



CURRENT AFFAIRS FOR UPSC

29TH August TO 11th September 2021 (Part II)



DreamIAS



INTERNATIONAL

READING US SUPREME COURT'S REFUSAL TO BLOCK TEXAS ANTI-ABORTION LAW

The US Supreme Court on Wednesday refused to block a Texas anti-abortion law that bans termination of pregnancy after six weeks. The 5-4 majority decision of the Supreme Court has raised questions on the right to abortion and the conservative approach of the court.

What is the law that was challenged?

In May 2021, the Texas legislature enacted S. B. 8 (the Act). The Act, which took effect at midnight on September 1, makes it unlawful for physicians to perform abortions if they either detect cardiac activity in an embryo or fail to perform a test to detect such activity, even though this could be months before a viable fetus develops. Legal experts have noted that the wording is designed to make it very difficult to challenge the law in courts. Laws that outlaw an activity are enforced by the state. However, according to The New York Times, the Texas law gives rights to private citizens to "sue anyone who performs an abortion or 'aids and abets' a procedure. *Plaintiffs who have no connection to the patient or the clinic may sue and recover legal fees, as well as \$10,000 if they win*". So the question before the Supreme Court was whether the Texas law can be challenged in courts with the state of Texas as a defendant. On both moral and religious grounds, a strong anti-abortion movement is in place in the US. *In India, the Medical Termination of Pregnancy Act allows abortion up to 24 weeks of pregnancy.*

What has the court ruled?

In a 5-4 majority opinion, it has refused to block or grant a preliminary injunction against the law despite a constitutional right to abortion that the US Supreme Court had recognised in the 1973 verdict *Roe v Wade*. Chief Justice John G Roberts, Jr, and associate justices Stephen G Breyer, Sonia Sotomayor and Elena Kagan dissented. "Presented with an application to enjoin a flagrantly unconstitutional law engineered to prohibit women from exercising their constitutional rights and evade judicial scrutiny, a majority of Justices have opted to bury their heads in the sand. Last night, the Court silently acquiesced in a State's enactment of a law that flouts nearly 50 years of federal precedents. Today, the Court belatedly explains that it declined to grant relief because of procedural complexities of the State's own invention. Ante, at 1. Because the Court's failure to act rewards tactics designed to avoid judicial review and inflicts significant harm on the applicants and on women seeking abortions in Texas, I dissent," Associate Justice Sonia Sotomayor said in her dissent.

What questions does the latest ruling raise?

The obvious fallout is the enforcement of a regressive anti-abortion regime that would violate the rights of women. "Without full briefing or argument, and after less than 72 hours' thought, this Court greenlights the operation of Texas's patently unconstitutional law banning most abortions. The Court thus rewards Texas's scheme to insulate its law from judicial review by deputizing private parties to carry out unconstitutional restrictions on the State's behalf," Justice Elana Kagan noted in her dissenting opinion. Another question raised is about the US Supreme Court's practice



of handing out preliminary or summary rulings that could vastly affect civil liberties — a practice that is referred to as “shadow docketing.”

What is shadow docketing?

Unlike the Indian Supreme Court, the US Supreme Court hears only about 60-70 cases in a year which it carefully chooses. The cases chosen are put in the “merit docket”. For cases that do not make it to the docket, the court does not cite reasons or issue a signed reasoning. This practice is referred to as “shadow docketing”, which legal experts have noted is on the rise in recent years, with the justices handing down one- or two-sentence summary decisions late at night in controversial cases. In February this year, the House Judiciary Committee held a hearing on the shadow docket, inviting legal experts to explain the history of the practice, and looked into whether the Congress should be concerned about the practice.

20 YEARS ON, AN INCONCLUSIVE WAR ON TERROR

Instead of one centralised outfit like in 2001, the world now has many al-Qaedas

“Our war on terror begins with al-Qaeda, but it does not end there,” former U.S. President George W. Bush said days after the September 11, 2001 terrorist attacks. “It will not end until every terrorist group of global reach has been found, stopped and defeated,” he told the U.S. Congress. Afghanistan was the first outpost in what the Bush administration called a “global war on terror”. *The U.S. invaded Afghanistan to get rid of the Taliban regime, which refused to hand over 9/11 mastermind Osama bin Laden, and defeat al-Qaeda.* Twenty years later, the U.S. exited a Taliban-controlled Afghanistan with al-Qaeda networks spread across many countries.

War on al-Qaeda

When the 9/11 attack was planned and executed, al-Qaeda had a permanent base in the Taliban-ruled Afghanistan. The U.S. invasion toppled the Taliban regime and killed many al-Qaeda terrorists and disrupted their network in Afghanistan. It was the heaviest blow to al-Qaeda, which had carried out multiple bombings in the past targeting the U.S., including the Embassy bombings in Kenya and Tanzania in 1998 and the attack on USS Cole off Aden, Yemen, in 2000. But al-Qaeda would find an opportunity to regroup and rebuild its organisation in Iraq after the 2003 American invasion. Abu Musab al-Zarqawi, the Jordan-born al-Qaeda leader, established al-Qaeda in Iraq (AQI), capitalising on the chaos Iraq fell into after the invasion. Zarqawi also exploited the *resentment among Iraq’s Sunni community towards the political changes in Baghdad (Shias, the country’s oppressed majority under Saddam Hussein’s rule, rose to power after the invasion) and launched a sectarian civil war.* So within a few years of the U.S.’s Afghan invasion, al-Qaeda found a new haven in post-Saddam Iraq.

The rise of IS

Zarqawi was killed in 2006 and AQI suffered setbacks as Iraqi Sunnis, backed by U.S. forces and the central government, formed local militias to take on the terrorists. This calmed Iraq, but it did not last long. *When Arab regimes were rocked by protests in 2011, jihadists found a new opportunity amid the chaos that followed.* In Syria, regional rivals of President Bashar al-Assad and their allies, including the U.S., offered support to different rebel groups, pulling the country into a deadly civil



war. *Abu Bakr al-Baghdadi, who was the leader of the Islamic State of Iraq, the new avatar of AQI, sent a group of his militants under the command of Abu Mohammad al-Joulani across the border to Syria.* Joulani would set up a new al-Qaeda branch in Syria — *Jabhat al-Nusra* — which declared war on President Assad's government. Nusra's brutal tactics and Islamist vigour helped the group capture territories in the chaotic, multi-directional Syrian civil war. *An ambitious Baghdadi announced the Islamic State of Iraq and Syria (ISIS), involving his group in Iraq and al-Nusra in Syria.* Joulani, who was backed by the al-Qaeda core led by Ayman al-Zawahiri, bin Laden's successor, fell out with Baghdadi. But the faction of the Nusra that backed Baghdadi's call for an Islamic State joined his new outfit, which would emerge as the most ferocious jihadist group from the Syrian civil war, capturing territories from Syria's Raqqa to Iraq's Mosul and Falluja, practically erasing the border between the two countries. *For a few years, the IS would reign as the world's most dangerous terrorist outfit, but it would be defeated by concerted attempts by several players, including Kurdish and Shia militias and the U.S., Syria, Iraq, Iran and Russia.*

Metastasised threat

If al-Qaeda was concentrated in Afghanistan before September 11, they decentralised themselves and spread to different parts of the world during the course of the war on terror. The IS did the same when its 'Caliphate' came under attack in Iraq and Syria. *It opened new provinces in other war-torn countries such as Afghanistan, where the civil war was going on, and Libya,* which fell into chaos after the NATO invasion of 2011. *Boko Haram,* a jihadist group that came up in Nigeria, declared its loyalty to the IS, allowing the group to expand its operations in Africa. Baghdadi is dead, but the man he sent to Syria to open a local branch of al-Qaeda, Abu Mohammad al-Joulani, is now the de facto ruler of Idlib, the province that stays outside the control of Mr. Assad's government. Al-Qaeda has different operational branches now such as al-Qaeda of the Arabian Peninsula and al-Qaeda in the Islamic Maghreb. In Africa, both al-Qaeda and the Islamic State (IS Greater Sahara and IS West Africa Province) have set up units, which have carried out brutal attacks in recent years, especially in the Sahel region. In Somalia, *al-Shabab* still remains strong. When the U.S. withdrew from Afghanistan, its first outpost in the war on terror, after 20 years of fighting, the terror threat, as President Joe Biden said, has "metastasized across the world". Instead of one centralised outfit with a base, the world now has many al-Qaedas.

THE FALL OF AFGHANISTAN, THE FALLOUT IN WEST ASIA (TALMIZ AHMAD - THE FORMER INDIAN AMBASSADOR TO SAUDI ARABIA, OMAN AND THE UNITED ARAB EMIRATES, AND HOLDS THE RAM SATHE CHAIR FOR INTERNATIONAL STUDIES AT SYMBIOSIS INTERNATIONAL UNIVERSITY, PUNE)

On September 7, three weeks after they walked into Kabul without any resistance, the Taliban announced an interim Council of Ministers. This government-formation was tightly controlled by Pakistan: the head of its Inter-Services Intelligence (ISI), Lieutenant General Faiz Hameed, had made a high-profile descent on Kabul a few days earlier to signal the success of Pakistan's 20-year project to install the Taliban in power and, more immediately, to ensure that the incoming government would safeguard its interests.

