. Internet broadband and mobile Internet services are a lifeline to people in India from all walks of life.



While the Internet is certainly a main **source of information and communication** and access to social media, it is so much more than that. People working in the technology-based gig economy — like the **thousands of delivery workers for Swiggy, Dunzo and Amazon and the cab drivers of Uber and Ola** — **depend on the Internet for their livelihoods**. It is a mode of access to education for students who **do courses and take exams online**. Access to the Internet is important to facilitate the promotion and enjoyment of the right to education. The Internet provides access to transport for millions of urban and rural people; it is also a mode to access to **health care for those who avail of health services online**. More than anything, it is a means for business and occupation for **thousands of small and individual-owned enterprises which sell their products and services online, especially those staffed by women and home-based workers**. Thus, the access to the Internet is a right that is very similar to what the Supreme Court held with respect to the right to privacy in the Justice K.S. Puttaswamy judgment, a right that is located through all our fundamental rights and freedoms — the right to freedom of speech and expression; freedom of peaceful assembly and association; freedom of trade and occupation and the right to life under Article 21 which includes within its ambit the right to education, health, the right to livelihood, the right to dignity and the right to privacy. Internationally, the right to access to the Internet can be rooted in Article 19 of the Universal Declaration of Human Rights which states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” The Human Rights Council of the United Nations Resolution dated July 2, 2018, on the promotion, protection and enjoyment of human rights on the Internet, made important declarations. It noted with concern the various forms of undue restriction on freedom of opinion and expression online, including where countries have manipulated or suppressed online expression in violation of international law. The resolution affirmed that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice and includes the Internet.

What Is the Directive on Detention Centres?

- The Centre has the power to deport foreign nationals staying illegally in the country under Section 3(2)(c) of **The Foreigners Act, 1946**. State governments have also been entrusted under Article 258(1) of the Constitution to take similar steps. In 1998, the MHA under the then Atal Bihari Vajpayee government wrote a letter to all States and Union Territories asking them to restrict the movement of convicted foreign nationals who had completed their jail sentence. The letter said that they be confined to one of the detention centres/camps, pending confirmation of their nationality from the country concerned and to ensure their physical availability at all times for expeditious repatriation/deportation as soon as the travel documents are ready. The centres are also used to hold foreigners who have been caught overstaying their visa term. In 2009, the instructions were sent again to States, “conveying the detailed procedure to be adopted for deportation of illegal immigrants from Bangladesh”. States were asked by the MHA to set up sufficient number of detention centres where the “suspected illegal immigrants would be detained pending their deportation”. Similar letters were sent in 2012, 2014 and 2018. On January 9, 2019, a detailed manual on “model detention centres” was circulated to make a distinction between “jails and detention centres”. The manual was prepared after a petition filed by activist Harsh Mander on September 20, 2018 in the Supreme Court of India to highlight the plight of families



languishing in six detention centres in Assam where members of the families who were declared foreigners were put in camps separated from each other.

Which Are the States That Already Have Detention Centres?

Delhi has one detention centre at Lampur on the outskirts. It is under the operational control of the Foreigners Regional Registration Office (FRRO) and is maintained by the Delhi government. The ward holding Pakistanis is under the watch of the Special Branch of Delhi Police and other nationalities are under the FRRO. Both FRRO and the Delhi Police report to the MHA. A detention centre was set up at Mapusa in Goa on February 7. Rajasthan has a detention centre located inside Central Jail in Alwar. As of now there is no separate detention centre in Punjab and foreigner detainees are kept in a segregated place at Central Jail in Amritsar. A separate detention centre is going to come up in a new jail being constructed in Goindwal Sahib in Tarn Taran district that is expected to be completed by May 2020. A detention centre on the outskirts of Karnataka's capital Bengaluru is all set to get operational from January 1, 2020 onwards. Maharashtra identified land to build a detention centre at Nerul in Navi Mumbai. But Maharashtra Chief Minister Uddhav Thackeray assured a delegation that it was not connected to NRC. There is a report that the plan has been scrapped.

What About West Bengal And Kerala?

West Bengal had identified two locations, at New Town in Kolkata and Bongaon in North 24 Parganas district to construct the detention centres. But on Friday Chief Minister Mamata Banerjee said she will not allow any such centre in the State. Kerala, which was in the process of identifying a location to build a centre, has put it on hold.

What Is Happening in Assam?

The final NRC to segregate Indian citizens living in Assam from those who had illegally entered the State from Bangladesh after March 25, 1971 was published on August 31, 2019. Nearly 19 lakh people were excluded from the final list. Those who have been excluded may move Foreigners Tribunals (FTs) and can also appeal to courts if the FTs give a verdict against them. This process has not started. The Assam government wants the NRC to be repeated. From 1985 till October this year, the FTs declared 1,29,009 people as "foreigners." through ex parte (one sided) proceedings. A total of 4,68,905 matters were referred to the FTs during this period. Most declared foreigners ended up in the six detention camps. To handle the influx of applications following Assam's NRC, the MHA sanctioned 1,000 additional tribunals. Presently, there are 100 FTs in Assam of which 64 were established in 2014. According to a MHA reply in Rajya Sabha on November 27, as on November 22, 2019, 988 foreigners were lodged in six detention centres in Assam. From the year 2016 up to October 13, 28 detainees died either in the detention centres or in hospitals where they were referred to, the reply said. Former Chief Minister of Assam Tarun Gogoi said in a tweet that detention centres were first built in Assam under High Court's orders in 2009 for detaining declared foreigners. "Subsequently, the BJP Government allotted funds of ₹46.41 crore in 2018 and supported the construction of a big centre in Goalpara (picture) for housing around 3,000 inmates," the tweet said. On May 30, the MHA amended the Foreigners (Tribunals) Order, 1964 which empowers district magistrates in all States and Union Territories to set up tribunals. Earlier such powers to constitute tribunals vested with the Central government only. The MHA later



issued a clarification on June 11 that “since the FTs have been established only in Assam, and in no other State of the country, this amendment is going to be relevant only to Assam at present”.

How the Preamble Was Adopted?

- In the nationwide protests against the Citizenship Amendment Act, many have held up the Constitution of India, saying the Act goes against it. Many of the programmes have been marked by a reading of the Preamble, which is reflective of the essence of the Constitution of India. The original Preamble, adopted by the Constituent Assembly in 1949, declared India a “Sovereign Democratic Republic”. By the 42nd Amendment of 1976, enacted during the Emergency, the words “Socialist” and “Secular” were inserted; the Preamble now reads “Sovereign Socialist Secular Democratic Republic”.

Resolution and Discussion

The Preamble is based on the Objective Resolution moved by Jawaharlal Nehru in the Constituent Assembly on December 13, 1946. The Resolution was adopted on January 22, 1947. Constituent Assembly President Rajendra Prasad told members: “The time has now arrived when you should give your solemn votes on this Resolution. Remembering the solemnity of the occasion and the greatness of the pledge and the promise which this Resolution contains, I hope every Member will stand up in his place when giving his vote in favour of it.” The Resolution was adopted, all members standing. On October 17, 1949, the Constituent Assembly took up the Preamble for discussion. Hasrat Mohani proposed that India, instead of being designated as “a Sovereign Democratic Republic”, be made “a Union of Indian Socialistic Republics to be called UISR, on the lines of USSR”. This was objected to by Deshbandhu Gupta, who contended that “it is out of order because it goes counter to the Constitution we have passed”. Mohani replied that he had not said “we should go and merge in the USSR or that you should adopt the same Constitution; but what I want to say is that we should work out our Constitution along the lines and on the pattern of Soviet Russia. It is a special pattern and also republican pattern and also it is of a centrifugal pattern”.

To Invoke God, Or Not To

After Prasad informed the Assembly that members had given notices for moving a number of amendments, H V Kamath moved a motion proposing the Preamble begin with: “In the name of God, We, the people of India...” “Let us consecrate this Constitution by a solemn dedication to God in the spirit of the Gita: Yatkaroshi yadashnasi Yajjuhoshi dadasi yat Yattapasyasi kaunteya Tatkurushwa madarpanam.” He said: “Whatever our shortcomings, whatever the defects and errors of this Constitution, let us pray that God will give us strength, courage and wisdom to transmute our baser metal into gold, through hard work, suffering and sacrifice for India and for her people. This has been the voice of our ancient civilisation, has been the voice through all these centuries, a voice distinctive, vital and creative, and if we, the people of India, heed that voice, all will be well with us.” Thirumala Rao argued that “it should not be subjected to the vote of a House of 300 people whether India wants God or not. We have accepted that God should be there in the Oath, but for those who do not believe in God, there is an alternative there, but there is no possibility of a compromise which can provide for both the things in the Preamble”. He suggested Kamath withdraw his amendment. Hriday Nath Kunzru regretted that “our most sacred feelings should have been



brought into the arena of discussion". He felt Kamath's proposal was "inconsistent with the Preamble which promises liberty to thought, expression, belief, faith and worship to everyone". Rohini Kumar Chaudhuri endorsed Kunzru. He cited Vande Mataram and said: "It means an invocation to a Goddess... **We who belong to the Sakthi cult, protest against invoking the name of God alone, completely ignoring the Goddess...** If we bring in the name of God at all, we should bring in the name of the Goddess also". Rejecting pleas by both Prasad and B R Ambedkar to drop his amendment, Kamath pressed his motion along with a demand for a division. A vote was taken and the motion was rejected 41-68. Kamath's reaction was: "This, Sir, is a black day in our annals. God save India."

Gandhi And the Preamble

Shibban Lal Saksena moved a motion proposing that the Preamble read: "In the name of God the Almighty, under whose inspiration and guidance, the **Father of our Nation, Mahatma Gandhi**, led the Nation from slavery into Freedom, by unique adherence to the eternal principles of Satya and Ahimsa, and who sustained the millions of our countrymen and the martyrs of the Nation in their heroic and unremitting struggle to regain the Complete Independence of our Motherland.." Brajeshwar Prasad opposed this, arguing: "I do not want that the name of Mahatma Gandhi should be incorporated in this Constitution, because it is not a Gandhian Constitution. The foundation stones of this Constitution are the decisions of the American Supreme Court. It is the Government of India Act, 1935, repeated again. If we had a Gandhian Constitution, I would have been the first to offer my support. I do not want that the name of Mahatma Gandhi should be dragged in the rotten Constitution." Observing that "it is not behoving us to vote on this amendment", J B Kripalani made a request to Saksena to withdraw it. He said: "I yield to nobody in my love and respect for Gandhiji. I think it will be consistent with that respect if we do not bring him into this Constitution that may be changed and reshaped at any time." Saksena withdrew the amendment. **Govind Malaviya** had given a notice for moving an amendment, which ran: "By the grace of Parameshwar, the Supreme Being, Lord of the Universe (called by different names by different peoples of the world). From whom emanates all that is good and wise, and who is the Prime Source of all Authority, We the people of Bharata (India), Humbly acknowledging our devotion to Him, And gratefully remembering our great leader Mahatma Mohandas Karamchand Gandhi and the innumerable sons and daughters of this land who have laboured, struggled and suffered for our freedom..." Ambedkar and P S Deshmukh noted the Assembly had already decided on the names of God and Mahatma Gandhi. This was accepted by Rajendra Prasad and also Govind Malaviya.

'Secular' & 'Sovereign'

Brajeshwar Prasad felt the word 'Secular' should "be incorporated in our Preamble because it will tone up the morale of the minorities..." He also wanted the word 'Socialist' included in the Preamble because "I believe that the future of India is in Socialism". He was against "any undue emphasis upon this word sovereignty" because he felt that "sovereignty leads to war; sovereignty leads to imperialism". His amendment was negated. Purnima Banerji proposed an amendment with "the sovereignty of the people" mentioned. Mahavir Tyagi supported her. "The sovereignty must be vested in so many words in the people as a whole," he argued. "Sir, you like a good host, have reserved the choicest wine for the last," said J D Kripalani. "This Preamble should have come in the beginning of the Constitution even as it is given in the beginning of the Constitution... It would have cautioned us that we were not deviating



from the basic principles which we have laid down in the Preamble..." Kripalani added: "As we have put democracy at the basis of your Constitution, I wish Sir, that the whole country should understand the moral, the spiritual and the mystic implication of the word 'democracy'. If we have not done that, we shall fail as they have failed in other countries. Democracy will be made into autocracy and it will be made into imperialism, and it will be made into fascism... I also say democracy is inconsistent with caste system... Then we have said that we will have liberty of thought, expression, belief, faith and worship... All these freedoms can only be guaranteed on the basis of non-violence... Mere tolerance will not carry us far... We have to respect each other's faith." He suggested that the Assembly adopt the amendment proposed by Banerji. He said: "A Minister says 'Our Government' not 'The People's Government'. The Prime Minister says 'My Government' not 'The People's Government'. Therefore, on this solemn occasion, it is necessary to lay down clearly and distinctly, that sovereignty resides in and flows from the people." The members responded with loud applause.

'From the People'

Ambedkar, who replied to the discussion, said the point was whether the Preamble as drafted conveyed any other meaning than what was the general intention of the House — "that this Constitution should emanate from the people and should recognise that the sovereignty to make this Constitution vests in the people". "My contention is that what is suggested in this amendment is already contained in the draft Preamble." Ambedkar said: "No person in this House desires that there should be anything in this Constitution which has the remotest semblance of its having been derived from the sovereignty of the British Parliament... In fact, we wish to delete every vestige of the sovereignty of the British Parliament such as it existed before the operation of this Constitution." He declared: "I say that this Preamble embodies what is the desire of every Member of the House that this Constitution should have its root, its authority, its sovereignty, from the people. That it has." Ambedkar rejected Banerji's amendment. It was also negated. Thereafter, the Preamble was adopted.