The chord with Pakistan



Pakistan appears to have got its way. Afghanistan's acting Prime Minister is Mullah Hassan Akhund, close associate of former Taliban founder Mullah Omar. But this could be a short-term appointment as he has not shone in Taliban ranks either as warrior or administrator. Abdul Ghani Baradar is his deputy, but again, this could be a token position. Baradar had been arrested in 2010 by the Pakistanis for pursuing a dialogue with the Hamid Karzai government without Pakistani sanction and jailed for eight years. Pakistan's true protégés are Sirajuddin Haqqani, the acting interior minister, and Mohammed Yaqoob, the acting defence minister, a son of Mullah Omar, who is also close to Haqqani. Both have long-standing ties with Pakistan and should be the real wielders of power in Kabul.

The West Asian players

While Pakistan is playing the lead public role in Afghan affairs, the country's West Asian/Gulf neighbours will be a significant influence in shaping the future of that beleaguered country. *Saudi Arabia, Qatar and Iran have been direct role-players in Afghan affairs for over 25 years. In the 1990s, the first two were supporters and sources of funding for the Taliban, while Iran was an antagonist, backing the Northern Alliance against the emirate in Kandahar.* After the 9/11 attacks, all three countries became deeply involved with the Taliban. From 2005, the Gulf sheikhdoms have contributed millions of dollars to different Taliban leaders and factions. Iran began a substantial engagement with various Taliban leaders from 2007 and provided funding, weapons, training and refuge, when required. It wanted the Taliban to maintain pressure on the U.S. forces to ensure their speedy departure from the country. In the 2010s, *when the U.S. began to engage with Iran on the nuclear issue, Saudi Arabia became more directly involved in Afghan matters to prevent Iran's expanding influence among Taliban groups. Thus, besides Syria and Yemen, Iran and Saudi Arabia have also made Afghanistan an arena for their regional competitions.* In 2012, Qatar, on U.S. request, allowed the Taliban to open an office in Doha as a venue for their dialogue with the Americans. This has made Qatar an influential player in Afghan affairs, with deep personal ties with several leaders, many of whom keep their families in Doha.

Competitions for influence

The low-key reactions of the Gulf countries to recent developments in Kabul reflect the uncertainties relating to the Taliban in power, i.e., their ability to remain united, their policies relating to human rights, and, above all, whether the Taliban will again make their country a sanctuary for extremist groups. The country already has several thousand foreign fighters, whose ranks could swell with extremists coming in from Iraq and Syria, and threaten the security of all neighbouring states. *Three sets of regional players are active in Afghanistan today: one, the Pakistan-Saudi coalition, which has been the principal source of support for the Taliban-at-war. They would like to remain influential in the new order, but neither would like to see the Taliban revert to their practices of the 1990s that had justifiably appalled the global community. Two, Turkey and Qatar represent the region's Islamist coalition and, thus, share an ideological kinship with the Taliban. Both would like to see a moderate and inclusive administration, but Turkey is seen as a political and doctrinal antagonist by Saudi Arabia, while Qatar remains a rival for the kingdom as it backs political Islam and improved ties with Iran. The inter-play of these rivalries will resonate in Afghanistan. The third player is Iran: while many of its hardliners are overjoyed at the U.S. "defeat", more reflective observers recall the earlier Taliban emirate which was viscerally hostile to Shias and Iran. Iran also sees itself as the guardian of the Tajik, Uzbek and Hazara minorities in the country.*



This consideration, as also its *suspicious of Wahhabi influence* in the country, led its spokesman, on September 6, to *“strongly condemn” Pakistani participation in the Taliban attacks on the resistance fighters, largely Tajik and Uzbek, in the Panjshir valley.*

The outlook for security

Besides the challenges that individual countries are grappling with, in West Asia there is the larger issue of regional security after the U.S. withdrawal. The region now has two options: one, *an Israel-centric security order in which the Arab Gulf states would link themselves with Israel to confront Iran.* This is being actively promoted by Israeli hawks since it would tie Israel with neighbouring Arab states without having to concede anything to meet Palestinian aspirations. The weakness of this arrangement is that *while the regimes of some Gulf states could be attracted to it, their populations are likely to be opposed.* The proposal will also ensure that West Asia remains confrontational and unstable. *The other option is more ambitious: a comprehensive regional security arrangement. The facilitators and guarantors of this security arrangement are likely to be China and Russia: over the last few years, both have built close relations with the major states of the region. i.e., Iran, Saudi Arabia, Turkey, Afghanistan and Pakistan.* Recent developments suggest that this need not be a far-fetched proposition any more: one, in January, the *Gulf Cooperation Council (GCC) states led by Saudi Arabia lifted the over three year blockade of Qatar;* two, *since April, there have been three rounds of discussions between Iran and Saudi Arabia and plans are in place for the next meetings; and, three, Turkey has initiated diplomatic overtures towards Egypt and Saudi Arabia. None of these initiatives involves the Americans.* Other significant events have also taken place recently. On August 24, Saudi Arabia’s Deputy Minister of Defence, Khalid bin Salman, the younger brother of the Crown Prince, signed a military cooperation agreement with Russia, in Moscow. This is an obvious case of “strategic hedging” as the U.S. has placed restrictions on defence supplies to the kingdom. Besides this, there were the two conferences in Baghdad — one set up a coalition of Iraq, Jordan and Egypt for economic cooperation, while the other, on August 28, brought together the principal regional states to confront shared challenges — all these interactions have taken place without U.S. presence. These developments suggest that the germ of a new regional security order in West Asia is already sown in fertile ground.

IN NEW GOVT., TALIBAN OFFER OLD REGIME

The debate on whether the Taliban would form an “inclusive government” representing all sections of Afghan society was laid to rest by the Taliban themselves on September 7 when the group’s spokesman, Zabihullah Mujahid, announced the formation of the new administration of the ‘Islamic Emirate of Afghanistan’. *Of the 33 Cabinet Ministers named, 30 are Pashtun, two ethnic Tajiks, and one is Uzbek. The Taliban are predominantly Pashtun, who make up some 40% of Afghanistan’s ethnically diverse population of 40 million. Women and the Hazara Shia minority — both faced targeted harassment and discrimination when the Taliban were in power in the 1990s — were excluded completely. Seventeen Ministers are on the UN sanctions blacklist for terrorists, including the head of the government, Mullah Hassan Akhund, and Sirajuddin Haqqani, the head of the Haqqani Network. Mullah Hibatullah Akhundzada, the Taliban’s reclusive emir, will be the ‘Amir ul-Momineen’ (commander of the faithful), a title Mullah Omar had assumed in the 1990s.* With the Cabinet portfolios allocated to the Taliban’s core and the Haqqanis, and introducing a system that resembles the previous Islamic Emirate known for its disregard for basic human rights, the



Taliban have sent a clear message that they care little about what the world thinks about them. Today's Taliban appear to be stronger than their last avatar. *In the 1990s, only three countries recognised the Islamic Emirate; the Taliban also never controlled the whole of Afghanistan. But now, more regional powers are ready to engage with them, including China and Russia.* The group has also claimed total control over the country, with Panjshir, the last holdout, overrun earlier this week. With the new government, a stronger Taliban are trying to tighten their grip, though it may not be easy. *Ever since Afghanistan became a republic in 1973, no government in Kabul has managed to stabilise the country. The ethnic, religious and political contradictions are too deep to be glossed over by the Taliban's divisive Islamist Pashtun nationalism. In Panjshir, the rebels may have withdrawn to the mountains, like the Taliban did in 2001, but they could regroup and hit back like the Taliban did after 2005. The total exclusion of Shias and marginalisation of other ethnicities could blow back in the near term.* Afghanistan has also seen the emergence of a vibrant civil society, especially in its cities, which may not accept the Taliban's rule of the Mullahs quietly. Already, the crackdown on women's rights has sparked large-scale protests by women in Kabul and elsewhere, which was unimaginable in the 1990s. If the Taliban were wise, they would have focused on healing the wounds of the long war and rebuilding the ruptured state and society. But the Pashtun, Islamist, sectarian Taliban seem programmatically incapable of doing that.

Pak hand

Unveiling their interim government which had the Pakistani stamp all over, the Taliban Tuesday announced that Mullah Mohammad Hassan Akhund, the hardliner chief of the decision-making Rehbari Shura and the man who ordered the destruction of the Bamiyan Buddhas in 2001, will be the new Prime Minister of Afghanistan. Mullah Hassan edged out Mullah Abdul Ghani Baradar, head of the Taliban political office in Qatar capital Doha, for the top post, ending the race and the war within for power-sharing, *three days after Pakistan ISI chief Lt General Faiz Hameed reached Kabul to decide government formation.* Rawalpindi's imprint was visible as leaders of the Haqqani Network terror outfit and the Kandahar-based Taliban group dominated the new cabinet while the Doha-based Taliban group, which had been negotiating with the international community and had established contacts with New Delhi, appeared to have been sidelined.

From New Delhi's perspective, Sirajuddin Haqqani as the Interior Minister is a key signal that Pakistan's ISI has handpicked the cabinet. Haqqani, head of the Haqqani Network and son of the warlord Jalaluddin Haqqani, is responsible for the terror attack on the Indian Embassy in Kabul in 2008 and attacks against Indians and Indian interests in 2009 and 2010. As Interior Minister, Haqqani's mandate will include not just law and order, but also appointments of provincial governors. This will mean that he will have leverage and the ability to pack the country's provinces with his – and ISI's — handpicked men. The sense in South Block is that this will have deep strategic consequences for India, and the region. *A designated global terrorist, the US Department of State offered a reward of up to USD 5 million for information leading directly to the arrest of Sirajuddin Haqqani.* He is also wanted for questioning in connection with the January 2008 attack on a hotel in Kabul that killed six people, including an American citizen. *He is believed to have coordinated and participated in cross-border attacks against the US and coalition forces in Afghanistan.* He was allegedly involved in the planning of the assassination attempt on Afghanistan President Hamid Karzai in 2008, the FBI said on its website. *Mullah Mohammad Hassan, the new Prime Minister, is on the UN terror list.* He belongs to Kandahar, the birthplace of



the Taliban, and was among its founders. *He worked for 20 years as head of Rehbari Shura or leadership council and remained close to Mullah Haibatullah Akhundzada, the current supreme leader of the Taliban.* He had served as Foreign Minister and Deputy Prime Minister during the Taliban's first government in Afghanistan from 1996 to 2001. After Mullah Hassan, Mullah Baradar will be the first deputy PM (or head of government), and Abdul Salam Hanafi, an Uzbek, will be the second deputy PM. Mullah Baradar, a co-founder of the Taliban in 1994, was captured in a February 2010 Pakistani intelligence operation in Karachi after he was found to have opened a channel of communication with Karzai. He was released in 2018 at the behest of the US administration and became the face of the negotiations in Doha as head of the Taliban's political office in Qatar since 2019. He was also the first Taliban leader to directly communicate with a US President when he had a telephonic conversation with Donald Trump in March 2020. Having signed the Doha agreement on Taliban's behalf, he was expected to become the next political leader of Afghanistan, but Pakistan's ISI, which doesn't completely trust him, scuttled his chances. Mullah Yaqoob, son of Taliban founder Mullah Mohammad Omar, has been named Defence Minister.

Most of the Ministers are Pashtun, which is the largest ethnic group in Afghanistan. Unsurprisingly, there is no woman in the government. *Afghanistan's Shia minority, who make up roughly 10% of the population, has also found no representative in the interim government. In the 1990s, the Shia Hazara minority, who are largely concentrated in Mazar-i Sharif in northwest Afghanistan, faced systemic persecution under the Taliban regime. Iran, a Shia theocracy that had established contacts with the Sunni extremist Taliban years ago, had reportedly put pressure on Afghanistan's new rulers to include Hazara Shias in the government. But the Taliban did not relent.*

Crackdown on women

Two days before the government announcement, the Taliban's Education Ministry had issued an extensive document, *issuing instructions to educational institutions and the women who were going to colleges and universities. All female students, teachers and staff must wear an abaya robe and niqab covering the hair, body and most of the face as well as gloves to ensure hands are covered, stated the document, signalling how the regime would treat women. It also ordered classes to be segregated by gender or divided by a curtain.* Protests broke out in parts of Afghanistan, including in Kabul, where women staged rallies demanding freedoms. On Tuesday, the crowds were dispersed by the Taliban using force, which was followed by Zabihullah Mujahid's night-time press conference in which he announced the government formation.

Islamic system

In September 1996, after capturing Kabul, Mullah Omar said the Taliban would establish "a pure Islamic system" in Afghanistan. On September 7, 2021, after the interim government was announced, Hibatullah Akhundzada, Taliban's Emir who will be the supreme leader of the new Afghanistan, issued a statement saying: "Our previous 20 years of struggle and Jihad had had two major goals. Firstly to end foreign occupation and aggression and to liberate the country, and secondly to establish a complete, independent, stable and central Islamic system in the country." He added: "Based on this principle, in the future, all matters of governance and life in Afghanistan will be regulated by the laws of the Holy Shariah."



DURAND LINE: FRICTION POINT BETWEEN AFGHANISTAN, PAKISTAN

Earlier this week, Taliban spokesman Zabiullah Mujahid told a Pashto channel in Pakistan that Afghans oppose the fence erected by Pakistan along the Durand Line. “The new Afghan government will announce its position on this issue. The fencing has separated people and divided families. We want to create a secure and peaceful environment on the border so there is no need to create barriers,” Mujahid said. *The issue has sowed distrust between Afghans and Pakistan for decades, and is a potential flashpoint in relations between the Taliban and Pakistan.*

Line dividing Pashtun

The Durand Line is a legacy of the 19th century Great Game between the Russian and British empires in which Afghanistan was used as a buffer by the British against a feared Russian expansionism to its east. The agreement demarcating what became known as the Durand Line was signed on November 12, 1893 between the British civil servant Sir Henry Mortimer Durand and Amir Abdur Rahman, then the Afghan ruler. Abdur Rahman became king in 1880, two years after the end of the Second Afghan War in which the British took control of several areas that were part of the Afghan kingdom. He was essentially a British puppet. His agreement with Durand demarcated the limits of his and British India’s “spheres of influence” on the Afghan “frontier” with India. The seven-clause agreement recognised a 2,670-km line which, according to Rajiv Dogra, author of Durand’s Curse: A Line Across the Pathan Heart, Durand drew on the spot on a small map of Afghanistan during his negotiations with the Amir. The line stretches from the border with China to Afghanistan’s border with Iran. Clause 4 said the “frontier line” would be laid down in detail and demarcated by British and Afghan commissioners “whose object will be to arrive by mutual understanding at a boundary which shall adhere with the greatest possible exactness to the line shown in the map attached to this agreement, having due regard to the existing local rights of villages adjoining the frontier”. In reality, the line cut through Pashtun tribal areas, leaving villages, families, and land divided between the two “spheres of influence”. It has been described as a “line of hatred”, arbitrary, illogical, cruel and a trickery on the Pashtuns. Some historians believe it was a ploy to divide the Pashtuns so that the British could keep control over them easily. It also put on the British side the strategic Khyber Pass.

Cross-border tensions

With independence in 1947, Pakistan inherited the Durand Line, and with it also the Pashtun rejection of the line, and Afghanistan’s refusal to recognise it. *Afghanistan was the only country to vote against Pakistan joining the United Nations in 1947. ‘Pashtunistan’ — an independent country of the Pashtuns — was a demand made by Khan Abdul Ghaffar Khan at the time of Partition, although he later resigned himself to the reality of Partition. The proximity of the ‘Frontier Gandhi’ to India was a point of tension between the two countries almost immediately. The fear of Indian support to Pashtun nationalism haunts Pakistan to date, and is embedded in its Afghan policy. Pakistan’s creation and support for the Taliban is seen by some as a move to obliterate ethnic Pashtun nationalism with an Islamic identity.* But it did not work out the way Pakistan had planned. When the Taliban seized power in Kabul the first time, they rejected the Durand Line. They also strengthened Pashtun identity with an Islamic radicalism to produce the *Tehreek-e-Taliban Pakistan*, whose terrorist attacks since 2007 left the country shaken.



The fence

As cross-border tensions peaked in 2017 with several attacks on Pakistani border posts by militants that Pakistan accused Afghanistan of sheltering – while the Afghan government accused Pakistan of giving safe haven to Afghan Taliban and Haqqani Network – Pakistan began erecting a fence on the Durand Line. While it may have reduced the movement of militants from Afghanistan into Pakistan, it did little to stop the movement of Afghan Taliban across and back. Now mostly completed, *the fence has been a source of more tensions as Afghans, and Pashtuns on both sides of the border, see it as a move by Pakistan to formalise the boundary, making their division permanent.* This is the fence that Zabiullah Mujahid said was not acceptable to the Taliban. An Al Jazeera report said the \$500 m fencing is actually two sets of chain-link fences with a 6-ft gap, filled with concertina wire coils. It is 11.6 ft high on the Pakistani side, and 13 ft on the Afghan side. It is fitted with surveillance cameras and infrared detectors, and punctuated by 1,000 watchtowers. Cross-border movement will only be allowed through 16 formally designated points after the completion of the project. Pakistan believes that in the new situation in Afghanistan, the fence will help control any spillover from unrest and chaos there.

FIRST OUTREACH SIGNAL: UNSC DROPS TALIBAN REFERENCE IN LINE ON TERROR

Less than two weeks since the Taliban captured power in Afghanistan, the United Nations Security Council has dropped a reference to it from a paragraph in its statement that called on Afghan groups not to support terrorists “operating on the territory of any other country”. India, which is the President of the UNSC for the month of August, signed off on the statement and issued it in its capacity as the chair for this month. Essentially, this is the first signal by the international community that the Taliban may no longer be a global outcast. On August 16, a day after Taliban’s takeover of Kabul, the Permanent Representative of India at the UN, T S Tirumurti, issued a statement on behalf of the UNSC, which included this para: “The members of the Security Council reaffirmed the importance of combating terrorism in Afghanistan to ensure the territory of Afghanistan should not be used to threaten or attack any country, and that neither the Taliban nor any other Afghan group or individual should support terrorists operating on the territory of any other country.” On August 27, a day after the Kabul airport bombings that killed more than 100 people including 12 US troops, Tirumurti — again as President of UNSC, and on behalf of the Council — issued a statement that condemned the “deplorable attacks”. However, the August 16 para was reproduced in this statement with one telling change: “The members of the Security Council reiterated the importance of combating terrorism in Afghanistan to ensure the territory of Afghanistan should not be used to threaten or attack any country, and that no Afghan group or individual should support terrorists operating on the territory of any country.” The reference to the Taliban was omitted indicating that the Taliban was perhaps being seen as a state actor by the UNSC members, including India. Former India’s Permanent Representative to India at the UN, Syed Akbaruddin, who pointed this out on Twitter, said, “In diplomacy...a fortnight is a long time...The “T” word is gone.” Officials said that the decision to sign off on the statement has been taken in view of changing “ground realities”. The Taliban has been responsible for much of the evacuation of foreigners and Afghans-at-risk. While the US says it has evacuated more than 1 lakh people since August 15, the entire Indian Embassy was evacuated on August 17 — a day after the first UNSC statement was issued. According to data shared by the government, 565 people have been evacuated so far: 175 Embassy personnel, 263 other Indian nationals, 112 Afghan nationals



including Hindus and Sikhs, and 15 third-country nationals. This, officials here believe, along with the safe passage to those being airlifted would not have been possible had the Taliban not cooperated. Officials said that while India hasn't engaged with the Taliban in the manner as other UNSC members have, signing off on this statement is a signal that opens up the possibility to engage with the hardline group. The August 27 statement had strong words on terror but did not hold the Taliban accountable. "The attacks, which were claimed by Islamic State in Khorasan Province (ISKP), an entity affiliated with Islamic State in Iraq and the Levant (ISIL/Da'esh), resulted in the death and injuries of dozens of civilians, including children, and military personnel," the statement said. It added: "The members of the Security Council reaffirmed that terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security. Deliberately targeting civilians and personnel assisting in the evacuation of civilians is especially abhorrent and must be condemned." Sources said the statement puts India's concerns on terrorism on the frontburner: "The members of the Security Council underlined the need to hold perpetrators, organizers, financiers and sponsors of these reprehensible acts of terrorism accountable and bring them to justice. They urged all States, in accordance with their obligations under international law and relevant Security Council resolutions, to cooperate actively with all relevant authorities in this regard."