All India Judicial Service No Panacea

- ➔ Most of the reasons for creation of an All India Judicial Service (AIJS) for appointing lower court judges "no longer exist or have been resolved through changes in rules, regulations and practices", a report by Vidhi Centre for Legal Policy said. **Currently, the appointments of District Judges and Subordinate Judiciary are done by the respective State governments.** But in recent years, there have been an invigorated push for creation of a unified pan-India judicial service for appointing them. AIJS has been pitched as a solution to judicial vacancies, lack of representation for the marginalised and the failure to attract the best talent. Vidhi in its report titled, 'A primer on the All India Judicial Service - A solution in search of a problem?' demonstrated that many of these issues have been "incorrectly diagnosed". **The idea for AIJS was first proposed by the 14th Report of the Law Commission of India in 1958, aimed at creating a centralised cadre of District Judges that would draw better talent.** One of the recent justifications for creation of AIJS has been that a centralised service would help fill the approximately 5,000 vacancies across the District and Subordinate Judiciary in India. The report, however, said it is only certain High Courts which account for a majority of the approximately 5,000 vacancies. "In our opinion, rather than proposing an AIJS as a solution for judicial vacancies, it may be more prudent to investigate the reasons and causes for the large number of vacancies in the poorly performing States," the report authored by Prashant

Shatabdi Tower, Sakchi, Jamshedpur



Reddy T., Ameen Jauhar and Reshma Sekhar said. The report also highlighted that many of the communities who currently benefit from the State quotas, may oppose the creation of AIJS. This is because the **communities recognised as Other Backward Classes (OBC) by State governments may or may not be classified as OBCs by the Central government**. While AIJS has been pitched as a solution to lack of representation for the marginalised on the Bench, the report said many States are already reserving posts for marginalised communities and women. Another argument made against creation of AIJS is that judges recruited through this process will not know the **local languages** of the States in which they are posted. This becomes important considering that the **proceedings of civil and criminal courts are to be conducted in a language prescribed by the respective State governments**. "The issues of local language and customs are issues that deserve serious consideration before moving ahead with the creation of the AIJS," the report said.

Protecting Minors

- As protests against the Citizenship (Amendment) Act, 2019 rocked the country over the last two weeks there have been several instances of police clashing with and detaining protesters. In several cases, those detained were minors under 18 years. Two notable instances have been reported. Last week, the Uttar Pradesh police detained at least five minors, between the ages of 13 and 17, at the Bijnor Police Cantonment and allegedly tortured them over a period of 48 hours before releasing them. In another instance, eight minors were among 40 detained after violence broke out near Delhi gate in Daryaganj, part of the old city (Delhi), during protests. Acting on the complaints of lawyers, these minors were released by a magistrate who noted that the detention of children in a police station in the first instance is a 'flagrant violation of the law'.

What Does the Juvenile Justice Act Say About Detention of Minors?

The Juvenile Justice (Care and Protection of Children) Act, 2015 has specific procedures and rules in relation to children found to be in conflict with the law. Under Section 10, it says that as soon as a child alleged to be in conflict with law is apprehended by the police, the child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer. That officer in turn, should produce the child before the Juvenile Justice Board within a period of 24 hours excluding the time necessary for the journey from the place where the child was picked up. In no case, it clearly states, should a child alleged to be in conflict with the law be placed in police lock-up or lodged in a jail.

What Are the Statutory Bodies Responsible for Protecting the Rights of Children in India?

The National Commission for Protection of Child Rights (NCPCR) is a statutory body set up in 2007 under the Commission for Protection of Child Rights Act, 2005. The objective of the commission is to protect, promote and defend child rights in India including the rights adopted in the United Nations Convention on the Rights of the Child, 1989 — with an accession by India in 1992. The same convention defines a child as being a human being under 18. The NCPCR was established by an Act of Parliament, and is thus a statutory body. The commission works under the aegis of the Ministry of Women and Child Development. State Commissions for the protection of child's rights are also to be established under its supervision.



What Are the Powers of The National Commission for Protection of Child Rights (NCPCR)?

The powers given to the commission are extremely broad. It examines and reviews the safeguards provided under any law for the protection of child rights and recommends measures to the government. It can present a report annually, or as it deems fit, for implementation of these measures. The commission can also inquire into the violation of child rights and recommend initiation of proceedings in such cases. While inquiring into such matters, the NCPCR has the powers of a civil court. In addition, it has a host of other powers in terms of commissioning research and framing policy for child protection and safety.

Has the NCPCR Intervened in The Matter of Minors Being Detained During the Anti-CAA Protests?

Not directly. When the protests first started, the NCPCR, on December 14, issued an advisory to the Directors General of Police of all States regarding the “use of children in unlawful activities like stone-pelting during the protests in various States against the amended Citizenship Act”. The NCPCR said it had come to its notice that certain groups of protesters were involving children in unlawful activities such as stone-pelting and other violent acts during the protests. The NCPCR said that that such use of children violates the rights of children under the Juvenile Justice (Care and Protection of Children) Act, 2015. Guidelines of the NCPCR in respect to children’s rights in areas of civil unrest, state that police and military authorities should avoid blanket characterisation of adolescent boys as security threats and that “they” (authorities) should take any arbitrary detention, mistreatment, or torture of children extremely seriously, investigate any reports of grave violations immediately, and take action against personnel involved.

BJP’s Pro-CAA Number Heats Up Twitter

- From free Netflix subscriptions to chats and dates with ‘lonely women’, a variety of “services” were advertised by Twitter handles, inviting people to call 88662-88662. The only catch was that the number was the one announced by the BJP two days earlier, seeking calls from members of the public supportive of the Citizenship (Amendment) Act. The number of Tweets with the alluring offers had snowballed. One handle even claimed that the number belonged to Bollywood actor Alia Bhatt and that those who were “free” could “talk to a celebrity.” Amid ongoing protests against the CAA, which fast-tracks citizenship for the specific minorities of Sikhs, Hindus, Jains, Parsis, Christians and Buddhists who fled persecution in Pakistan, Bangladesh or Afghanistan, the BJP had launched the dial-in campaign to mobilise support for the law. In a tweet, the BJP’s official handle (@BJP4India), asked people to give a missed call on 88662-88662 to register their support for CAA. While many BJP leaders also shared the number, other users on Twitter used it for different purposes. “This is absolutely fake,” U.S.-based online streaming provider Netflix tweeted, reacting to the tweets about free subscriptions to its service. “If you want free Netflix please use someone else’s account like the rest of us,” the Netflix India account replied to a tweet that promised a 6-month free subscription. A few Twitter users tried to dissuade people from calling the number, raising the spectre of a data breach, and theft of bank details, Aadhaar and PAN numbers. Asked to comment about the use of the number for other purposes, BJP national secretary Tarun Chugh told The Hindu that the “IT cell will have to look into it”.



What Is Role, Powers Of CDS?

- With General Bipin Rawat taking over as the first Chief of Defence Staff (CDS) on New Year's Day, a new structure is being created in the Defence Ministry. What will be the nature of the relationship between the new four-star general and the ministry?

It Is Said That the CDS Is A 'Dual-Hatted Role'. What Does That Mean?

The **dual-hatted role** refers to the two hats the CDS wears: one of the **permanent Chairman of the Chiefs of Staff Committee** which has the three service chiefs as members, and the other of the **head of the newly created Department of Military Affairs (DMA) in the ministry**. The former is a military role while the latter is a role in the government; it is as the head of DMA that his major responsibilities within the ministry will be discharged.

How Many Other Departments Does the Defence Ministry Have, And Who So Far Was Looking After What Will Now Be the Charter Of DMA?

The **ministry already had four departments**: Department of **Defence**; Department of **Defence Production**; Department of **Defence Research and Development**; and Department of **Ex-servicemen Welfare**. Each of them is headed by a Secretary, with the Department of Defence being the nerve centre of the ministry, looking after all issues pertaining to the armed forces, defence policy and procurement. **The charter of duties of the DMA was so far looked after by the Department of Defence, which is headed by the Defence Secretary who is also the secretary in-charge of the Defence Ministry. Work exclusively pertaining to military matters will fall within the purview of the DMA while the Department of Defence will deal with larger issues pertaining to defence of the country.** To give an illustrative example, this means that while tri-service military training institutions will fall under the DMA, organisations like IDSA and NDC whose remit is broader than military matters will fall under the Department of Defence.

Are the Armed Forces — The Army, The Navy and The Air Force — Not Departments of The Ministry?

No, the service headquarters, and thereby the armed forces, are attached offices in the ministry. They used to come under the Department of Defence so far, but will now fall under the ambit of DMA, and will have an appropriate mix of civilian and military officers at every level. Attached offices are generally responsible for providing executive direction required in implementation of policies laid down by the department to which they are attached, in this case now the DMA. They also serve as a repository of technical information and advise the department on technical aspects of questions they deal with. In essence, they are executive agencies carrying out directions of the Defence Ministry whose task is to draft them, obtain approval from the government and communicate them for implementation to the defence services.

But Won't the CDS Command the Three Service Chiefs, And Be the Single-Point Military Adviser to The Government?

No, neither. He will act as the Principal Military Adviser to the Defence Minister only on tri-services matters. In fact, the three service chiefs will continue to advise the Defence Minister,



as done so far, on matters exclusively concerning their respective services. **The government has also made it explicitly clear that the CDS will not exercise any military command, including over the three service chiefs.** But the service chiefs will be members of the Chiefs of Staff Committee, which will be headed by the CDS. And the DMA, headed by the CDS, will also have the armed forces under its ambit — if promotions, postings and disciplinary matters of three services fall under the DMA, it will give the CDS extensive influence over the three service chiefs.

Have the Service Chiefs Lost Any of Their Major Powers or Tasks to the CDS?

Not really. None of the powers of the service chiefs, including of advising the government, has been curtailed and transferred to the CDS. **The only thing is the role of Chairman of the Chiefs of Staff Committee, which used to be headed by the senior-most chief by rotation. That has been shelved with the CDS being the permanent Chairman of the Chiefs of Staff Committee, where he will be supported by the Headquarters Integrated Defence Staff.** However, the CDS has been given a time-bound task, to be done within three years, to bring about jointness in operations, logistics, transport, training, support services, communications, and repairs and maintenance of the three services, which will eventually lead to shedding of responsibilities by the service headquarters. As the head of the DMA, the CDS has to also facilitate restructuring of military commands for optimal utilisation of resources by bringing about jointness in operations, including through establishment of joint/ theatre commands. This is again a far-reaching move, which will potentially impinge on the remit of the service chiefs.

The CDS Has the Status of a Cabinet Secretary, But Functionally Will Head A Department Headed by A Secretary. Also, He Will Be Under A Ministry Where the Defence Secretary Is in Charge of The Ministry. Isn't This A Bit Complicated?

Yes, it is. But that is the nature of government functioning and his dual-hatted role will decide the different kind of powers, access and relationships that will be forged by the CDS. Norms of functioning and political guidance, more than hard-coded bureaucratic rules, will determine the functional efficiency and effectiveness of the CDS and it will be upon General Rawat to establish this as the first incumbent of the new office.

Finally, Will the CDS Be Responsible for The Defence of The Country?

No, as per the gazette notification issued by the government on December 30, the Department of Defence — headed by the Defence Secretary — will be responsible for the “defence of India and every part thereof, including defence policy and preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation”.

Arms and The Man

- If a diplomat should think twice before saying nothing, an army general should not think of saying anything at all. The Chief of Army Staff, General Bipin Rawat, should have known better than to offer his views on political controversies and agitations of the day. In making thinly veiled comments on the protests against the Citizenship (Amendment) Act, 2019, the General crossed the line of military propriety. The egregious remarks on student protests



and leadership of agitations constitute a serious error in judgment. If the task of a leader is to lead by example, and in the 'right direction', as he himself put it, then Gen. Rawat, who heads nearly fifteen lakh men in uniform, sent out all the wrong signals. The Army Chief's remarks could have been discounted as an unfortunate slip of the tongue or a one-off instance, if it were not for the frequency with which he weighed in on matters he ought to have been extremely circumspect about, in public at least. Berating students from a seminar podium is bad enough but last year, Gen. Rawat felt compelled to point out, at yet another seminar, that the All India United Democratic Front (AIDUF) — led by Badruddin Ajmal — had grown much faster than the BJP in Assam. "Finally, what will be the state of Assam, we have to take a call," he had said, throwing in the politically incorrect word "lebensraum" into the mix for good measure, while referring to migration in the region. On matters such as education in Kashmir too, the General's unsolicited views have stirred controversies. It is possible to argue that since the Army is so heavily and continually deployed in these areas, the north east and Kashmir, where the Armed Forces (Special Powers) Act operates, the Army Chief can make comments on other aspects of governance and politics as well. The argument that the Army has a political voice in these States will not travel far, though. Among other things, it reflects the failure of the political class to keep the Army confined to duties that they are meant to carry out. If what Gen. Rawat said was deplorable, what V.K. Singh, the Minister of State for Road Transport, spoke in his support was most unfortunate. Especially since he himself was the Army Chief not so long ago. It is likely to encourage soldiers in the making and those in uniform to move in wrong directions. But it is also notable that not many others have flocked to Gen. Rawat's defence. **Allowing chiefs of the three services to make political statements undermines the civil leadership in the long run.** It is to be hoped the government makes the lines clear to them so that such incidents do not recur.

The Story of The Mig-27, The IAF's Now-Retired Ground Attack Bahadur

- On December 27, the Indian Air Force retired its fleet of MiG-27s. The 29 Squadron, known as the Scorpions, flew the aircraft into the sunset at the IAF's Jodhpur base. The service life of the 'swing wing'-type aircraft marked an important era for the IAF as various efforts were made to strengthen the nation's air defences. The Russian-origin MiG-27s were inducted in 1984-85, and underwent a midlife upgrade around 2006.