BRICS SEEKS 'INCLUSIVE' INTRA-AFGHAN DIALOGUE

The 13th BRICS summit held virtually on Thursday called for an "inclusive intra-Afghan dialogue" for stability in Afghanistan. The virtual summit, chaired by Prime Minister Narendra Modi, was dominated by the developments in Afghanistan, and adopted the BRICS Counter Terrorism Action Plan. "We have also adopted the BRICS Counter Terrorism Action Plan. With the agreement on Remote Sensing Satellite Constellation between our space agencies, a new chapter of cooperation has begun," Mr. Modi said, highlighting the key items on the agenda of the summit.

'Use peaceful means'

The discussion on Afghanistan at the event attended by the leaders of India, Russia, China, Brazil and South Africa was held against the backdrop of the Taliban announcing an interim government in Kabul. *The BRICS leaders called for "settling the situation by peaceful means", and condemned the terrorist attacks at the Hamid Karzai International Airport which killed at least 100 persons, including several U.S. military personnel.* "We stress the need to contribute to fostering an inclusive intra-Afghan dialogue so as to ensure stability, civil peace, law and order in the country. We underscore the priority of fighting terrorism, including preventing attempts by terrorist organisations to use Afghan territory as terrorist sanctuary and to carry out attacks against other countries," declared a joint statement issued at the end of the summit. The document, titled the New Delhi Declaration, also called for addressing the humanitarian situation in Afghanistan, and urged the need to uphold rights of women, children and minorities. The meeting gave an opportunity to the BRICS countries to discuss the situation in Afghanistan especially as two of the five members — Russia and China — continue to have a diplomatic presence in Kabul where an interim Taliban government is expected to take formal charge in few days. *BRICS countries are evidently divided on engagement with the Taliban with Russia and China adopting a proactive policy on the issue.* A Russian media report said the Taliban has *invited Turkey, Qatar, China and Iran* for the swearing-in ceremony. China on Thursday extended an emergency aid of \$31 million to



Afghanistan to help the Taliban run the government. The summit emphasised the importance of the principle of “non-interference” in international affairs and said disputes and conflicts should be resolved by peaceful means. Explaining India’s concerns, Secretary of the Ministry of External Affairs Sanjay Bhattacharya said, “There is a very strong consensus. Afghanistan should not become a reason for problems in the neighbourhood.” The summit meeting was also addressed by South African President Cyril Ramaphosa, Chinese President Xi Jinping, Brazil’s President Jair Bolsonaro, and President Vladimir Putin of Russia, who remarked that Afghanistan has a new crisis.

Apart from Afghanistan, the BRICS leaders also took up the conflicts in Myanmar, Syria, the tension in the Korean peninsula, Israel-Palestine violence and other territorial disputes. “We underscore the inadmissibility of the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes and principles of the United Nations,” stated the New Delhi Declaration. The summit also discussed the COVID-19 pandemic and the strategy to strengthen counter-pandemic cooperation and multilateral reform.

EL SALVADOR’S WORLD-FIRST ADOPTION OF BITCOIN HITS SNAGS

El Salvador on Tuesday became the first country to adopt bitcoin as legal tender, although it suffered teething problems when the government had to unplug a digital wallet to cope with demand. President Nayib Bukele, who pushed for adoption of the cryptocurrency, called for help from users who had already downloaded the government-backed app, to test if it was now working properly. “Could you please try to register and post in the comments if there are any errors or if the whole process works fine?” the president wrote on Twitter. *Bukele said using bitcoin will help Salvadorans save \$400 million a year on commissions for remittances, while giving access to financial services to those with no bank account.* However, *the poorest may struggle to access the technology needed to make bitcoin work in El Salvador, where nearly half the population has no internet and many more only have sporadic access.* Others say the move may fuel money laundering and financial instability. It has already muddied the outlook for more than \$1 billion in financing that El Salvador is seeking from the International Monetary Fund (IMF). Earlier on Tuesday, *Salvadorans trying to download the Chivo digital wallet, which the government has promoted, promising \$30 of bitcoin for each user,* found it was unavailable on popular app stores. Then Bukele tweeted that the government had temporarily unplugged it, in order to connect more servers to deal with demand.

BRAZIL’S PRESIDENT BANS SOCIAL NETWORKS FROM REMOVING SOME POSTS

President Jair Bolsonaro of Brazil is temporarily banning social media companies from removing certain content, including his claims that the only way he’ll lose next year’s elections is if the vote is rigged — one of the most significant steps by a democratically elected leader to control what can be said on the internet. The new social media rules, issued this week and effective immediately, appear to be the *first time a national government has stopped internet companies from taking down content that violates their rules,* according to internet law experts and officials at tech companies. And they come at a precarious moment for Brazil. *Mr. Bolsonaro has used social media as a megaphone to build his political movement and make it to the president’s office. Now, with polls*



showing he would lose the presidential elections if they were held today, he is using sites like Facebook, Twitter and YouTube to try to undermine the legitimacy of the vote, following the playbook of his close ally, former President Donald J. Trump. On Tuesday, Mr. Bolsonaro repeated his claims about the election to thousands of supporters in two cities as part of nationwide demonstrations on Brazil's Independence Day. *Under the new policy, tech companies can remove posts only if they involve certain topics outlined in the measure, such as nudity, drugs and violence, or if they encourage crime or violate copyrights; to take down others, they must get a court order. That suggests that, in Brazil, tech companies could easily remove a nude photo, but not lies about the coronavirus.*

STRUGGLING JAPAN PM SUGA STEPS DOWN, SETTING STAGE FOR NEW LEADER

Japanese Prime Minister Yoshihide Suga said in a surprise move on Friday he would step down, setting the stage for a new premier after a one-year tenure marred by an unpopular COVID-19 response and sinking public support. Suga, who took over after Shinzo Abe resigned last September citing ill health, has seen his approval ratings drop below 30% as the nation struggles with its worst wave of COVID-19 infections ahead of a general election this year. Suga did not capitalise on his last major achievement - hosting the Olympics, which were postponed months before he took office as coronavirus cases surged. His decision not to seek reelection as ruling Liberal Democratic Party (LDP) president this month means the party will choose a new leader, who will become prime minister. There is no clear frontrunner, but the popular minister in charge of Japan's vaccination rollout, Taro Kono, intends to run, broadcaster TBS said on Friday without citing sources. Former foreign minister Fumio Kishida has already thrown his hat in the ring. Before Abe's record eight-year tenure, the country had gone through six prime ministers in as many years, including Abe's own troubled first one-year term. Tokyo stocks jumped on news of Suga's decision, with the benchmark Nikkei rising 2% and the broader Topix hitting its highest levels since 1991. He said he would hold a news conference as early as next week. Suga's abrupt resignation ended a rollercoaster week in which Suga pulled out all the stops to save his job, including suggestions he would sack his long-term party ally, as well as plans to dissolve parliament and reshuffle party executive and his cabinet.

WHAT IS THE 'FOOD EMERGENCY' IN SRI LANKA?

On August 30, 2021, Sri Lankan President Gotabaya Rajapaksa, using powers vested in the country's Public Security Ordinance, declared Emergency regulations pertaining to the distribution of essential food items. The regulations sought to empower authorities to provide essential food items at a "concessionary rate" to the public by purchasing stocks of essential food items, including paddy, rice and sugar, at government-guaranteed prices, and prevent market irregularities and hoarding. President Rajapaksa has appointed Major General N.D.S.P. Niwunhella as the Commissioner General of Essential Services. In the week since the regulations were promulgated, several questions have risen on their legal ambit, and their likely impact on the country's larger economic crisis persisting for two years now.

Is there a precedent?



According to Austin Fernando, a retired civil servant who served as Commissioner General of Essential Services in the 1980s, the post came into prominence after the 1983 'Black July' riots to ensure that affected families — Tamils who were targeted and attacked — had food supplies and other essentials; to facilitate their movement and return to their homes. "I held the post from 1986 to 1988 and was also tasked to look after the requirements of thousands of displaced in the North and East affected by the conflict," he told The Hindu.

What is the criticism?

Criticism of the Emergency regulations has largely been over the government's legal choices, and their political implications. In a commentary on the regulations published in Sri Lankan media, senior constitutional lawyer, and former parliamentarian Jayampathy Wickramaratne argued that the government — with a comfortable parliamentary majority — "had all the time in the world" to bring in any legislation needed to deal with the crisis but opted not to do so. "The danger is that given the present government's propensity to stifle dissent, emergency regulations would be used to curb protests and other democratic action", he wrote in The Island newspaper.

Is there a food shortage?

There is fear of one. The possibility has grabbed international headlines, with the government's drastic measures against hoarding, triggering speculation over food security in Sri Lanka that is home to 21 million people. *Fuelling the speculation are different factors, including the country's known reliance on imports for essentials — such as petroleum, sugar, dairy products, wheat, medical supplies — its fast-dwindling foreign reserves, from \$7.5 billion in November 2019 to \$2.8 billion in July 2021, and the daunting foreign debt repayment schedule in the coming years. The pandemic's lethal blow since early 2020, to all major sources of foreign exchange earnings — exports, worker remittances and tourism — has further compounded the economic stress.* Sri Lanka's economy contracted by 3.6 % last year. According to the Central Bank of Sri Lanka, the Sri Lankan rupee depreciated by 10.1% against the dollar this year. It hovered around 200 against a dollar last week. *The fear of a possible food shortage also stems from the Rajapaksa administration's decision in April to ban import of chemical fertilizers and adopting an "organic only" approach.* Meanwhile, many, especially daily-wage earners, and low-income families, are complaining about being unable to afford, and in many cases access, essentials such as milk, sugar, and rice during the current lockdown, imposed on August 20 following a rapid surge in daily Covid-19 cases and fatalities, and extended twice since. Prices of essential commodities — including rice, dhal, bread, sugar, vegetables, fish — have risen several times during the pandemic, and more rapidly in recent weeks.

What's govt.'s response?

The government has denied reports of a food shortage. In a statement responding to international media reports, the Department of Government Information accused traders of creating an "artificial shortage". With the recent Emergency regulations, the government has "dealt with the situation," it said.



NATION

HOW SUPREME COURT JUDGES ARE APPOINTED

Nine judges of the Supreme Court took oath on Tuesday, the biggest ever number at one go. A third of the new judges are women, another first, even though the 33-strong Bench still has only four women. How are Supreme Court judges appointed?

Who appoints Supreme Court judges?

Articles 124(2) and 217 of the Constitution governs the appointment of judges to the Supreme Court and High Courts respectively. Under both provisions, the President has the power to make the appointments “after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary”. Over the years, the word “consultation” has been at the centre of debate on the executive’s power to appoint judges. In practice, the executive held this power since Independence, and a convention of seniority was evolved for appointing the Chief Justice of India. This changed, however, in the ‘80s in a series of Supreme Court cases, in which the judiciary essentially impounded the power of appointment to itself.

What were these cases?

The tussle between the executive and the judiciary over judges’ appointment began following the Indira Gandhi-led government’s move in 1973 to supersede three senior judges and appoint Justice A N Ray as the CJI. In three cases — which came to be known as the Judges Cases — in 1981, 1993 and 1998, the Supreme Court evolved the collegium system for appointing judges. A group of senior Supreme Court judges headed by the CJI would make recommendations to the President on who should be appointed. These rulings not only shrank the executive say in proposing a candidate for judgeship, but also took away the executive’s veto power. In the First Judges Case — S P Gupta v Union of India (1981) — the Supreme Court ruled that the President does not require the “concurrence” of the CJI in appointment of judges. The ruling affirmed the pre-eminence of the executive in making appointments, but was overturned 12 years later in the Second Judges Case. In the Supreme Court Advocates-on-Record Association v Union of India (1993), a nine-judge Constitution Bench evolved the ‘collegium system’ for appointment and transfer of judges in the higher judiciary. The court underlined that the deviation from the text of the Constitution was to guard the independence of the judiciary from the executive and protect its integrity. In 1998, President K R Narayanan issued a Presidential Reference to the Supreme Court over the meaning of the term “consultation” — whether it required “consultation” with a number of judges in forming the CJI’s opinion, or whether the CJI’s sole opinion could by itself constitute a “consultation”. The ruling on this established a quorum and majority vote in the collegium to make recommendations to the President. In 2014, the NDA government attempted to claw back control on judicial appointments by establishing the National Judicial Appointments Commission through constitutional amendments. Although the law, which gave the executive a greater foot in the door in appointments, had support across political parties, the Supreme Court struck it down as unconstitutional.

How many judges does the Supreme Court have? How is the number decided?



Currently, the Supreme Court has 34 judges including the CJI. In 1950, when it was established, it had 8 judges including the CJI. Parliament, which has the power to increase the number of judges, has gradually done so by amending the Supreme Court (Number of Judges) Act — from 8 in 1950 to 11 in 1956, 14 in 1960, 18 in 1978, 26 in 1986, 31 in 2009, and 34 in 2019. Even with Tuesday's record nine appointments, the court continues to have one vacancy, and eight more judges are due to retire next year.

How did this backlog accumulate?

In 2019, the Supreme Court was functioning at its full strength of 34. When CJI S A Bobde took over, he inherited just one vacancy, that of his predecessor Ranjan Gogoi. However, the collegium headed by CJI Bobde could not reach a consensus in recommending names, leading to an impasse that led to accumulation of vacancies, of which now only one remains (until the retirements next year). The High Courts on average have over a 30% vacancy. The age of retirement is 65 years for SC judges and 62 for HC judges — unlike in, say, the United States where Supreme Court judges serve for life. Thus means that in India, the process of appointing judges is a continuous one and the collegium system is multi-step process with little accountability on even the timelines that the judiciary has set for itself. For High Court appointments, the process is initiated by the HC collegium and the file then moves to the state government, the central government and then to the SC collegium after intelligence reports are gathered on the candidates recommended. This process often takes over a year. Once the SC collegium clears the names, a delay also happens at the government level for final approval and appointment. If the government wants the collegium to reconsider a recommendation, the file is sent back and the collegium can reiterate or withdraw its decision.

Has the number of women judges always been low?

Lack of representation in terms of caste and gender has been an issue in the higher judiciary. Before Tuesday's appointments, Justice Indira Banerjee was the only woman judge in the Supreme Court. Justice B V Nagarathna is in line to become India's first woman CJI — 80 years after Independence. In 1989, justice Fathima Beevi became the first judge to be appointed to the Supreme Court. Since then, however, the SC has had only 11 women judges, including the three women appointed recently. A 2018 study by Vidhi Centre for Legal Policy noted that while representation of women in the lower judiciary is higher at 27%, they hit a glass ceiling in higher appointments — as district judges and subsequently at the high court level.

FACEOFF: CENTRE OBJECTED BUT SUPREME COURT COLLEGIUM FIRM ON 12 NAMES FOR HCS

*Setting the stage for a fresh confrontation with the Government, the Supreme Court Collegium has reiterated its decision recommending the appointment of 12 candidates, including three judicial officers, to five High Courts. The 12 names were reiterated despite objections from the government as the Supreme Court Collegium, headed by Chief Justice of India NV Ramana, recommended 68 candidates in total across 12 High Courts last week. The Collegium's recommendations were published on the Supreme Court website Friday. According to the **Memorandum of Procedure**, once reiterated by the Collegium, the Centre is bound to make the appointment which makes the*



reiteration of 12 recommendations significant. The Centre can sit on these names indefinitely despite the court having underlined the importance of time limits to this process.

FEW WOMEN MAKE IT TO THE TOP

Chief Justice of India (CJI) N.V. Ramana on Saturday lamented that “very few women find representation at the top” and admitted that even a “mere” 11% representation of women on the Bench of the Supreme Court was achieved with “great difficulty”. Ideally, women should have got at least 50% representation at all levels after 75 years of Independence, he said. The CJI’s remarks come within days of the Supreme Court Collegium led by him scripting history by successfully recommending three women judges to the court in one go. The court has four women judges now, the highest ever. “After 75 years of Independence, one would expect at least 50% representation for women at all levels, but I must admit, with great difficulty, we have now achieved a mere 11% representation of women on the Bench of the Supreme Court,” he stated at an event organised by the Bar Council of India to felicitate him.

BEYOND THE GLASS CEILING

Justice Ruth Bader Ginsburg was once asked how many of the nine judges of the U.S. Supreme Court should be women. “Nine,” she said. *She believed that if nine men could adorn the Bench of the Supreme Court, nine women would do equally well. If 48 men can be Chief Justices of India, Justice B.V. Nagarathna, scheduled to be sworn in as a Supreme Court judge and poised to be Chief Justice of India in 2027, will historically interrupt the unbroken line of male Chief Justices.* As Chief Justice, Justice Nagarathna, if appointments follow the seniority norm, may have a tenure of little over a month. Her ascendancy cannot be cynically viewed as a token gesture to hush the gender talk linked to the highest judicial office. It has to be seen as a signal fire lit from the court’s watchtower for women to aspire for the pinnacle. The entry of Justice Nagarathna, a vocal champion of women’s rights, into the Supreme Court coincides with the rise in crimes against women. In her farewell speech at the Karnataka High Court, Justice Nagarathna urged women to have faith in themselves and stride ahead. The Bar knows her as a tough judge. In 2009, shortly after being unlawfully detained by agitating lawyers, she retorted with a public statement, “we cannot be cowed down like this. We have taken the oath of the Constitution”. That day, she was hailed as the spokesperson for an independent and strong judiciary. Rather than live and practise as a lawyer out of the government accommodation of her father, former Chief Justice of India E.S. Venkataramiah, she chose to leave Delhi for Bengaluru. After three decades, Justice Nagarathna returns to the Capital where she had read Law at the Campus Law Center. Born in 1962, Justice Nagarathna started practice in 1987. She was elevated as judge in 2008. Her legal practice covered a wide variety of law from arbitration to land acquisition, constitutional law, family cases and commercial disputes, among others.