Ground Attack Aircraft

The MiG-27 is primarily a 'ground attack' aircraft, whose main role is to conduct precision air strikes in battle while tackling the adversary's air defences. The jets have proved to be extremely effective in both **Battle Air Strikes — air attacks in a war situation to support ground forces** — and in **Battle Air Interdiction, which are preventive operations that are sometimes carried out deep inside enemy territory, to target enemy installations, supplies, and forces, and hamper its future actions.** In the 1980s, the IAF had the MiG-21, but was in need of effective modern aircraft that could perform Battle Air Strikes and Battle Air Interdiction roles. The MiG-21, which was at the time used in ground attack roles, was primarily an 'Interceptor' aircraft. The induction of the swing-wing MiG-23BN, in a way a predecessor of the MiG-27, was an important addition to the IAF's capabilities.



Swing Wing Aircraft

Swing wing (or variable geometry) technology allowed the aircraft to change the sweep of their wings — thus changing the geometry of the plane as per operational requirements. This provided flexibility and an ability to stay stable at low altitudes; however, the additional hardware mechanism added to the aircraft's weight, and increased the possibility of failure. Advances in aerodynamics ensured that variable geometry aircraft were no longer needed. The 29 squadron that operated the upgraded MiG-27 was the IAF's last swing-wing squadron. Swing wing was not the only distinguishing feature of the MiG-27. Said Angad Singh, air power analyst at Observer Research Foundation: "The navigation and attack systems of the MiG-27 were second to none when it was inducted. It was a very effective strike aircraft when operating as designed at high speeds and low altitudes. The indigenous upgrade made it even more potent, and it was widely regarded as the most accurate weapons delivery platform of the IAF."

Record of Performance

At the time the MiG-27s were inducted, India's air defence was focussed primarily on Pakistan. The jet showed its efficacy over Gujarat, Rajasthan, and Punjab, and also proved to be extremely effective in the high-altitude conflict in Kargil in 1999. In Kargil, the MiG-27 took part in the IAF operation codenamed **Safed Sagar**, in which Air Force assets operated jointly with ground forces. The Kargil war saw the most extensive role for the IAF since the 1971 war. MiG-21s, MiG-23s, and MiG-27s were used, along with Jaguar and Mirage jets. Then Flight Lieutenant K Nachiketa's MiG-27 was hit by the Pakistanis, after which he ejected and was held prisoner for more than a week.

Concerns Over Safety

The MiG-27 suffered its share of accidents, including a couple of crashes in 2019 as well. Some of the officers who flew the aircraft believe that having one of the most powerful engines in the single-engine category may have made the MiG-27 more prone to engine malfunctions. "The engine was the principal safety issue with the jet. Engine fires and other failures relating to the powerplant were common," Angad Singh said. The jet also saw groundings like the one in February 2010, after an accident in Siliguri. Air Chief Marshal P V Naik (ret'd), who was Chief of the Air Staff at the time, said, "Whenever an accident takes place, a Court of Inquiry is set up to investigate the causes. If there are reasons of the concern, the fleet is grounded. There is nothing unusual in that. All the aircraft are then checked before being cleared for flying."

Retirements, Replacements

As the 'Bahadur' aircraft — a name the MiG-27 acquired during the Kargil War — was decommissioned, there was concern over the Air Force's depleting strength. The IAF is still operating four squadrons of the upgraded MiG-21s, which entered service before the MiG-27s, but will phase out its entire MiG fleet by 2024. The MiG-21s will be the last one to go. Angad Singh explained: "Aircraft retirement has little to do with induction date. The life of an aircraft is described in flying hours or years of service. Typically, after an upgrade, the aircraft life is extended by a certain amount. In the case of the MiG-27, this was around 10 years, whereas for the MiG-21 Bison, the figure was 15 years. Considering both aircraft were upgraded around the same time in the mid-2000s, the MiG-27 would logically be retired



earlier." The Air Force is now operating with 28 fighter squadrons against its sanctioned strength of 42. The proposed addition of two more Sukhoi squadrons, two Rafale squadrons, and various versions of the indigenous Light Combat Aircraft Tejas, will fill in for the retiring MiGs and legacy aircraft like the Jaguar.

AFSPA Extended in Nagaland

- The Ministry of Home Affairs (MHA) has declared the entire State of Nagaland as a "disturbed area" for six more months, under the controversial Armed Forces (Special Powers) Act (AFSPA) which empowers security forces to conduct operations anywhere and arrest anyone without prior notice. The AFSPA has been in force in the Northeast since 1958. Nagaland acquired statehood in 1963. In a notification, the MHA said the central government is of the opinion that the area comprising the whole state of Nagaland is in such a "disturbed and dangerous condition" that the use of armed forces in aid of the civil power is necessary. "Now, therefore, in exercise of the powers conferred by Section 3 of the Armed Forces (Special Powers) Act, 1958 (No. 28 of 1958) the central government hereby declares that whole of the said State to be a 'disturbed area' for a period of six months with effect from December 30, 2019 for the purpose of that Act," the notification said. Presently, AFSPA, 1958, is operational in the entire States of Assam, Nagaland, Manipur (except Imphal Municipal area), three districts namely Tirap, Changlang and Longding of Arunachal Pradesh and the areas falling within the jurisdiction of the eight police stations in the districts of Arunachal Pradesh, bordering the State of Assam. The notification declaring Manipur and Assam as "Disturbed Areas" has been issued by the State governments. For Nagaland, the notification is issued by the MHA. The draconian act has not been withdrawn despite a framework agreement being signed on August 3, 2015 between Naga insurgent group NSCN-IM general secretary Thuingaleng Muivah and government interlocutor R.N. Ravi in the presence of Prime Minister Narendra Modi.

In 2019, 95 Tiger Deaths in India

- For the first time in the past three years, the number of tiger deaths in a year in the country has been less than 100. According to data from the Ministry of Forest Environment and Climate Change (MoEFCC), there were 84 cases of tiger deaths in the country and 11 cases of seizures (in which a tiger is presumed dead on the basis of body parts seized by authorities). Both put together, the number of tiger deaths in 2019 is 95. In 2018, the number of tiger deaths recorded was 100 (93 mortalities and seven seizures). The number of tiger deaths in 2017 was 115 (98 mortalities and 17 seizures), and the number of tiger deaths in 2016 was 122 (101 mortalities and 21 seizures). Speaking to The Hindu on the issue of tiger mortality, Anup Nayak, Member Secretary of the National Tiger Conservation Authority (NTCA), said that these figures should be seen in the context that tiger numbers in the country were growing. The last tiger census report, released in July 2019, had placed the number of tigers in India at 2,967, up by a third when compared with the numbers reported in 2014. "This is encouraging to us. The reduced numbers of tiger mortalities are because of surveillance, good management of Tiger Reserves and a lot of awareness and education programmes on tiger conservation," Mr. Nayak said. The Member Secretary added that using technology to maintain surveillance on tigers has also come as an added advantage. "We have ensured that the M-STriPES (Monitoring System for Tigers-Intensive Protection & Ecological Status) patrolling app is deployed and used in every Tiger Reserve," he said. An analysis of the tiger



mortality figures shows that 57 of the 95 deaths occurred inside Tiger Reserves, while 38 cases of tiger deaths were recorded outside Tiger Reserves. *Madhya Pradesh, which has the highest number of tigers in the country (526, as per the last census)*, has recorded the most number of cases of tiger deaths, with 31 tiger deaths reported from the central Indian State in 2019. This was followed by Maharashtra, which reported 18 deaths. Karnataka, another State with high tiger population, recorded 12 deaths, and Uttarakhand recorded ten deaths. Tamil Nadu recorded seven cases of tiger deaths. Deaths were also recorded from non-tiger bearing States like Gujarat, where a tiger had strayed into the State and died. Mr. Nayak said that with the increase in tiger numbers, more areas in the country need to be declared Tiger Reserves.

Mannequins to Handle Traffic Surveillance

- The Karimnagar Commissionerate of Police, which has been widely appreciated for curtailing open consumption of liquor by using drone cameras, has now decided to install mannequins for traffic surveillance in various parts of the district. The mannequins wearing traffic police gear, including uniform, reflector jacket, cap, boots, mask and sunglasses, would be installed at strategic locations to regulate traffic and prevent accidents. Besides, the mannequin traffic police would also keep surveillance with a secret camera and take photos of traffic violators. Police are also planning to fix magnetic cameras on the mannequins that will use 3G and 4G technology for live surveillance. The district police hit upon the mannequin idea after the successful functioning of a life-size cut-out of a saluting policeman at the RTC bus station complex in August 2018. A hidden camera was fixed on the cut-out, which sent live footage to the local Karimnagar One Town police station, and the police command control for necessary action. Police are securing the mannequins costing ₹5,500 each from Bengaluru for installation across the district. They have already procured six mannequins.

Preparing for Fires (Dipen Mehta - Chairman, Journal, Fire and Security Association of India)

- India saw at least three major fire accidents in 2019. The first, in a four-storey central Delhi hotel in February, killed 17 people. The second, at a coaching centre in Surat in May, killed 22 students. The third broke out in a factory in Delhi and resulted in the death of 43 workers. In the second and third instances, it was found that buildings authorised to be **residential complexes were operating as commercial buildings** instead. (According to the Accidental Deaths and Suicides in India report of 2015, residential buildings are most prone to fire outbreaks.) Despite major fires in the past, flagrant violations of building and fire safety norms continue unabated and fire accidents take place with alarming regularity. It is high time safety is taken seriously and violators are brought to book. **Past incidents show that most fire accidents take place due to three major reasons: electrical short circuit and gas cylinder/stove bursts, human negligence, and ill-formed habits. All three need to be addressed to make buildings safer.**

Adherence to National Building Code

So, what all can we do to reduce fire accidents? On the regulatory side, adherence to the National Building Code of 2016 should be made mandatory. This is a detailed set of guidelines for the construction, maintenance and operation of buildings of all kinds (residential, educational, institutional, assembly, mercantile, industrial, business, etc.) and includes a

[Shatabdi Tower, Sakchi, Jamshedpur](#)



separate and comprehensive chapter on fire and life safety. The National Building Code specifies, for instance, how many exits should be provided in a specific kind of building and where they must be placed. In the case of the Delhi fire, it was not only reported that a residential space was operating as a commercial space, but also that the fire exits in the buildings were blocked, thus trapping people inside. But before all that, the first stage towards a fire-safe building is **to construct the building with fire-resistant/retardant materials and install smoke detection systems and fire alarms. A building's fire alarm/detection system should be connected with the city's fire system. Fire compartmentalisation (area/floor wise) should be made mandatory to restrict the spread of fire through horizontal and vertical spaces.** Further, a systematic procedure should be outlined for periodically assessing and monitoring fire risks. While the fire safety Audit (FSA) is a good tool to assess fire safety standards of an occupancy, there are no clear provisions in any legislation regarding, say, the scope or periodicity of an FSA. FSAs should thus be made mandatory everywhere. Once electrical and fire installations are in place, they should be certified by authorised persons and agencies. These will help identify and monitor risks of short circuits due to changes in building use, change in load pattern, etc. Only qualified persons and firms should be authorised to inspect buildings. No-objection certificates should be renewed only after verifying the originally intended use of the building being certified and any change in the building's pattern. In case fires break out despite all this, fire services should always be in place. This too is lacking in India. Data show that fire services are not at all adequate. In 2017, for instance, **the Home Ministry told Parliament that that in 2012 India had just 2,987 fire stations against the requirement of 8,559.** It is hoped that there are more now. It is important to not only increase fire services but also modernise firefighting departments.

Building Awareness

Awareness of fire safety is nearly absent in India. In schools, the curriculum should have a chapter on fire safety. Regular drills should be conducted so that children are prepared to handle such incidents. Communities managing housing and commercial premises need to regularly organise awareness programmes with assistance from authorised persons and agencies. These need to be not only on fire safety but also on other disasters such as earthquakes and floods. Infrastructural changes are mandatory too. We need dedicated access lanes for quick movement of emergency vehicles. Under the Smart Cities Mission, 'smart control rooms' should be able to guide emergency vehicles through the shortest route and enable coordination among various departments such as police, traffic police, fire, ambulance, and security forces. A lot of ground has to be covered before India can claim to be a fire-safe country. It is imperative that lessons are learned from the Delhi incident at least now. India can work towards a new goal this decade if everyone cooperates and takes precious lives seriously — the goal of a 'Surakshit Bharat' (safe India).

A Mere 30% Of Poshan Abhiyaan Funds Used

- The State governments and the Union Territories utilised a mere 30% of the funds released under the **Poshan Abhiyaan**, or the **National Nutrition Mission**, since it was launched in 2017. Barring Mizoram, Lakshadweep, Himachal Pradesh and Bihar, none of the governments used even half of the sum granted in the past three years, according to an analysis of the data shared in Parliament. **The Poshan Abhiyaan, the Centre's flagship programme, is aimed at improving nutritional outcomes among pregnant women, lactating mothers and children by**

Shatabdi Tower, Sakchi, Jamshedpur



reducing the level of stunting, underweight, anaemia and low birth weight by 2022. It is meant to benefit more than 10 crore people and was launched after a Cabinet decision on December 1, 2017, with a total budget of ₹9,046.17 crore for three years, 50% of which is through budgetary support, which is further divided into 60:40 between the Centre and the States, 90:10 for the north-eastern region and the Himalayan States and 100% for the Union Territories without legislature. The remaining 50% is from the World Bank or other multilateral development banks. As a result, the Centre's total share will be ₹2,849.54 crore. With the three-year period drawing to a close, an analysis of the funds utilised paints a grim picture. According to the information given by Minister for Women and Child Development Smriti Irani in the recent session of Parliament, a total of ₹4,283 crore was disbursed by the Centre to different States and Union Territories. Of this, ₹1,283.89 crore was utilised until October 31, 2019, or only 29.97% of the funds granted. Figures were not available for 2017-2018 as the scheme was launched at the fag end of the fiscal. The five best performers were Mizoram (65.12%), Lakshadweep (61.08%), Bihar (55.17%), Himachal Pradesh (53.29%) and Meghalaya (48.37%). The worst five performers were Punjab (0.45%), Karnataka (0.74%), Kerala (8.75%), Jharkhand (13.94%) and Assam (23.01%). During 2019-20, funds were released for 19 States, though 12 of them had used less than a third of the funds released in the previous two years. "The programme was conceptualised as one to be implemented in phases. It is, thus, expected that utilisation will increase over years. A number of activities had a slow start but are now picking up. These include the Integrated Child Development Services-Common Application Software (ICDS-CAS) meant to monitor anganwadis ...However, given the stiff targets, translating the activities into outcomes will be critical, and that remains to be seen," says Avani Kapur, Fellow of the Centre for Policy Research and Director at the Accountability Initiative. The CNNS, released by the Ministry of Health and Welfare in October, showed that 35% of children under the age of 5 are stunted and in this age group, 17% are wasted (low weight for height) and 33% underweight (low weight for age).

A Weak Test

- The NDA government's Swachh Survekshan, the ranking system for clean cities, was rolled out four years ago as the answer to a problem that municipal law failed to solve. Sanitation and public health are responsibilities of State governments, and it is no secret that they have spectacularly failed at managing growing volumes of municipal and hazardous waste. The problem has only been compounded by the absence of plans that take a holistic view of housing, sanitation, water supply, waste management and transport. Ahead of the launch of Swachh Survekshan 2020, the Union Ministry of Housing and Urban Affairs is once again trying to stir up competition among cities, by pre-ranking them for their performance during 2019 and assigning points to be added this year. As an idea, unleashing the competitive spirit among States may seem appealing, but in reality, the problems confronting urban India require large-scale infrastructure creation, full adherence to legal requirements on waste management, and transparent technical audits. Many cities remain clueless on handling their waste, one shocking example being the rising mountain of garbage at the Ghazipur landfill in Delhi. Ironically, Bhopal, which figures among the top five cleanest cities under the just-released list, continues to live with the effects of the gas disaster of 1984. Ranks and prizes clearly cannot solve the national waste management crisis. Looking ahead to the next edition of the Survekshan, the Urban Affairs Ministry has identified ambitious targets: "100% processing and safe disposal of waste, complete faecal sludge and septage management,



and wastewater treatment and reuse.” These are major tasks. The Ministry has also sanctioned funds under the Atal Mission for Rejuvenation and Urban Transformation (AMRUT) to help States set up facilities necessary to manage waste. States should ask for extended funding under such schemes to create the infrastructure for a future-focused clean-up and, simultaneously, institute measures to reduce waste. **The emphasis worldwide is on creating a circular economy centred at the principle of material recovery from all kinds of waste, reuse, recycling and reduced pressure on natural resources.** A sound ranking of cities and towns would naturally give the highest weightage to this dimension of sustainable management, replacing symbolism with an environmentally sound approach. Such rigour in policy formulation can make the Centre’s goal of eliminating single-use plastic by 2022 seem more realistic, and industry would find a compelling reason to switch to alternatives. Retooling Swachh Survekshan 2020 to go beyond perception management and adopt sustainability is essential to make it a genuine contest.

A Persisting Variance

- The NITI Aayog’s Sustainable Development Goals Index for 2019, released on Monday, does not reveal any surprising information. The South’s Kerala, Tamil Nadu, Andhra Pradesh, Telangana and Karnataka are joined by Himachal Pradesh, Sikkim and Goa as the best performers while the northern/north-central and north-eastern States have been laggardly in achieving the UN-mandated goals by 2030. Poor performers such as Uttar Pradesh have shown discernible advances in the indices — measured between 2018-19 — especially in adopting cleaner energy and improving sanitation. But the regional divide is stark in basic livelihood goals such as “eradication of poverty”, and “good health and well-being” or even in measures such as “industry, innovation and infrastructure”. This points to variances in both State governance and in administrative structures and implementation of welfare policies. The South, led by Kerala and Tamil Nadu, has done much more in orienting administrative institutions to deliver on basic welfare, leading to actions on health care, education, poverty eradication and hunger, with a governance structure tuned to competitively monitoring actions on these fronts. The converse is true of northern States — Bihar and Uttar Pradesh — where outcomes have remained relatively poor despite there not being much of a difference in the governance structure. The obvious answer to the puzzle could be the presence of historical socio-political movements that have resulted in greater circulation of elites in power and which have addressed issues related to welfare more thoroughly in the South — Kerala and T.N in particular. Yet even these States need to go further in reaching the UN’s SDGs and achieving the living standards of both the first world and other developing nations. The western States, especially Gujarat and Maharashtra, are also better off in economic growth and industry, indicating a diversified economy, higher employment ratios, skilled labour and better entrepreneurial culture. A major fault-line in India is in achieving gender equality, where barring middling performers such as Himachal Pradesh, Kerala and Jammu & Kashmir, the rest of the country falls short. Low sex ratio (896 females per 1,000 males), poor labour force participation and presence in managerial positions (only 17.5% and 30%, according to the report), high level of informality of labour, a major gender pay gap (females earn 78% of wages earned by males in regular salaried employment), lack of adequate representation in governance (14.4% in Parliament, but 44.4% in local government) besides high crime rates against women and girls are among the major national level indicators that have contributed to this. States need to climb a mountain to achieve gender equality, but immediate steps such as enhancing women’s participation in



governance through parliamentary reservations would go a long way in addressing several of the issues faced by them.

Indore, Jamshedpur Lead Swachh 2020 Table

- **Indore and Jamshedpur** have topped the cleanliness charts for two consecutive quarters among **cities with over 10 lakh population and with 1 lakh to 10 lakh population respectively**. **Kolkata remained at the bottom of the ranking of 49 major cities across both quarters as West Bengal did not participate in the nationwide exercise**. The Union **Ministry of Housing and Urban Affairs (MoHUA)** announced the results of the first and second quarters of the Swachh Survekshan 2020. The rankings, being conducted in a league format for the first time, were split into three quarters (April to June, July to September and October to December 2019) and different categories based on the population of the city. MoHUA secretary Durga Shanker Mishra said Indore, which had been judged number one in the past three sanitation surveys, remained the top slot in the first two quarters of 2019. Bhopal, which came in second in the first quarter, was replaced by Rajkot in Gujarat in the second quarter. Surat was at number three in the first quarter, but Navi Mumbai made it to the third spot in the second quarter rankings. Mr. Mishra said West Bengal officials had assured him that the State would participate in the ranking next time. Among cities with population between 1 lakh and 10 lakh, Jamshedpur in Jharkhand got the top rank in both quarters. New Delhi fell from second position in the first quarter to sixth position in the second quarter and was replaced by Chandrapur in Maharashtra at second place. A national-level survey of cleanliness of cities will begin from January 4, leading to the final Swachh Survekshan 2020 rankings. HUA Minister Hardeep Puri said the cleanliness survey had become a “part of our consciousness”, after starting from a limited survey of 73 cities in 2016 to today, covering almost all urban areas.

Governance Index

- The nation-wide comparative study of States on governance carried out by the Government of India, as seen in the **Good Governance Index (GGI)**, is a welcome exercise to incentivise States to competitively deliver on public services to the citizens. This is not the first time that benchmarking of States has been carried out. Different agencies including NITI Aayog, the government’s policy think-tank, are evaluating the States on different parameters. The findings of the GGI’s inaugural edition are significant in many respects. Although **Tamil Nadu** has always had the reputation of being a better-run State, it is only now that it is **ranked first** in any study of this kind. Its strength has been the ability to ensure stable and smooth delivery of services without much ado. But it is not the only southern State to have put up an impressive performance. Three of its neighbours are among the top 10 of the big 18 States, one of the three groups formed for the study with the north-east and hill States and Union Territories being the other two. Of course, traditionally, the south has been ahead of others in several parameters of development. What is more significant about the GGI is that the dubiously-labelled “BIMARU” States are seeking to catch up with others in development. Of the nine sectors, Rajasthan, a “BIMARU” State, has finished within the top 10 in five sectors, Madhya Pradesh in four and Uttar Pradesh in three. In agriculture and allied sectors, almost all the “BIMARU” States are within the top 10 category and in human resources development, U.P. and Bihar figure. In the composite ranking, Chhattisgarh and Madhya Pradesh are ranked fourth and ninth, respectively. The key message is that these northern States can



catch up with others in due course of time, if the political leadership shows the will to overcome historical obstacles and stays focused on development. Any index of this nature is bound to have some shortcomings, at least in the first round, a feature that the framers of the GGI have acknowledged. Some indicators — farmers' income, prevalence of micro irrigation or water conservation systems and inflow of industrial investment — have been left out. The indicator, "ease of doing business", has been given disproportionate weight in the sector of commerce and industries, to the virtual exclusion of growth rate of major and micro, small and medium enterprises. Moreover, there will always be an unending debate over which indicators — process-based or outcome-based — should get more importance in the design of such a study. Notwithstanding these shortcomings, what is noteworthy is that the Centre has made an attempt to address the problem of the absence of a credible and uniform index for an objective evaluation of the States and Union Territories. It goes without saying that the GGI requires fine-tuning and improvement. But that does not take away the inherent strength of the work that has been accomplished, keeping in mind India's size and complexity.

Kerala For Steps to Curb Alien Plants' Growth In NBR

- The Forest and Wildlife Department is planning to adopt steps to arrest the rampant growth of invasive plants, especially *Senna spectabilis*, in the forest areas of the Nilgiri Biosphere Reserve (NBR), including the Wayanad Wildlife Sanctuary. The tree species was found in nearly 10 sq. km area of the 344.44 sq. km sanctuary around five years ago. Now, it had invaded to more than 50 sq. km of the sanctuary," he said. A recent study of the Ferns Nature Conservation Society recorded the presence of the plant in 78.91 sq. km area of the sanctuary. The plant has started to invade the adjacent **Bandipur** and **Nagarhole** tiger reserves in Karnataka and the **Mudumalai** tiger reserve in Tamil Nadu. Earlier, the plant species was planted as avenue trees in Wayanad. **Due to mass flowering and drying of bamboo species in Wayanad, lots of open spaces were created which had been occupied by Senna spectabilis.** "An adult tree grows up to 15 to 20 metres in a short period of time and every year distributes thousands of seeds after gregarious flowering. The thick foliage arrests the growth of other indigenous tree and grass species and causes food shortage for the wildlife population, especially herbivores. Moreover, **wildlife will not feed on the leaf of the tree as it is not palatable for them,**" Mr. Anjan Kumar said. "The KFRI has developed some physical and chemical measures to tackle the threat of the plant. Though we have been following the physical method to tackle the issue for the past five years, it is yet to have any desired effect. Hence, we are planning to adopt an integrated method combining physical as well as chemical measures to address the issue," Mr. Anjan Kumar said. With the adjacent tiger reserves also under threat, managers of these reserves had agreed to follow similar steps to address the issue. The issue would be discussed at interstate meetings, he said.

Overall Green Cover Rises, But Northeast Records A Dip

- The forest cover in the country increased by 3,976 square kilometres (sq. km.) but with the sharpest declines in the north-eastern States of Arunachal Pradesh, Manipur and Mizoram, according to the 2019 edition of the **India State of Forest Report (ISFR)** that was made public. At 7,12,249 sq. km., the forest cover constituted **21.67% of the nation's geographical area** or 0.12% more than last year. **The ISFR, a biennial exercise, assesses the forest and tree cover, bamboo resources, carbon stock and forest fires.** The top three States showing an increase



in forest cover are Karnataka, Andhra Pradesh and Kerala. Tree cover, defined as patches of trees less than 1 hectare and occurring outside the recorded forest area, grew by 1,212 sq. km. **Tree and forest cover together made up 25.56% of India's area.** In the last assessment it was 24.39%. Environment Minister Prakash Javadekar said the declines in the Northeast weren't "yet a matter of concern." The States had a much higher proportion of forest than most States — Mizoram (85.4%), Arunachal Pradesh (79.63%) and Nagaland (75%) — and the declines in forest were still small. The Centre had policies in place to address this over the long term. He explained the decline in tree cover inside forests as due to tribal populations getting "land titles" (patta) and the rise in trees outside the forest area as due to an increase in tree plantation and afforestation activities. The report, however, shows that the quality of this forest — in terms of the canopy density of the trees comprising forest patches — is wavering. While 1,755 sq. km of 'moderately dense forest' (MDF) became 'Very dense forest (VDF), 2,782 sq. km. of MDF regressed into lower quality 'open forest (OF),' Scrub forest' or 'Non forest.' The forest cover within the Recorded Forest Area, or that which has been officially classified by States or the Centre as 'forest,' showed a 330 sq. km. decrease, but 'forest' outside such recorded area increased by 4,306 sq. km. Tree outside forest was found to comprise nearly 29.38 million hectares, which was 36.4% of the total tree and forest cover in the country. Maharashtra had the largest extent of such tree outside forest. **The nation's tree and forest cover has largely hovered from 21-25% and is short of the National Forest Policy, 1988, which envisages 33% to be under such cover.**

M.P. Gets Its First Elephant Colony

- Last November, elephants in herds, 38 of them, wandered into the forests of **Bandhavgarh** looking for food and water, like each year. A year on, they have stayed back in Madhya Pradesh for the first time over seasons and even bred two new calves, choosing not to return to the withering forests of north Chhattisgarh. The herd has found plenty of space, food and water within the core area of the Bandhavgarh Tiger Reserve, and that's why it may have stayed back, believes Reserve Deputy Director Sidharth Gupta. Stating that the species is migratory, he says: "... That we have two new members now indicates that the species is comfortable here." The 'Tiger State' of Madhya Pradesh, which in the 2019 census recorded the greatest number of estimated tigers at 526, thus securing the title, presently has no know-how of dealing with elephants. Experts from West Bengal and Chhattisgarh were roped in, who held workshops with local staff on averting man-animal conflicts. Ruling out the possibility of conflict between the herd and tigers, J.S. Chauhan, Additional Principal Chief Conservator of Forests, Wildlife wing said: "While one is a herbivore, the other is a carnivore, so there is no competition." "We have proposed to the Centre to secure the right to collar the elephants to track their movement. However, the State has so far allocated no separate funds for the upkeep of their habitat. The presence of elephants will not alter the movement of tigers in the area." he says.