HC UPHOLDS WOMAN’S RIGHT TO LIVE WITH PARTNER

The Aurangabad bench of the Bombay High Court recently directed the Commissioner of Aurangabad to safeguard and protect a girl until she was able to join her transgender partner. A Division Bench of Justices Sunil Deshmukh and Nitin Suryawanshi was hearing a criminal petition filed through advocate Sutej Jadhav on behalf of a 29-year-old transgender who has chosen male

3RD FLOOR AND 4TH FLOOR SHATABDI TOWER, SAKCHI, JAMSHEDPUR



as his gender. He is from Rajasthan, works in the hospitality sector in Goa and is currently staying in a shelter home for transgenders in Mumbai. He met a girl on social media in June 2019 and they had fallen in love. However, when lockdown after the onset of the pandemic, the girl moved to Osmanabad to be with her family.

Pressure to marry

As the girl was under pressure to get married, she contacted the person she loved and asked for his help to leave the house. They took a train to Allahabad, where she was pursuing her studies. She called her mother and told her she did not wish to return to Osmanabad, but her parents filed a missing person report with the local police and reached Allahabad the next day. She was then taken back home. According to the girl, her parents subjected her to “mental torture” and made her undergo humiliating medical tests to “cure her sexual orientation”. She managed to leave with her boyfriend to live with his parents in Kota, Rajasthan, but the police traced her to her new location.

Legal battle

In June 2021, a lawyer in Kota filed an application before a Chief Judicial Magistrate to set the girl at liberty according to her wishes. However, she was directed to go to her parents’ home by the court. She filed an application before the District and Sessions Court in Kota. However, her parents took her back and have kept her in their custody against her wishes, she said. The High Court judges met the girl who said she did not want to go with her parents. The court then recorded, “The girl is a major and appears to be resolute and is at liberty to act as per her wish. However, considering the apprehension expressed by the girl, the Commissioner of Police, Aurangabad, is directed to safeguard and protect the girl up to the destination she wishes to go.”

MARITAL RAPE: AN INDIGNITY TO WOMEN

The High Court of Chhattisgarh recently decided a criminal revision petition challenging the charges framed against the applicant husband. Based on the allegations of his wife, charges were framed by a trial court under Section 376 (rape), Section 377 (carnal intercourse against the order of nature) and Section 498A (cruelty towards wife by husband or his relatives) of the Indian Penal Code (IPC). The High Court upheld charges under Sections 498A and 377 but discharged the husband under Section 376 on the ground that by virtue of Exception 2 to Section 375 (the definition of rape), sexual intercourse by a man with his own wife (provided she is over the age of 18) would not amount to the offence of rape. Since the High Court was bound by the law, which exempts husbands from being tried or punished for raping their wives by creating the legal fiction that all sex within marriage is consensual, no other conclusion was open to the Court. Notwithstanding this, the discrepancies and failings of Indian criminal law, highlighted by the judgment, deserve scrutiny.

Inconsistent provisions

First, the marital rape exception is inconsistent with other sexual offences, which make no such exemption for marriage. Thus, a husband may be tried for offences such as sexual harassment, molestation, voyeurism, and forcible disrobing in the same way as any other man. A husband



separated from his wife (though not divorced) may even be tried for rape (Section 376B). A husband may be charged and tried for non-consensual penetrative sexual interactions other than penile-vaginal penetration with his wife under Section 377 (prior to the decision of the Supreme Court in *Navtej Singh Johar v. Union of India*, 2018, consent or lack thereof was not relevant to Section 377, but it is now). As a result, penetrative intercourse that is penile-vaginal is protected from criminal prosecution when performed by a husband with his wife, even when done forcibly or without consent. If there is an underlying rationale to this extremely limited exemption, it is not immediately clear.

Patriarchal beliefs

Second, the marital rape exception is an insult to the constitutional goals of individual autonomy, dignity and of gender equality enshrined in fundamental rights such as Article 21 (the right to life) and Article 14 (the right to equality). *In Joseph Shine v. Union of India (2018), the Supreme Court held that the offence of adultery was unconstitutional because it was founded on the principle that a woman is her husband's property after marriage. The marital rape exception betrays a similar patriarchal belief: that upon marriage, a wife's right to personal and sexual autonomy, bodily integrity and human dignity are surrendered.* Her husband is her sexual master and his right to rape her is legally protected. *A commonly cited rationale for preserving the marital rape exemption is that recognising marital rape as a criminal offence would 'destroy the institution of marriage'.* This was the government's defence in *Independent Thought v. Union of India (2017)*. Rejecting this claim, the Supreme Court astutely observed, "Marriage is not institutional but personal – nothing can destroy the 'institution' of marriage except a statute that makes marriage illegal and punishable." *If it is true, however, that criminalising marital rape will destroy the institution of marriage, what does that tell us about this so-called institution? If its very existence depends on husbands' right to rape their wives, and on the legally sanctioned violation of wives' sexual autonomy, is this institution worth saving?* Does this kind of marriage deserve to be the cornerstone of our society? Surely, we can do better. Another argument frequently raised against the criminalisation of marital rape is that since marriage is a sexual relationship, determining the validity of marital rape allegations would be difficult. Even if we accept, arguendo, that marriage is necessarily a sexual relationship, this argument does not hold water. It is not marriage that creates a problem in adjudication, but the dangerously erroneous belief that consent may simply be assumed from a woman's clothes, her sexual history, or indeed, her relationship status. While the current law seems to operate under this misconception, marriage does not signify perpetual sexual consent. Therefore, the determination of consent or lack thereof in the context of a sexual interaction within marriage would be the same as in any other context (especially in other ongoing sexual relationships): through physical evidence, through the prosecutrix's testimony and through the defence of the accused.

Underlining subordination

It is shocking that Exception 2 to Section 375 of the IPC survives to this day. *Antithetical to the liberal and progressive values of our Constitution, and violative of India's international obligations under instruments such as the Convention on the Elimination of All Forms of Discrimination against Women, the provision underlines women's subordination to men, especially within marriage.* In 2017, the Supreme Court, in *Independent Thought*, had read down the exception so that husbands



who raped their minor wives could no longer hide behind it. It is high time adult women are afforded the same protection and dignity in marriage.

HC REJECTS PLEA AGAINST CHANTING OF MANTRAS IN TAMIL IN TEMPLES

The Madras High Court on Friday rejected a public interest litigation petition which sought a direction to the Tamil Nadu government to withdraw the 'Annai Tamil Archanai' scheme, which lets devotees opt for the chanting of hymns by priests in Tamil, instead of Sanskrit, while performing puja in the sanctum sanctorum of temples. Chief Justice Sanjib Banerjee and Justice P.D. Audikesavalu refused to entertain the petition since the issue was not res integra (an unsettled question of law) any more. They said another Division Bench of Justices Elipe Dharma Rao and K. Chandru (both retired) had, in March 2008, dismissed a batch of cases filed in 1998 and held that the Agama Sastras do not prohibit chanting of mantras in Tamil. *Holding that the choice of wanting the mantras to be recited either in Sanskrit or in Tamil vests with the devotees, that Bench had criticised the litigants for making it seem as if God could understand only Sanskrit and not Tamil.* Authoring the verdict, Justice Chandru had said that if the litigants were allowed to have their way, the fears expressed by former President Sarvepalli Radhakrishnan might become true. In his book, The Hindu view of Life, Dr. Radhakrishnan had said, "To many Hinduism seems to be a name without any content. Is it a museum of beliefs, a medley of rites, or a mere gap, a geographical expression?"

HATE NEWS

Chief Justice of India NV Ramana is right — and has done the right thing — to flag the "problem" that "everything in this country is shown with a communal angle by a section of the media." The country is going to get a bad name, he said. But the risk is not merely reputational. The CJI-led bench was hearing a batch of petitions that sought action against news channels for the ways in which their coverage of the Tablighi Jamaat meeting at the Nizamuddin Markaz last year was sensationalised. Indeed, the Tablighi Jamaat was demonised, and an attempt was made to manipulate the fears already stoked by a little known virus to deepen communal polarisation. *The prime suspects were TV channels who have decided to play megaphones for those in power even if it means amplifying hate.* In this context, however, the court's lament about "no control on web portals" and platforms without "accountability", may unfortunately be an instance of not framing the problem in its full complexity. In response, Solicitor General Tushar Mehta, who speaks for the Centre, referred, as solution, to the controversial Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, that have been challenged. *If the court articulated an incomplete question, the Centre has pointed to the wrong answer.* There are no easy solutions, no statist quick fixes, to the problem that has provoked the anguished reaction of the court. *The communalisation of news is partly because of decisions taken in some newsrooms and boardrooms to do so. But arguing for controls by the state is to simply ignore the larger context and political eco-system, while risking the potential cramping of the constitutionally guaranteed fundamental right to freedom of speech and expression. The state is part of the problem here, not the solution. After all, those sections of the media that purvey the most vicious and divisive images and narratives, and must therefore be cast most squarely in the dock for communalisation, are those that also proudly fashion themselves as spokespersons of the establishment and allow themselves to be weaponised by it.* This problem will not go away, then, if only the state tightens a law, or sharpens a rule. Contrary to the Centre's defence of the new IT Rules, which attempts to draw a line between



freedom of the press and the rights of the audience “who believe and act upon misleading news”, the truth is that the press and the audience are on the same side — in a democracy, the freedom of the press is an essential and inextricable part of the people’s right to know. The CJI’s anguish, however, could yet serve a larger purpose, by starting a wider conversation. One which acknowledges the problem in its complexities. And one which does not hesitate to call out — and forthrightly address — all the complicities.