Business & Economics

Why Has the U.S. Crippled the Functioning of the WTO? (D. Ravi Kanth - Journalist Based in Geneva.)

- Even as the trade war between China and the United States shows no signs of ending, Washington has paralysed the **World Trade Organization's Appellate Body, which acts as a supreme court for international trade**. In December 2019, the U.S. chose to spike the Appellate Body by **starving funds** for its functioning. It also **stalled the selection process for filling six vacancies** at the Appellate Body. Consequently, the Appellate Body is **left with only one member**, who will not be able to deliver any rulings on pending trade disputes — **a minimum of three members is required to adjudicate any dispute**.

What Is the World Trade Organization's Appellate Body and Why Is It in The News?

Global trade disputes are complex and difficult to resolve. For proper enforcement of trade rules, a binding, two-stage dispute settlement system was established at the World Trade Organization in the 1990s. The Appellate Body is the scaffolding of the dispute settlement system, with seven standing members. **In the first stage for adjudicating trade disputes, a panel would decide cases brought before it by the members. Rulings issued by the panels can be appealed at the Appellate Body. As part of the second-stage of adjudication, the Appellate Body can uphold, modify or reverse the legal findings and conclusions of a panel. Therefore, the Appellate Body's decisions are final and adopted within 30 days by the dispute settlement body.** Sanctions can be imposed on a member in case of its failure to comply with the Appellate Body's rulings. The panels and the Appellate Body have issued rulings in almost 200 disputes involving bananas, cotton, aircraft, beef, tuna, trade, 'shrimp-turtles', hot-rolled coils, subsidies for renewable energy, and gambling. **Cases involving trade remedies such as countervailing and anti-dumping measures, and the use of a controversial practice called the zeroing methodology that inflated the anti-dumping duties, dominated the disputes among the WTO members.** The establishment of the Appellate Body has given teeth and credibility to the rules-based multilateral trading system. Moreover, it provided security and predictability in the multilateral trading system. But the U.S. chose to spike the highest appeals body for global trade disputes by alleging that it has gone astray.

Why Did the U.S. Choose to Strangulate the Appellate Body?

The smooth and effective functioning of the Appellate Body, which is regarded as the jewel in the crown, has posed hurdles to the U.S. for adopting unilateral measures. Several U.S. provisions for imposing countervailing and anti-dumping measures were found to be inconsistent with core provisions of the WTO agreements.

Why Did the U.S. Block the Selection Process for Filling Six Vacancies?

The independent and impartial functioning of the Appellate Body in complex trade disputes has become a problem for Washington over the past many years. While the U.S. has accepted favourable rulings that served its interests in global trade, it raised intransigent concerns about adverse decisions that struck down the U.S.'s trade measures. **Washington has repeatedly accused the Appellate Body of allegedly straying away from the dispute settlement understanding (DSU) in several disputes involving the U.S.' measures that were**



challenged by other members. It has maintained that the Appellate Body failed to issue rulings within the 90-day deadline. The U.S. says the Appellate Body's rulings failed to adhere to the provisions in the dispute settlement understanding in cases involving countervailing (anti-subsidy) and anti-dumping measures based on the zeroing methodology. It argues that the Appellate Body's decisions "assert a precedential value for its reports...". It has suggested that "some Appellate Body members view themselves as 'appellate judges'... serving on a 'World Trade Court' that is the 'centerpiece' of the WTO dispute settlement system ... rather than one component of it." The U.S. has argued: "Such an expansive vision of the Appellate Body is not reflected in the DSU and was not agreed to by the United States." Finally, "there has been no discussion of why the Appellate Body has departed from its agreed role," it has maintained.

How Did Other WTO Members Respond to The Barrage of Criticism Levelled by The U.S. Against the Appellate Body?

Many WTO members did not agree with the U.S. about the functioning of the Appellate Body. Early last year, a facilitator was appointed by WTO members at a general council meeting to address the specific concerns raised by the U.S. about the Appellate Body. The facilitator, who is also the chair for the WTO's dispute settlement body, Ambassador David Walker of New Zealand, held several rounds of consultations with members to finalise a draft decision on unblocking the crisis at the Appellate Body. The draft decision included a package of reforms to improve the functioning of the Appellate Body as well as the immediate launching of the selection process for filling six vacancies to ensure that the Appellate Body remained functional after December 11, 2019. There was an overwhelming acceptance for the facilitator's package of reforms at the WTO General Council meeting last month. But the U.S. trade envoy, Ambassador Dennis Shea, rejected the facilitator's draft decision on grounds that it failed to address the issues raised by Washington about the Appellate Body's overall functioning. "Today's failure makes it happen that the Appellate Body, an important component of effective WTO dispute settlement mechanism, will temporarily go lights out," the Chinese trade envoy Ambassador Zhang Xiangchen said, after the U.S. spurned the facilitator's report. China maintained: "This is no doubt the most severe blow to the multilateral trading system since its establishment." Said India's trade envoy Ambassador J.S. Deepak: "At the core of a functioning multilateral trading system is an effective dispute resolution mechanism." He added: "Although not perfect, the dispute settlement system has led to meaningful reductions in unfair trade practices and has helped to strengthen the rules-based international trading system." The U.S. has been one of the bigger users of the dispute settlement system and also a beneficiary "of this public good," India said, cautioning that "unless the Membership acts in concert ... to lift the block on AB vacancies, we are going to lose this public good which has served all of us so well."

How Will the U.S.'s Unilateral Stand Affect Developing Countries?

Undoubtedly, it is a tremendous loss for the majority of WTO members who are all developing and poor countries. Clearly, they "lack the political and economic clout to enforce their rights and protect their interests in a system governed by power and not rules," said Mr. Deepak.



What Is the Future for An Organisation That Will Not Be Able to Enforce Rules?

The strangulation of the Appellate Body is a reflection of unilateralism and protectionism that are on a sharp rise. China has said: "It is therefore not surprising that someone attempts to use its might rather than WTO adjudications to change trade policies of other Members." The absence of the Appellate Body will create a jungle raj and paves the way for a steep descent into the General Agreement on Tariffs and Trade, 1947 rules.

Voting at The GST Council

- Breaking the tradition of consensus-based decisions in its 37 earlier meetings, the **Goods and Services Tax (GST) Council** voted for the first time in its 38th meeting held on December 18. The proposal to have a higher single rate for lotteries went through by a majority, with 21 votes in favour. The GST Council is a federal body that aims to bring together states and the Centre on a common platform for the nationwide rollout of the indirect tax reform. With the precedent of voting now established, consensus at the Council could be challenged again in the future. The rules of voting in the GST Council are such that the odds are stacked in favour of the Centre in the normal course. However, in case of a vote, any disagreements within the ruling coalition at the Centre may bring its support below the three-fourths majority that is needed for the passage of a decision.

First GST Council Vote

In the 38th meeting, Kerala's Finance Minister Thomas Isaac pushed for voting on the proposal for a uniform rate for lotteries. A total of 21 members of the GST Council voted in favour of a uniform rate; seven (including Kerala, Chhattisgarh, West Bengal, Madhya Pradesh, Maharashtra, and Puducherry) voted against; and three members abstained — paving the way for a **single 28% rate effective March 1. Currently, a GST rate of 12% is levied for state-run lotteries and 28% for state-authorized lotteries.** After the meeting, Union Finance Minister Nirmala Sitharaman, who heads the Council, said "every attempt was made to keep that set tradition (of consensus) alive"; however, the Council was reminded that the "rules allow and that tradition was not part of the rulebook", and voting was held on the "request of one member". Some members said that the voting was not a major development, since it was on the issue of a 'sin good' like lottery, and was mainly done on the insistence of one state.

GST Council Voting Rules

As per **The Constitution (One Hundred and First Amendment) Act, 2016**, in case of a voting, every decision of the GST Council has to be taken by a majority of **not less than three-fourths of the weighted votes of the members present.** The vote of the central government has a weightage of **one-third** of the total votes cast, and the votes of all the state governments taken together have a weightage of **two-thirds** of the total votes cast in that meeting. As of now, out of the **total 30 states and Union Territories (excluding Jammu & Kashmir), 20 are ruled by the Bharatiya Janata Party or its allies (including parties who voted with the BJP on recent legislation in Parliament).** This essentially means that a vote in the Council could largely be an academic exercise — unless a number of the BJP's allies switch sides.



Past Record and Future Scope

So far, even if states voiced their differences over a proposal in the Council, all decisions had been taken by consensus in the meetings of the GST Council. Former Finance Minister Arun Jaitley had underlined that the GST Council was an excellent federal institution, in which thousands of issues were decided through consensus. But the 38th meeting, the fourth under the chairmanship of the present Union Finance Minister Nirmala Sitharaman, saw voting for the first time. With a departure from the consensus approach having been made, there could be more instances of voting exercises going forward — especially as revenue-raising measures come up in future meetings. Differences of opinion are likely to crop up on proposals to raise rates, especially of the lower slabs, in the future — a concern that made most states rule out an immediate rate hike in the last Council meeting, even as they were in agreement over a broader overhaul of the GST structure.

Govt. Plans Cut Spending to Curb Deficit

- India's government is likely to cut spending for the current fiscal year by as much as ₹2 lakh crore as it faces one of the biggest tax shortfalls in recent years, three government sources said. The economy, which is growing at its slowest pace in over six years because of lack of private investment, could be hurt further if the government cuts spending. But with a revenue shortfall of about ₹2.5 lakh crore, the government has little choice to keep its deficit within “acceptable limits”, the first official, who did not want to be named, told Reuters. The government has spent about 65% of the total expenditure target of ₹27.86 lakh crore till November but reduced the pace of spending in October and November, according to government data. A ₹2 lakh crore reduction would be about a 7% cut in total spending planned for the year. In October and November, government spending increased by ₹1.6 lakh crore, nearly half the 3.1 lakh crore it spent in September. The fiscal year starts April 1 and ends March 31. **Lack of demand and weak corporate earnings growth in the economy led to lagging tax collections this year.** Analysts said growth will be hurt. India's economic growth slowed for six consecutive quarters to 4.5% in July-September, despite a 135-basis-point cut in interest rates by the central bank since February 2019. Now, even the Reserve Bank of India seems to have become more worried about inflation rising. It kept its key lending rate on hold on December 5, even though it slashed its growth forecast for the current fiscal to 5%, which would be the lowest in a decade. Even a surprise corporate tax rate cut announced by Finance Minister Nirmala Sitharaman earlier this year failed to spur private investment in the economy. The government is likely to keep the fiscal deficit under 3.8% of gross domestic product, sources said, while letting it slip from its earlier set target of 3.3% for the year. The government is likely to announce additional borrowing of ₹30,000 crore to ₹50,000 crores for the current year to match the revised fiscal deficit, two sources in the government said.

Holding A Mirror to Our Face (Uday Balakrishnan - Teacher at IISC. Bengaluru)

- For some time now, in political and bureaucratic circles, a smugness has crept in that India has arrived, that it is no longer impoverished and that whatever be the problem, be it scarcity of onion or shortage fighter jets, it can buy itself out of trouble. In reality, India is desperately poor; it is a country where malnutrition is rife, where children continue to drop out of school in alarming numbers every year and where millions of untrained young people enter the workforce unfit for anything more than manual labour of the hardest kind. In a brake-less



hurtle, India's potential demographic dividend is morphing into a nightmare. All this is best captured in the UN's Human Development Index (HDI) rankings where India is a lowly 129th out of 189 countries. China, by contrast, occupies the 85th spot and Sri Lanka an even better 71st position.

Low Per Capita PPP

One of the reasons for the illusion about India's wealth is a seductive but dubious country-to-country comparison. In GDP (PPP), India comes a flattering third after China and the United States. The rub is when we start measuring per capita GDP (PPP) as the latest IMF figures indicate. India's GDP (PPP) is 43% that of China and only 59% that of Indonesia. It is only slightly higher than that of Vietnam, a surprising star in education, which will get past India sooner than expected. At 118th place, the country is already ahead of India in HDI. In terms of per capita GDP (PPP), India is much behind France and U.K., each with no more people than Tamil Nadu or Rajasthan. The GDP (PPP) of ASEAN is 80% of India's, while its population is less than half. Once we strike off its poorest (Myanmar, Cambodia, Laos and Vietnam) the regional grouping's stellar performance shines more lustreously. India of course, has the strength of numbers. A recent issue of The Economist states: "as a single country," it "has tremendous negotiating power." But all this will cease to matter as other economies in Asia pick up.

Common Sense Doesn't Prevail

In a recent essay, former Governor of the Reserve Bank of India (RBI) Raghuram Rajan observed that the present government, "instead of building gigantic statues to national or religious heroes," should be building "more modern schools and universities that will open its children's minds, making them more tolerant and respectful of one another, and helping them hold their own in the competitive globalised world of tomorrow." But when did common sense ever prevail in a country that for decades has shown a tendency to pursue the trivial and the unimportant with indefatigable vim? As Asia integrates, India is busy painting itself into an isolationist corner. Talking about a \$5-trillion economy is not going to get us there but a larger vision of what can be achieved e.g. one which envisages embracing Asian economic integration, should help pay attention to things that are enabling East Asian countries to fire — educating and skilling their young and creating infrastructure that works for all. The Regional Comprehensive Economic Partnership (RCEP), which India refused to join after years of negotiation, is a case in point. It is precisely the kind of programme India should have joined with one of the most vibrant economic regions in the world, one with the potential to bring immense prosperity to not just itself but South Asia as well. But then, as Ramesh Thakur writing in the Japan Times on the country's refusal to join the RCEP observed, "India has an unmatched capacity to look an opportunity firmly in the eye, turn around, and walk off resolutely in the opposite direction."

India Needs A Bottom-Up Growth Model (Arun Maira - Former Member of Planning Commission)

- India's bold decision to stay out of the Regional Comprehensive Economic Partnership (RCEP) until the needs of the country's small enterprises, farmers, and poorest citizens are properly addressed dismayed many economists. The Indian government's fear was that the resulting increase in Chinese exports would harm small producers and farmers. China and India, the



two most populous countries in the world, both embarked on new journeys around the same time. More than 70 years later, China has progressed much faster. India, other the other hand, is yet to reach the development indicators that China attained back in the early 1990s.

People-Centric Policies

A Chinese thought leader said 15 years ago that both countries have the same vision: of prosperity for their citizens. To reach there, they must cross a turbulent stream by feeling the stones underfoot. But how do governments do that? First, they need to make their policies people-centric rather than growth-centric. The Communist Party of China demands that local officials address the needs of citizens' effectively, as does Singapore's government. The Chinese government derives its legitimacy from citizens' satisfaction with their well-being, not from a vote in an election, Singapore Minister Tharman Shanmugaratnam once said. In the case of India, its constitutional structure enables its States to adopt different models of development. Thus, there is a 'Kerala model', a 'Gujarat model', and now a 'common man's model' implemented by the Aam Aadmi Party (AAP) in Delhi. Local, participative governance has been a distinction of Kerala's model. and the State has been well ahead of the rest of the country, matching China in its Human Development Indicators in education, health, and women's inclusion. Delhi's AAP government has adopted a people-centric model of government. It has established School Management Committees with parental involvement. Teacher training budgets have increased five-fold. The performance of Delhi's government schools is not only higher than the national average, it now exceeds the performance of private schools in Delhi. Public health expenditures have more than doubled. 'Mohalla clinics' have been set up in poor colonies to provide accessible and affordable health care. The share of unauthorised colonies provided with piped water has increased from 55% to 93% in just five years, reducing the need for poor people to pay for expensive tanker-delivered water. But despite water subsidies for the poor, the Delhi Jal Board's income has increased. Electricity supply has expanded to include 20% more consumers. Amongst Indian metros, Delhi provides the cheapest electricity. Yet, its distribution companies, all in the private sector, have improved their financial performance.

Increase in Disposable Incomes

The government has computed that its programmes for improving the 'ease of living' of citizens by improving the quality and accessibility, and reducing costs, of a range of public services has increased savings per family by ₹4,000 per month. The increase in disposable incomes has resulted in additional consumer-buying power, estimated at ₹24,000 crore per annum. This proves that growth must be bottom-up to be equitable and sustainable. India has climbed many rungs on the World Bank's 'Ease of Business' rankings. Yet, investments to expand production ventures have not increased much because consumer demand has slumped, even for basic items like packaged biscuits. It seems odd that democratically elected governments in many countries, including India, who should be focused on citizens' well-being, have become so focused on making it easy for global capital to do business in their countries. This has made citizens rise up against the globalisation paradigm promoted by an 'establishment' of policymakers and economists. **Citizens want their governments to put jobs in their countries first, and to implement policies that increase incomes at the bottom of the pyramid rather than facilitating only further growth at the top.** India's complex, socio-economic environmental system is under even greater stress. The country



must improve on many fronts simultaneously. India ranks very low in international comparisons of human development (education and health), even below its poorer subcontinental neighbours. It is the most water-stressed large economy in the world; its cities are the most polluted. India's economic growth is not generating enough jobs for its burgeoning population of youth: the employment elasticity of India's growth (numbers of jobs created with growth) is amongst the worst in the world. Bold actions without an understanding of the whole system can cause great harm. The bold move to demonetise the currency notes in 2016 was an egregious example. Unemployment of persons with vocational education has gone up between 2011-12 and 2017-18, from 18.5% to 33%. India now has a larger number of frustrated youths.

More Free Trade Not the Answer

The RCEP decision shows that India is now standing up to pressure from a rump of Washington Consensus economists who continue to advocate that more free trade is the solution to India's economic problems, even when there is evidence that India has not benefited from the agreements it has entered into. India's challenge now is to build an Indian ecosystem in which competitive enterprises will grow to create more opportunities for jobs for youth and for increasing citizens' incomes. Growth of incomes in India will make India more attractive for investors. A stronger industrial system will give India more headroom in trade negotiations too. India's industrial and entrepreneurial ecosystem's growth must be accompanied by an improvement in environment. Policies must be managed with a whole systems view. While 'Ease of doing Business' gauges health from a business perspective, 'ease of living' should become the measure of the health of the whole system. Policy decisions invariably require compromises between competing interests. Here, Mahatma Gandhi's talisman provides a good test. The government should think of the needs of the poorest citizens first. Reduced duties on imports benefit citizens as consumers. However, a citizen's more fundamental need is for a good job and source of income to buy the imported goods. India urgently requires an employment and income strategy to guide its industry and trade policies.

MGNREGA Trends: Fewer Jobs Since July, Wider Demand-Supply Gap

- Jobs generated under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) have shown a dip compared to last year after July. This comes even as 2018-19, the year that preceded the Lok Sabha elections, saw a record number of households demanding as well as being provided employment under the flagship rural public works programme.

Reading the Numbers

It shows the total number of households whose demand for work was registered by the gram panchayat authorities concerned and also the number that were actually provided work (MGNREGA is supposed to guarantee 100 days of total employment to adult members of any rural household that "demands" such employment). In 2018-19, demand was registered from 5.88 crore households, and 5.27 crore of them were provided work. These numbers were the highest, at least during the last five years of the present government. Even in terms of person-days of work generated, the numbers rose from a mere 165.64 crore in 2014-15 (the first year of the Narendra Modi government) to 267.99 crore in 2018-19. The current



year, however, has witnessed a clear dip in the person-days of employment under MGNREGA, which is visible after July. Significantly, in all the months before, including those leading up to the elections of April-May, the work provided exceeded the corresponding levels for 2018. According to government officials, the fall in MGNREGA employment after July has been largely due to the onset of the southwest monsoon. Rainfall during the monsoon season (June-September) this year was 10% above the historical long-term average — the highest since 1994 — whereas it was 9.4% below average in 2018. **An above-normal monsoon meant there was lower demand for MGNREGA work.** However, it can be seen that the **gap between the number of households demanding MGNREGA work and the number who were provided work has been the highest in 2019-20.** This indicates that even if demand fell, supply of work fell even more.

Lack of Funds

The trends raise the question whether all this is linked to lack of funds. For 2019-20, the Modi government has allocated ₹60,000 crore towards MGNREGA. But out of this budgeted sum, ₹9,493.80 crore would be required for clearing the liabilities of wages, material and administrative costs for previous years. Nikhil Dey of the advocacy group Mazdoor Kisan Shakti Sangathan claimed that in 2018-19, the Centre had asked some state governments to pay wages to workers for February and March in advance and treat this as “loan” that the Centre would repay the states in the new financial year. **The cost of providing a day's work to a single person has been taken at an average of ₹249.86 for 2019-20. For 270.21 crore person-days of work that was approved, the MGNREGA labour budget alone for this fiscal worked out to roughly ₹67,514.67 crore. But the total budgetary allocation, which also includes provision towards material and administrative expenses, has been only ₹60,000 crore, out of which ₹55,829.62 crore was already spent as on December 24.** Meanwhile, the Centre has revised upwards its original plan of providing 260 crore person-days of work for 2019-20 to 316.73 crore person-days, following a decision to augment the number of days of employment per household under MGNREGA from 100 to 150 in flood-affected districts of states such as Karnataka.

Other Support Schemes

It is not MGNREGA alone that is witnessing a deceleration of activity this fiscal. The same goes for the Pradhan Mantri Kisan Samman Nidhi (PM-KISAN), the Modi government's farm income support scheme that was launched in December 2018, ahead of the Lok Sabha elections. In the first instalment released for December 2018 to March 2019, as many as 8.05 crore farmers were covered, with each of them receiving ₹2,000. Those numbers fell to 7.43 crore in the second instalment (April-July 2019) and further to 5.91 crore in the third (August-November). In all, the total amount disbursed under the income support scheme in the year 2019-20 is ₹32,320.86 crore, which is significantly short of the ₹75,000 crore budgeted for it. Further, of the total ₹95,000 allocated for the scheme since its inception, ₹48,421.65 crore has been spent up to December 2019, which is roughly half the allocated sum. Even the number of rural houses built under PM Awas Yojana-Gramin — which had recorded a sharp rise from 11.96 lakh in 2014-15 and 18.22 lakh in 2015-16 to 32.13 lakh, 44.55 lakh and 47.33 lakh during the following three fiscals — has seen a drop to just 7.2 lakh so far in 2019-20. A senior government official clarified, however, that the process of registration, geo-tagging, etc has already started, and more houses will be built later in the year. The official also cited a target



of building 60 lakh houses under the PM-AY Gramin by June 2020. Up to 55 lakh new homes are under construction, and 7 lakhs have been completed.

Carbon Tax Waiver for Coal Mooted

- Prime Minister Narendra Modi's office has proposed waiving a tax on coal to help finance pollution-curbing equipment, according to documents, but the move would also make coal more competitive in price with solar and wind energy. **Mr. Modi's office has proposed waiving the carbon tax of ₹400 per tonne that was levied on the production and import of coal, according to the documents reviewed by Reuters. The documents say the savings would improve the financial health of utilities and distribution companies, and help power producers to install pollution-curbing equipment.** The PMO and the Power Ministry did not respond to requests seeking comment on the proposal. Despite struggling with some of the world's worst air pollution levels, India has already pushed back a deadline to cut emission levels to up to 2022. Over half of India's coal-fired plants are already set to miss a phased deadline starting December 2019 to cut emissions of sulphur oxides, which have been proven to contribute to lung disease. The proposal is a big win for India's coal industry, which has lobbied for government help, citing high debt levels and burgeoning payment dues from government-owned power distribution companies. Distribution companies owed power producers more than \$11 billion in dues as of October, according to government data. Hardik Shah, Deputy Secretary at Mr. Modi's office, advocated waiving the carbon tax on coal in an October note to the top bureaucrat at India's Power Ministry, seen by Reuters. "A possible solution is to waive the Goods and Services Tax compensation cess on coal," he said in the note on installation of equipment to cut emissions of sulphur oxides.

Stressed Urban Cooperative Banks to Face PCA-Like Curbs

- The Reserve Bank of India (RBI) has decided to impose restrictions on urban cooperative banks (UCBs) for deterioration of financial position, in line with the **prompt corrective action (PCA) framework** that is imposed on commercial banks. Under this revised Supervisory Action Framework (SAF), UCBs will face restrictions for worsening of three parameters: when **net non-performing assets exceed 6% of net advances**, when they incur **losses for two consecutive financial years** or **have accumulated losses on their balance sheets**, and if **capital adequacy ratio falls below 9%**. Action can be also taken if there are **serious governance issues**, RBI said. For breach of such risk thresholds, UCBs will be **asked to submit a board-approved action plan** to correct the situation like reducing net NPAs below 6%, for restoring the profitability and wiping out the accumulated losses, and increasing capital adequacy ratio to 9% or above **within 12 months**. The board of the UCB will be asked to review the progress under the action plan on quarterly/monthly basis and submit the post-review progress report to the RBI. The RBI **may also seek a board-approved proposal for merging the UCB with another bank or converting itself into a credit society** if CAR falls below 9%. It **can impose restrictions on declaration or payment of dividend or donation without prior approval** if any one of the risk thresholds is breached. Some of the other **curbs include restricting fresh loans and advances carrying risk-weights more than 100% on incurring capital expenditure beyond a specified limit** and on expansion of the balance sheet. The RBI said actions such as imposition of **all-inclusive directions under Section 35A of the Banking Regulation Act, 1949**, and issue of show-cause notice for **cancellation of banking licence may be considered when**



continued normal functioning of the UCB is no longer considered to be in the interest of its depositors/public. The move comes in the wake of the recent crisis at the PMC Bank.

Reaction to Operation Twist as Expected

- Reserve Bank of India Governor Shaktikanta Das said that the market's reaction to the simultaneous buy-sell of government bonds was on expected lines. The simultaneous buy-sell of government bonds, known as **Operation Twist**, was conducted to bring down long-term interest rate while allowing short term rates to inch up. The move was aimed at addressing liquidity, which is asymmetric — abundant at the shorter end but not on the longer end. The move will help in monetary transmission. The central bank has so far carried out three rounds of simultaneous bond buy-and-sell via open market operations. In the third such open market operation in as many weeks, the RBI had bought ₹10,000 crore of three long-term securities while selling a similar amount of three short-term bonds.