DECLARE COW THE NATIONAL ANIMAL, SAYS ALLAHABAD HC

The Allahabad High Court on Wednesday said that the cow should be declared the national animal and that gau raksha (cow protection) should be included as a fundamental right of the Hindus. The court made the comments, along with a string of other observations, noting the religious and cultural significance of cows and the need for cow protection, while denying bail to Javed, a person from Sambhal, who has been in jail since March on charges of allegedly stealing a cow and slaughtering it with his associates. While holding the cow as a symbol of Indian culture and talking of threats to this culture, *a Bench of Justice Shekhar Kumar Yadav also warned people that they should not forget the takeover of Afghanistan by the Taliban.* The court said history was full of instances that “whenever we forgot our culture, foreigners attacked us and enslaved us and if we are not warned, we should not forget the unbridled attack on and capture of Afghanistan by Taliban”. *Justice Yadav said that scientists believe the cow is the only animal that inhales and exhales oxygen.* He invoked mythology at several points in the 12-page order in Hindi. Justice Yadav also opined that Parliament should bring in a law to take tough action against those accused of cow slaughter. He described cows as a symbol of Hindu faith and culture, and claimed that even the majority of Muslims in the country were in favour of a nationwide ban on cow slaughter. He added, “When the faith and culture of the country suffer injury, the country becomes weak.”

POLL BODY WANTS ‘STUCK’ EVMS TO BE RELEASED

The Election Commission of India (ECI) on Wednesday asked the Supreme Court to intervene in releasing its Electronic Voting Machines “stuck” in Delhi and five States and a Union Territory that went to the polls in 2021. The top poll body said the EVMs had to be moved to States such as Uttar Pradesh, where elections are due in early 2022. Senior advocate Vikas Singh, for the Election Commission of India (ECI), made an urgent oral mention of its plea before a Bench led by Chief Justice of India N.V. Ramana on Wednesday. The court indicated that it would consider listing the application for an early hearing. The ECI said the problem lay with a Supreme Court order of April 27, which open-endedly extended the “period of limitation” or the deadline for moving court due to the pandemic. The court’s relaxation of the limitation period stretched to a large chunk of court proceedings, including filing of suits, appeals, petitions. *This included election petitions. The ECI said it was time the Supreme Court intervened urgently and fixed a timeline for filing election petitions in Delhi, which had gone to the polls in 2020, and Assam, Kerala, Tamil Nadu, West Bengal and Puducherry, where Assembly elections were held in 2021. The Conduct of Election Rules of 1961 requires the EVMs used in an election to be kept in the custody of the District Election Officer and not be used in any subsequent elections without the approval of the Election Commission.*

Back to back elections



“It is trite to mention that the Election Commission of India releases for reuse only those EVMs which have been used in constituencies in respect of which no election petition/writ petition has been filed raising any EVM-related issue,” the ECI said in the application. The ECI said there are back-to-back Assembly elections due in Goa, Manipur, Uttarakhand and Punjab in March 2022. The election in Uttar Pradesh is on May 14, 2022. The extension of the limitation period by the apex court on April 27 has frozen the deployment of 4.48 lakh ballot units, 3.73 lakh control units and 3.95 lakh VVPATs in Assam, Kerala, Delhi, Puducherry, Tamil Nadu and West Bengal. To conduct elections in 2022, it needs 4,55,149 ballot units, 3,77,037 control units and 4,04,612 VVPATs, the ECI said. The total present availability was 1,37,131 ballot units, 77,375 control units and 1,01,047 VVPATs. If the EVMs continue to remain stuck in Delhi and the five States/Union Territory, then machines have to be transported from other States, leading to “serious logistical challenges which may delay the checking of ECMs and VVPATs”, the poll body noted. “It will be in the interest of justice that this Court may kindly direct a timeline for filing election petitions,” the ECI said.

WHY TOP COURT ORDERED DEMOLITION OF THE TOWERS

Upholding a 2014 Allahabad High Court judgment on the demolition of the two towers of a housing project called Emerald Court, located in Noida Sector 93A, the Supreme Court Tuesday said the demolition has to be completed within three months and ordered Supertech Limited, the developer, to refund all the existing flat purchasers the amount invested along with an interest of 12% per annum within a period of two months.

What is the Emerald Court Project?

In November 2004, Noida had allotted a plot of land to Supertech in Sector 93A for development of a group housing society — Emerald Court. In June 2005, the building plan was sanctioned under New Okhla Industrial Development Area Building Regulations and Directions, 1986 for construction of fourteen towers, each with ten floors and a total height of 37 metres. In June 2006, an additional land area in the same plot of land was leased to Supertech under the same conditions. Since the new regulations, the New Okhla Industrial Development Area Building Regulations and Directions 2006, were notified in December 2006, a revised plan was sanctioned for the project and two additional floors for the towers, two more towers and a shopping complex were approved. The authorities now permitted a total of 16 towers and one shopping complex. In April 2008, eight towers were completed and by September 2009, a total of 14 towers were completed.

What happened to the two new towers?

The first revised plan contemplated a green area in front of Tower 1 but Supertech started construction of the new towers there in July 2009 and that too prior to the grant of sanction from the authorities. In November 2009, the Noida authorities sanctioned a second revised plan under which one of the new towers, sanctioned in 2006, was allowed to have 25 floors in place of 12 floors and the shopping complex, which was to have two floors, was replaced with another tower consisting 25 floors. The towers were planned to have a height of 73 metres. The total towers of the project now increased to 17. One of the new towers was to be constructed at a distance of nine metres from Tower 1 with a space-frame connecting them at the upper level. In March 2010, a

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third revised plan was sanctioned by the authorities allowing Supertech to raise 41 floors as a part of the two new towers and also construct basements and open space for parking beneath them. Meanwhile, the 15th tower was completed in June 2012.

Why did the Emerald Court Owner Resident Welfare Association approach the High Court in December 2012?

The RWA sought quashing of the revised plan and also demolition of the two towers, alleging various violations and misrepresentations by the developer. It also sought setting aside the permission granted to link the towers through a space frame. Supertech argued that the two towers were sanctioned in accordance with Noida Building Regulations 2006. The authorities in Noida told the court that the permission for connecting the towers was granted only after the design was approved by IIT-Roorkee. Allowing the RWA's petition and ordering demolition of the two towers, the High Court in 2014 held that the distance between the building blocks must be at least 16 metres under the NBR 2010 and Supertech in collusion with authorities obtained sanctions for the layout map in violation of the mandatory requirement. The UP Fire Prevention and Fire Safety Act, 2005 has also been violated, the court had held. Supertech approached the Supreme Court in April 2014 against the High Court decision. In May 2014, a status quo was ordered and later, National Buildings Construction Corporation Limited was asked to examine the dispute.

What is the Supreme Court order?

Between 2016 and 2017, a number of persons were ordered to be returned a part of their investment on orders of the apex court. Tuesday, the Supreme Court said the purpose of stipulating a minimum distance is a matter of public interest in planned development and the residents who occupy constructed areas in a housing project "are entitled to ventilation, light and air and adherence to fire safety norms." It rejected the argument that the new towers are a part of a building block along with T-1, T-2 and T3 and there was no necessity of maintaining the minimum distance. "If a developer is left with the unbridled discretion to define the content of the expression 'building block', this will defeat the purpose of prescribing minimum distances, leaving the health, safety and quality of life of flat buyers at the mercy of developers," said the court. The court also said that the construction of the new towers reduced the value of the undivided interest held by the flat owners in the common areas and facilities.

DON'T HIRE PEOPLE WITH RECORD OF VIOLENCE, SC TELLS EMPLOYERS

The Supreme Court has held that public employers, especially the police, should take care not to induct criminals into their rolls while brushing off their violent past as "petty" misdemeanors of youth quite common in rustic India. A Bench of Justices K.M. Joseph and S. Ravindra Bhat said certain types of repetitive crimes committed in rural society like molestation of women, assault, trespass, etc., point to its casteist, hierarchical under-belly. The judgment authored by Justice Bhat came on the basis of an appeal filed by the Delhi Police Commissioner. The police' screening committee had refused entry of some candidates, mostly drawn from rural areas, to the post of constable on the ground that they had a criminal past. One of the candidates to the post of a woman constable was accused of abducting her husband. The husband is still untraceable.



Reversal of decision

The Delhi High Court made general remarks about how felonies form a part and parcel in rural settings. "The High Court's approach, evident from its observations about the youth and age of the candidates, appears to hint at the general acceptability of behaviour which involves petty crime or misdemeanour. The impugned order indicates a broad view, that such misdemeanour should not be taken seriously, given the age of the youth and the rural setting. This court is of opinion that such generalisations, leading to condonation of the offender's conduct, should not enter the judicial verdict," *the Supreme Court observed its disagreement with the casual tone taken by the High Court.* The court said the employer must scrutinise every detail from the candidate's past. The judgment said the criminal conduct of the candidates indicates a larger social malaise.

CAPITAL COMMISSIONER

It's been just about a month since Rakesh Asthana, a 1984-batch IPS officer of Gujarat cadre, took up his new assignment as the Delhi Police Commissioner. The appointment came about two months after Mr. Asthana's name was dropped from the CBI Director race as he did not have six months left in service, a condition laid down by the Supreme Court in 2019. Mr. Asthana has held top posts in multiple central agencies such as the Bureau of Civil Aviation Security (BCAS), the Border Security Force (BSF) and the Narcotics Control Bureau (NCB). For a brief period, he also served as an interim chief of the Central Bureau of Investigation (CBI). Given his vast experience, there would be high expectations from him within the rank and file of the force. He has already initiated structural and functional changes in the Delhi Police. However, Mr. Asthana's appointment is being challenged in court by petitions filed by Centre for Public Interest Litigation (CPIL), an NGO, and one Sadre Alam. The government's order dated July 27 allowed an inter-cadre deputation and extension of service to Mr. Asthana by one year for his appointment as Police Commissioner just days before his superannuation on July 31. The Delhi High Court has issued a notice to the government and posted the matter for the next hearing on September 8. The High Court has also allowed an application filed by the CPIL for making it a party in the case. Earlier, the Supreme Court had asked the High Court to decide on the issue of Mr. Asthana's appointment, preferably within two weeks.