No Extra Charge on Digital Payments Via RuPay, UPI From Jan. 1

- Digital transactions made using **RuPay cards**, or **UPI QR codes** will not face additional charges for merchants or customers from the beginning of next year, Finance Minister Nirmala Sitharaman said. **All shops, business establishments and companies with an annual turnover of ₹50 crore or more have been mandated to offer these modes of payment to customers.** The Department of Revenue will soon notify RuPay and UPI as the prescribed mode of payment for digital transactions without any Merchant Discount Rate (MDR), Ms. Sitharaman said after a meeting with public sector bankers, adding that the notification would come into effect from January 1, 2020. **The Merchant Discount Rate is the percentage of the digital transaction that a merchant pays to banks.** This cost is often passed on to the customer. The decision to choose RuPay and UPI as the platforms which will not attract this levy, may promote these home-grown digital payment pathways over those promoted by foreign companies, including VISA and MasterCard. In her budget speech in July, the Finance Minister had listed "BHIM UPI, UPI-QR Code, Aadhaar Pay, certain Debit cards, NEFT, RTGS, etc." as the low-cost digital modes of payment which could be offered without the imposition of MDR in order to promote a "less cash" economy. She had added that "RBI and banks will absorb these costs from the savings that will accrue to them on account of handling less cash as people move to these digital modes of payment." At that time, the Payments Council of India — an industry lobby group — had said an MDR waiver would hurt companies in the payments system. It argued that the cost should be borne by the government instead of banks, which would have no incentive to promote digital payments without MDR revenues. Ms. Sitharaman said all banks would start a campaign to promote RuPay debit cards and UPI. The government has already amended two laws — the Income Tax Act and the Payments and Settlement Systems Act — in order to implement the budget announcement, she added. Describing the decision as surprising and will stop investment and innovation, Vishwas Patel, the Payments Council of India Chairman, said, "the zero MDR on RuPay and UPI will kill the industry and make the business model unviable. It's like nationalisation of the payments industry. If the government wants to drive digitization, then it should bear the cost." The PCI is the representative body of merchant acquirers and aggregators.



For A Personal Healing Touch (Dr. Soham D. Bhaduri - Mumbai-Based Doctor, Healthcare Commentator)

- One repressed, inconspicuous theme can be discerned across the timeline of development of healthcare in the United States since the early 20th century. As the Mayo brothers' initially modest set-up (Mayo Clinic) prolifically expanded into the prototypical 'multispecialty group practice' in the U.S., concerns that such arrangements would be bereft of the personal touch in patient care were vociferously raised. This continued through the evolution of more and more organised structures like Health Maintenance Organisations (HMOs) in the forthcoming years, which were criticised for turning healthcare into a marketable commodity sold by unfeeling healthcare providers in supermarket-like institutions, destitute of traits like empathy, regard and loyalty. That such concerns didn't pick up systemic momentum in the U.S. is axiomatic, as much as the fact that U.S. healthcare ended up as one of the most impersonal healthcare systems.

Problematic Proposition

The NITI Aayog's proposed 15-year plan for Indian healthcare entitled "Health Systems for a New India: Building Blocks — Potential Pathways to Reform" outlines prospects of such an infelicitous turn in Indian healthcare. While the report makes otherwise commendable proposals for health system strengthening — including elimination of informality, merging of fragmented risk pools, and reduction of out-of-pocket health spending — the proposal to consolidate small practices into larger business-like organisations appears problematic on multiple fronts. That nearly 98% of healthcare providers have less than 10 employees is identified as a negative trait, to be dealt with through a set of incentives and disincentives favouring consolidation. Apart from cost and competition-related concerns, an enthusiastic pursuit of it could portend an exacerbated commodification of healthcare from the bottom-up. The report's bent towards the U.S. HMO model further adds to such a foreboding. Loyalty and longitudinality form vital pillars of the patient-physician relationship. The edifice of these is built upon a substratum of mutual trust, warmth, and understanding that accrues over time between a patient and their personal physician. Momentary and haphazardly physician-patient interactions in a system that limits access to one's 'physician of choice' are incapable of fostering such enduring relationships. It is in this context that the role of a family physician becomes instrumental. Apart from providing comprehensive care and coordinating referrals, a family physician's longitudinal relationship with their patient helps in a better understanding of the patient's needs and expectations and in avoiding unnecessary clinical hassles and encounters — which in turn reflects in better outcomes and increased patient satisfaction. Widespread commercialisation of care over the past few decades has entailed that the family physician is a dying breed in India today. And it would be of little surprise to learn that this has a sizeable role in impairing the doctor-patient relationship, manifesting popularly through violence against healthcare providers. In a setting of overcrowded public hospitals, and profiteering healthcare enterprises, where the patient-physician interaction is largely fleeting and transactional, mistrust in the healthcare provider and its gruesome implications are not difficult to anticipate.

Advantage of Small Clinics

Studies have demonstrated that healthcare received in small clinics indeed scores higher in terms of patient satisfaction than that received in larger institutions. This increased



satisfaction manifests as better compliance with the treatment regimen and regular follow-ups, culminating in improved clinical outcomes. Kelley JM et al, in a systematic review and meta-analysis of randomised controlled trials, have established that patient-clinician relationship has a statistically significant effect on healthcare outcomes. Indeed, disregard for this aspect in health services design is bound to entail a sizeable cost to the health system. However, the subtle, fuzzy, and perceived non-urgent nature of this problem keeps it from assuming significance to policy-makers — as a result of which doctor-patient relationship considerations are largely invisibilised in the policy discourse in favour of more pressing concerns like lack of funds and manpower. Time and again, however, this omission have surfaced in the performance of health systems worldwide. As India looks forward to a long-term healthcare plan, neglecting this consideration could be of sizeable consequence.

The Need for Empathy

A popular myth often floated is that considerations regarding emotive aspects of healthcare such as empathy and trust are disparate from, and thus cannot be realistically factored into, hard-headed health policy and system design considerations. But, in reality, these are entirely amenable to cultivation through careful, evidence-based manipulation of the health system design and its components. It would necessitate, among other measures, installing an inbuilt family physician 'gatekeeper' in the health services system who acts as the first port of call for every registered patient. The NITI Aayog's long-term plan provides a good opportunity to envisage such long-called-for reforms, but that would require not the U.S. model but the U.K. model to be kept at the forefront for emulation. We have already taken a minor, yet encouraging, step of sorts by introducing Attitude, Ethics, and Communication (AETCOM) in the revised undergraduate medical curriculum. One hopes that the pronouncement of this long-term healthcare plan doesn't indicate adoption of U.S.-like healthcare policies. The plan needs to be revisited to ensure that healthcare clinics delivering patient care don't transform into veritable supermarket stores marketing medical services any further.

Telco's Get Nod For 5G Trials

- In a relief for Chinese telecom equipment firm Huawei, the government has decided to allow all telecom operators and vendors to participate in the upcoming 5G trials. However, the approval for conducting trials does not automatically translate into a nod for participating in the commercial roll-out of 5G networks. While the Minister did not specify **Huawei**, an official source confirmed that the Chinese vendor will be allowed to participate in the trials. The source added that the spectrum would be given to telecom service providers who can then choose to partner with any vendor such as **Huawei, Nokia, Ericsson and Samsung**, for the trials. The source added that officials from Department of Telecom would hold a meeting with industry stakeholders to discuss details regarding the trials. The long-pending decision comes amid ongoing trade tensions between the U.S. and China. **The U.S., which has banned Huawei citing 'considerable' security risk**, has been urging allies to not allow the use of Huawei's network equipment.



How Dividends Impact NAVs

→ What Does Dividend in A Mutual Fund Scheme Mean?

As part of their portfolios, mutual fund schemes hold securities. These securities are churned based on various parameters such as price and fundamentals, among others. When a scheme makes a profit through these transactions, the fund manager, at times, doles out dividends to the unit holders. A scheme could register gains also on account of dividends announced by the companies whose shares are held under the scheme. Even bond schemes can pay dividends as the debt papers in which the scheme invests pay interest.

How Does Dividend Impact the Net Asset Value (NAV)?

The NAV is the price of each unit of a mutual fund scheme. It reflects the total value of the underlying securities. If such securities are sold in order to book profit and distribute dividend to the unit holders, then the NAV would be proportionately affected. Hence, after every dividend announcement, there is a fall in the NAV to reflect the pay-outs.

Do All Schemes Give Dividend?

Not necessarily. Dividend pay-outs depend on the scheme's performance. During a downturn in the market, schemes might not announce a dividend. Also, one can keep in mind that most equity schemes have two options — dividend and growth. Under the dividend option, investors get pay-outs whenever a dividend is announced. In a growth option, the dividend is reinvested in the scheme and the unit holder gets additional units in lieu of the dividend. So, while the NAV might still take a hit, the unit holder will have more units.

Does Low NAV Mean Poor Performance?

Again, not necessarily. NAV is based on many factors, including the total AUM of the scheme. A fund manager may decide to do regular dividend pay-outs that would bring down the NAV even though the scheme may be faring pretty well. One should look at the track record of the fund rather than just the NAV before investing in a scheme. Also, a lower NAV means an investor will get more units compared to a scheme that has a higher NAV. Interestingly, the dividend is based on the face value of the units and not on the NAV and hence, more the number of units, more would be the absolute dividend received.

Life & Science

What Is Goldilocks Zone?

- NASA reported the discovery of an **Earth-size planet, named TOI 700 d**, orbiting its star in the "habitable zone". A habitable zone, also called the "**Goldilocks zone**", is the area around a star where it is **not too hot and not too cold for liquid water** to exist on the surface of surrounding planets. Obviously, our Earth is in the Sun's Goldilocks zone. If Earth were where the dwarf planet Pluto is, all its water would freeze; on the other hand, if Earth were where Mercury is, all its water would boil off. **Life on Earth started in water, and water is a necessary ingredient for life as we know it**. So, when scientists search for the possibility of alien life, any rocky exoplanet in the habitable zone of its star is an exciting find. The newest such planet



was found by NASA's **Transiting Exoplanet Survey Satellite (TESS) mission**, which it launched in 2018. Very few such Earth-size planets have been found so far, including some by **NASA's Kepler mission**, and this one is the **first such discovery by TESS**. The find was confirmed by the Spitzer Space Telescope, which sharpened the measurements that TESS had made, such as orbital period and size. **TOI 700 d measures 20% larger than Earth. It orbits its star once every 37 days and receives an amount of energy that is equivalent to 86% of the energy that the Sun provides to Earth.** The star, **TOI 700, is an "M dwarf"** located just over 100 light-years away in the southern constellation Dorado, is roughly **40% of our Sun's mass and size**, and has about half its surface temperature. Two other planets orbit the star — TOI 700 b, which is almost exactly Earth-size, probably rocky, and which completes an orbit every 10 days, and TOI 700 c, the middle planet, which is 2.6 times larger than Earth, is probably gas-dominated, and orbits every 16 days. **TOI 700 d is the outermost planet, and the only one in the star's habitable zone.** NASA said future missions may be able to identify whether the planets have atmospheres and, if so, even determine their compositions.

What is Extraocular Vision

- For the first time, researchers have shown that a species of **brittle stars**, which are relatives of starfish, **can see even though it does not have eyes**. The red brittle star (*Ophiocoma wendtii*), which lives in the coral reefs of the Caribbean Sea, becomes only the second creature, after a sea urchin species, known to have this ability (barring freak cases in other species). The ability to see without eyes is known as **extraocular vision**. Previous researchers have defined it as the ability to resolve scenes without discrete eyes. In 1966 Dr L Chertok of the Cochin Hospital wrote about the case of one Rosa Koulechova in Soviet Union who was able to "see" colours with her fingers. Chertok wrote that many thought the explanation for extraocular vision was to be found in the photo-sensitivity of the skin. **In sea urchins and brittle stars, researchers suspect that extraocular vision is facilitated by the photoreceptor cells found on their bodies.** Scientists from the University of Oxford, who have published their findings in Current Biology, placed brittle stars in a circular arena in the laboratory. **The brittle stars moved toward walls that were white with a black bar, suggestive of a daytime hiding place. When grey walls were included, they still moved towards the black stripe, which was centred on a white stripe.** The researchers suggest that a brittle star sees with the help of light-sensing cells that cover its entire body. These light-sensing cells give the brittle star visual stimuli, allowing it to recognise coarse structures such as rocks, the research suggests. Another peculiar feature of the red brittle star is its signature colour change. **While the creature is deep red during the day, it changes its colour to beige at night.** The researchers think that there may be a link between their extraocular vision and colour changing abilities since the responses they saw in the creatures tested during the day, disappeared in those that were tested at night. "It's a very exciting discovery. It had been suggested 30 years ago that changing colour might hold the key to light-sensitivity in *Ophiocoma*, so we're very happy to be able to fill in some of the gaps that remained and describe this new mechanism," Lauren Sumner-Rooney, a research fellow at Oxford University Museum of Natural History who studies unusual visual systems, said in a statement released by the university.

How Humans Affect Genetic Connectivity of Four Mammals

- Changing landscapes, habitat loss, fragmentation, and global climate change have been listed as the main reasons for biodiversity decline worldwide. Now, a new study from the



National Centre for Biological Sciences (NCBS), Bengaluru, has added to the growing knowledge that anthropogenic activities can impact genetic connectivity or the movement among habitat patches usually resulting in mating and genetic exchange. “In several mammalian carnivores, juveniles disperse away from their mother's territory to establish their own territory. Males are known to travel longer distances than females. Isolation of habitat patches (due to habitat destruction and fragmentation) can restrict animal movement among habitat patches and thus reduce genetic exchange and increase the probability of extinction. **Hence maintaining connectivity is critical to ensure long term persistence of a species,**” Prachi Thatte explains. Dr. Thatte is the first author of the paper published in Diversity and Distributions and now works with WWF-India on connectivity conservation. **Four wide-ranging mammals —Jungle cats, leopards, sloth bears, tigers —were investigated for the genetic differentiation in central India, which is a critical landscape for several species.** The DNA extracted from faecal samples were used for understanding genetic connectivity. The samples were collected from nine protected areas during the period 2012-2017. **The team looked at how land-use, human population density, nearby roads and traffic affected the genetic structure.** The paper notes that **tigers were impacted the most by high human footprint.** “Although known to travel long distances and move through agricultural fields to some extent, tigers in central India do not have equally high genetic exchange throughout the landscape. Some protected areas like Bandhavgarh tiger reserve seem to be getting relatively isolated (the 2014 tiger census report also shows the same),” explains Dr. Thatte. **Jungle cats were found to be the least impacted.** “That is likely because in central India, they occupy a variety of habitats including forests, scrublands, grasslands and even irrigated agricultural fields close to the forests,” she explains. Despite being the least impacted by human activity, the team encountered several jungle cat road-kills while carrying out fieldwork. She explains that with increasing infrastructure and traffic, systematically studying the impact of roads on smaller species like jungle cat and jackals and ensuring the presence of mitigation structures like underpasses and overpasses would be crucial to ensure that we don't fragment the currently well-connected populations. **India has also started paying attention to wildlife corridors and encouraging engineering reforms to promote wildlife movements.** Last year, the Ministry of Environment along with the Wildlife Institute of India released a document that lays out the regulatory requirements for developing roads, railways, powerlines while recognising the impacts on wildlife and people. NHA and all PWDs have been instructed to follow the guidelines.

Indian Cobra Genome Decoded

- An international team of researchers reported that they have sequenced the genome of the Indian cobra, in the process identifying the genes that define its venom. This, they hope, can provide a blueprint for developing more effective antivenom.

Are Existing Antivenoms Not Effective Enough?

Their efficacy varies, besides producing side effects. In India, the challenge has been producing antivenom for the species known collectively as the “big four” — the **Indian cobra (Naja naja)**, common **krait (Bungarus caeruleus)**, **Russell's viper (Daboia russelii)**, and saw-scaled viper (*Echis carinatus*). **A common antivenom is marketed for the treatment of bites from the “big four”,** but its effectiveness came under question in a study published last month (not connected to the one that sequenced the cobra genome). While the common antivenom worked as marketed against the saw-scaled viper and the common cobra, it fell



short against some neglected species and also against one of the “big four” — the common krait. Every year **accidental contact with snakes lead to**, approximately five million people worldwide are bitten by venomous snakes resulting in about 400,000 amputations and more than 100,000 deaths. Each year, about 46,000 people die and 140,000 people are disabled in India from snakebites by the ‘Big 4’ — the Indian cobra, the common krait, Russell’s viper, and the saw-scaled viper. “India is the snakebite capital of the world,”

So, There Are Two Different Studies?

This week’s paper is the first one to describe the cobra genome. It is a multinational study by 42 authors, including from India, and is published in Nature Genetics. It is led by Dr Sekar Seshagiri, president of the non-profit SciGenom Research Foundation based in Bengaluru. The other study, while unrelated, also deals with antivenom. Published in PLOS Neglected Tropical Diseases last month, it is led by Professor Kartik Sunagar of IISc Bengaluru; other authors include the herpetologist Romulus Whitaker.

Why Has Production of Effective Antivenom Been Challenging?

Venom is a complex mixture of an estimated 140-odd protein or peptides. Only some of these constituents are toxins that cause the physiological symptoms seen after snakebite. But antivenom available today does not target these toxins specifically. **Antivenom is currently produced by a century-old process — a small amount of venom is injected into a horse (or a sheep), which produces antibodies that are then collected and developed into antivenom. This is expensive, cumbersome and comes with complications. Some of the antibodies raised from the horse may be completely irrelevant. The horse also has a lot of antibodies floating in its blood that have nothing to do with the venom toxins. “One more problem with horse antibodies — our immune system recognises it as foreign and when antivenom is given our body mounts an antibody response... This leads to what is called *serum sickness*,”** lead author Seshagiri told The Indian Express. **“Also, next time if one is unlucky and has a snakebite incident (even if it is a different snake) and they are given a horse-derived antivenom, the body is going to have a severe allergic reaction.”**

How Does Decoding the Genome Help?

The authors found that 19 toxin genes are expressed exclusively in the venom gland and verified the presence of protein for 16 of these genes. **These are the only ones that should matter in snakebite treatment.** They stress the need to leverage this knowledge for creation of antivenom using synthetic human antibodies. “Targeting these 19 specific toxins using synthetic human antibodies should lead to a safe and effective antivenom for treating Indian cobra bites,” Seshagiri said. And the logical next step would be obtaining the genomes and the venom gland genes from the other three of the “big four” (as well as deadly African species), leading to a possible common antivenom against bites from all four.

Prof Sunagar and his colleagues reported last month that though bites from **60 of 270 species of Indian snakes are known to kill or maim**, anti-venom now available is only effective against the ‘Big 4.’ **“These 4 species are not found in north-eastern India** but the region reports a significant number of snake bites. That implies we need new kinds of anti-venom against species here. **The krait in Punjab produces a venom chemically different from the krait in South India,”** he explained to The Hindu. **The Sind krait from western India is over 40 times more potent than that of the Spectacled cobra, making it the most toxic Indian snake.**



Why This Winter Is Extra Cold

- Extreme cold temperatures, rainfall and intense fog in the months of December and January are not something new for north and northwest India. And yet, this December, north India is feeling the cold much more than earlier. How low have the temperatures been, and why?

What Is Usual, What Is Different

Every year, in the second half of December and the first half of January, temperatures routinely drop to 2-4°C at some point of the day in many places in north and northwest India. In December, the maximum daily temperature does not rise beyond 16-18°C in most of Punjab, Haryana, Himachal Pradesh and western Uttar Pradesh. In Delhi and northern Rajasthan, daily maximum temperatures are usually not over 20-22°C for most of December. This winter, in many parts of the region, maximum temperatures on some days have been nearly 10°C below normal. In Delhi, the average maximum temperature for December has been less than 20°C until December 27. This has happened only four times in the last 118 years, and the IMD has said this month would most likely become the second coldest December for Delhi since 1901. The maximum temperatures had averaged 17.3°C in December 1901. Delhi has clocked 14 consecutive “cold days” at a stretch between December 14 and 27. This is already the longest such spell for December since 1997. That December, consecutive “cold days” lasted for 13 days, out of a total of 17 such days during the month.

How Cold Is Cold

A **cold-day condition** is said to prevail when the maximum temperature during the day is at least **4.5°C below normal**. If the maximum temperature is at least **6.5°C below normal**, it is classified as a **severe cold day**. Cold-day conditions prevailed in the north since December 15, and intensified after December 21. The most **intense cold day** — when maximum temperatures fell **7° to over 12°C below normal** — was on December 25 over Punjab, Haryana, Chandigarh, Delhi, Uttar Pradesh, north Rajasthan and some isolated areas in Bihar and Madhya Pradesh.

Conditions ‘Not Unusual’

While the extreme cold in north India could point to some special causes, scientists say there is nothing unusual in the climatic conditions that influence temperatures in this region at this time of the year. The cold wave usually arrives from the west, through the **Western Disturbance wind system**. This system is also responsible for **causing rains in northern and north-western parts, after having picked up moisture on its way from the Mediterranean Sea**. The intensity of the cold also depends on the amount of snowfall that happens in Jammu and Kashmir, Ladakh, Himachal Pradesh and nearby areas. “All these factors have their annual variabilities. They combine in different ways to produce different kinds of winter conditions. If you look at the climatic conditions this year, no special set of circumstances is visible at the macro level that can be held responsible for causing extreme cold. That can imply that the extreme cold being witnessed is just one of the outlying cases of natural variability that we see from year to year,” said a former India Meteorological Department (IMD) scientist. A cold-wave condition now prevails in areas north of Jammu and Kashmir, in northern Afghanistan, Tajikistan, Uzbekistan, Turkmenistan and parts of northern Iran. In all these areas, average temperatures have been 1° to 5°C below normal for the last few days. This



could add to the chill bring brought about by the Western Disturbances. North-central China and Mongolia are also experiencing similar conditions.

Looking for Causes

CLIMATE CHANGE: The unusually cold December this year could just be another instance of **extreme climates becoming more and more frequent**, a result of climate change. Across the world, the frequency and intensity of **both heatwaves and cold waves have increased** in the last few years, and are predicted to increase further. The same is the case with extreme rainfall and drought. Just this year, India experienced an unusually wet August and September. The amount of rainfall that September produced was a once-in-a-century event. Scientists also agree that climate change was bringing in greater uncertainty in weather patterns, making them more difficult to predict.

WESTERN DISTURBANCES: Frequent western disturbances varying from moderate to intense have mainly contributed to the severe cold over all of north India this year. In addition, **the flow of north-westerly winds over northwest India, that too over much lower levels**, further fuelled the chill factor, making the days much colder than normal during December. This December also witnessed haze, fog and rainfall after the passing of each western disturbance, triggering cold weather conditions over north India.

LOW CLOUDS: This extended cold spell has been triggered due to low stratus clouds that are blanketed over a large geographical area — between Pakistan, cutting across India and running up to Bangladesh. Similarly, it is prevailing over a stretch of 500 km to 800 km north-south, affecting the entire north India. R K Jenamani, **senior scientist at IMD's National Weather Forecasting Centre (NWFC), New Delhi, said that formation of such clouds are unique over the Indo-Gangetic Plains (IGP) and that these clouds have been observed only since 1997.** "As these clouds are formed at a height of 300 metres to 400 metres from the surface, they largely block the day's sunlight, resulting in cold days," he said. "The average maximum temperatures for the month stand around 19.8 degrees (in Delhi, until December 27) and with cold days forecast till month end, December 2019 could be the second coldest after 1997. But the impact could be higher than that experienced in 1997," Jenamani said. In fact, cold conditions during the daytime can be more dangerous, said Anupam Kashyapi, head of the weather department at IMD, Pune.

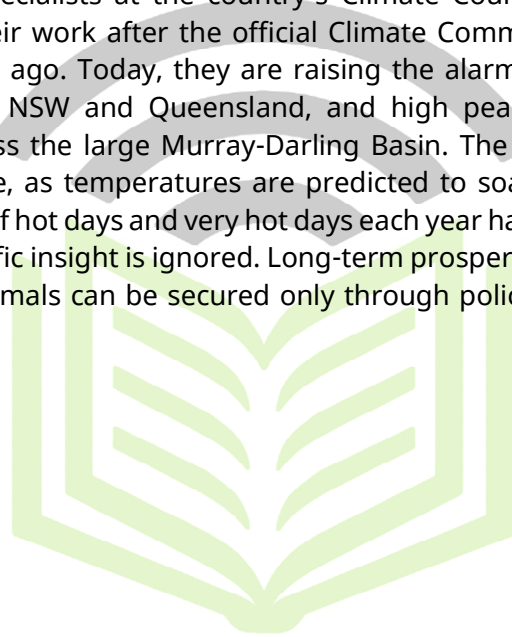
A Continent on Fire

- Australia's catastrophic fire season that began in August last year is unprecedented, and has caused large scale destruction, mainly in **New South Wales (NSW) and Queensland**. Fire is no stranger to the dry continent's woodlands, but the inferno this time has devastated over 10 million hectares of land, **killing at least 25 people and tens of millions of animals, besides forcing the evacuation of entire communities**. Shocking images of kangaroos burnt in their tracks as they tried to flee and koalas desperately escaping the fire are indelibly imprinted in the consciousness of people around the world. This is a moment of reckoning for Australia. The government of Prime Minister Scott Morrison, who has sought to downplay the impact of changing climate, is struggling to pacify angry citizens who are calling for a reconsideration of the country's relationship with fossil fuels. Warnings have been sounded by scientists that even with a global average temperature rise of 1°C, the raging fires have

Shatabdi Tower, Sakchi, Jamshedpur



engulfed an area the size of Switzerland. In a world set to warm at least half a degree more in coming decades, Australia's encounters with devastating fires could become more frequent, perhaps even once in eight years, making large parts of the continent uninhabitable. The current fire season presents cross-roads, and a wise choice would be to move to a greener future, one that strengthens an already diverse economy through innovation. As scientists have been pointing out for years, the **coal industry has a sway over politics in Australia that is disproportionate to its share of economic production**. This was evident when Mr. Morrison held up a big piece of the black rock in Parliament in a gesture to highlight its economic importance. The display may have reassured the mining industry, which has torpedoed a profits tax in the past, but it shocked researchers who worry about greenhouse gas emissions increasing in Australia, and in countries to which it exports the fuel. Credentialed specialists at the country's Climate Council have had to crowdsource funds to continue their work after the official Climate Commission was shut down by the government six years ago. Today, they are raising the alarm over the lowest ever rainfall recorded in parts of NSW and Queensland, and high peak temperatures, producing a tinderbox effect across the large Murray-Darling Basin. The situation is bound to worsen without policy change, as temperatures are predicted to soar to 50°C. Over the past half century, the number of hot days and very hot days each year have steadily increased. It would be tragic if this scientific insight is ignored. Long-term prosperity for Australians and a future for its charismatic animals can be secured only through policies that foster environmental protection.



DreamIAS