SC directive

The petitioners have contended that the appointment is a clear breach of the Supreme Court's directive as he did not have a minimum residual tenure of six months; no UPSC panel had been constituted for the appointment; and the appointment violated inter-cadre deputation policy of the All India Service Officers. While the legal validity of the arguments of both sides would be decided in the court, it is not the first time an IPS officer of a different State cadre has been made the Police Commissioner of Delhi. Ajai Raj Sharma, a 1966-batch IPS officer of the Uttar Pradesh cadre, had headed the force from July 1999 to June 2002. In the past, Mr. Asthana's appointment as the CBI Special Director on October 22, 2017, was also challenged by an NGO, Common Cause. However, after hearing the case, the Supreme Court dismissed the PIL plea, holding that the decision was not illegal. Back then, CBI Director Alok Kumar Verma had submitted a two-page dissent note to the administrative supervisory body, Central Vigilance Commission (CVC), opposing Mr. Asthana's elevation. He had mentioned that Mr. Asthana's name had come up in connection with a case involving Gujarat-based Sterling Biotech and Sandesara Group. Later, he

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got a clean chit in the matter. The feud between Mr. Verma and Mr. Asthana continued for months. It culminated in the registration of an alleged bribery case against Mr. Asthana and others in October 2018. As it turned out, he had, in a communication to the Cabinet Secretary in August 2018, highlighted the alleged irregularities on the part of Mr. Verma. After the battle shifted to the court of law, the Central government stepped in to divest both officers of their responsibilities after a CVC recommendation. A special investigation team was set up to look into the charges against the two officers. Mr. Asthana was later cleared of the allegations. Born in 1961 in Ranchi [then in Bihar], Mr. Asthana did his schooling from Netarhat School and pursued higher studies in St. Xavier's College (Ranchi) and then in Jawaharlal Nehru University. Among the cases pursued by Mr. Asthana were the Purulia arms drop case and the fodder scam. He headed the probe into the 2002 Godhra train burning case in which 59 Hindu pilgrims were killed. In January 2019, Mr. Asthana was appointed BCAS chief and in July, he was given the additional charge of the NCB. He then became the BSF Director-General in August 2020. Under his supervision, the NCB conducted investigations into the drug smuggling allegations after the death of actor Sushant Singh Rajput, and made several arrests, including that of Rhea Chakraborty and her brother Showik.

WHAT HAS THE SUPREME COURT RULED ON 'CREAMY LAYER'?

On August 24, a Division Bench of the Supreme Court, led by Justice L. Nageswara Rao, observed that economic criterion cannot be the sole basis for identifying the 'creamy layer' of a backward class, and that other factors like social advancement, education, employment, too, matter. The judgment came on a writ petition filed by a group from Haryana, the Pichra Warg Kalyan Mahasabha, challenging two notifications issued by the State government in 2016 and 2018, under the Haryana Backward Classes (Reservation in Services and Admission in Educational Institutions) Act, 2016.

What were the notifications?

The 2016 notification identified as 'creamy layer' backward class members whose gross annual income exceeded ₹6 lakh. It said backward class sections whose families earn less than ₹3 lakh would get priority over their counterparts who earn more than ₹3 lakh but less than ₹6 lakh. The Supreme Court struck down the notifications as a "flagrant violation" of the 2016 Act. It said Section 5 (2) of the Act required the State to consider social, economic and other factors together to identify and exclude backward class members as 'creamy layer'.

Who belongs to the 'creamy layer'?

The 'creamy layer' concept was introduced in the Supreme Court's Indra Sawhney judgment, delivered by a nine-judge Bench on November 16, 1992. Though it upheld the government's decision based on the Mandal Commission's report to give 27% reservation to Other Backward Classes, the court found it necessary to identify sections of backward classes who were already "highly advanced socially as well as economically and educationally". The court believed that these wealthy and advanced members form the 'creamy layer' among backward classes. The judgment directed the State governments to identify the 'creamy layer' and exclude them from the purview of reservation. *However, certain States like Kerala did not promptly implement the judgment. This led to the Indra Sawhney-II case, reported in 2000. In this, the court went to the extent of determining the 'creamy layer' among backward classes.* The judgment held that persons from backward classes



who occupied posts in higher services such as IAS, IPS and All India Services had reached a higher level of social advancement and economic status, and therefore, were not entitled to be treated as backward. Such persons were to be treated as 'creamy layer' without any further inquiry. Likewise, people with sufficient income who were in a position to provide employment to others should also be taken to have reached a higher social status and treated as "outside the backward class". Other categories included persons with higher agricultural holdings or income from property. *Thus, a reading of the Indra Sawhney judgments shows that social advancement, including education and employment, and not just wealth, was key to identify the 'creamy layer'.*

Why is it difficult to draw the line?

The identification of 'creamy layer' has been a thorny issue. The basic question here is how rich or advanced should a backward class section be to invite exclusion from reservation. Justice Jeevan Reddy, in the Indra Sawhney judgment, wondered "how and where to draw the line" between the deserving and the creamy layer among backward classes. "The basis of exclusion should not merely be economic, unless, of course, the economic advancement is so high that it necessarily means social advancement," he pointed out. Justice Reddy highlighted the pitfalls of identifying the creamy layer merely on economic basis. For example, a person who earns ₹36,000 a month may be economically well-off in rural India. However, the same salary in a metropolitan city may not count for much. Here, Justice Reddy warned that "while the income of a person can be taken as a measure of his social advancement, the limit to be prescribed should not be such as to result in taking away with one hand what is given with the other. The income limit must be such as to mean and signify social advancement".

HOW WAS THE BACKWARD CLASSES POLICY RESTORED?

The 105th Constitution Amendment was notified on August 19 after it received the assent of President Ramnath Kovind. It is aimed at restoring to the States their power to identify socially and educationally backward classes. The Opposition set aside its differences with the government and supported the Amendment, which was passed during the stormy monsoon session with the required special majority. The Amendment became necessary to undo the effect of a Supreme Court verdict that States had lost their power to include or exclude communities in the 'Backward Classes' list after Parliament enacted the 102nd Constitution Amendment.

Why was the Amendment required?

Through the 102nd Constitution Amendment, Parliament created a National Backward Classes Commission, vesting it with the power to be consulted by the Centre as well as the States in all matters concerning the 'socially and educationally backward classes' (SEBCs). In a bid to clothe the Commission with the same powers as the Scheduled Castes and Scheduled Tribes Commission, Parliament used wording identical to the existing provisions relating to the SC/ST Commission. Thus, under Article 342A, it was laid down that the President shall notify a list of SEBCs in relation to each State and Union Territory in consultation with the Governors. This was called the 'Central List', and once it is notified, only Parliament alone could make changes to it. Based on this, the Supreme Court, while considering a challenge to the Maratha reservation in Maharashtra on various grounds, concluded that after this Amendment came into force, States can no more notify or identify



backward classes, and only the President could do so, and further changes could be made by Parliament.

What was the reaction of political parties?

The Union government had argued vociferously in court that neither the Centre nor Parliament intended to take away the State's power to identify SEBCs. The use of the term, 'Central List', meant that what the President notified was a list of backward classes for the purpose of the Central government and its instrumentalities, and did not affect the lists maintained by the various States. Political parties in the Opposition blamed the Centre for enacting a flawed law that led to the court coming to such a conclusion. *As there was a political consensus that the Supreme Court's interpretation required to be undone by law, it was decided to amend the Constitution once again to clarify the State's role in identifying SEBCs. It was introduced as the Constitution (127th Amendment) Bill, 2021. After its passage and on receiving presidential assent, it was notified as the Constitution (105th Amendment) Act, 2021.*

What does the 105th Amendment do?

Parliament adopted fresh legislation to undo the effects of the Supreme Court's interpretation. Therefore, it contains specific clauses that seek to restore the original intention of having a 'Central List' for the purposes of the Union and letting States retain their respective lists. *It first adds a proviso to the effect that the requirement that the National Backward Classes Commission should be consulted on policy matters will not apply to the State lists of SEBCs.* It specifies that the list of SEBCs notified by the President shall be only for the purposes of the Central government alone, and that the 'Central List' means only the list "prepared and maintained by and for the Central Government". Further, *the 105th Amendment clarifies that every State or Union Territory may, by law, prepare and maintain for its own purposes a list of SEBCs and this may be different from the Central List.* These changes are aimed at undoing the conclusion of three judges on the five-judge Bench in the Maratha reservation case that the term 'Central List' applied to all SEBCs notified by the President and that it was the only List "for the purposes of the Constitution". Finally, to end all debate on how SEBCs are defined, the latest Amendment also changed the definition given in the 102nd Amendment. *Originally, "socially and educationally backward classes" were described as "such backward classes as are so deemed under Article 342A for the purposes of this Constitution", that is, those found in the List notified by the President under Article 342A. This has now been changed to the effect that SEBCs are those so deemed under the same Article for the purposes of the Central government, or the State or the Union Territory.*

A QUESTIONABLE QUOTA POLICY

Reservation as a tool of social engineering seems to be flavour of the season in India. To add to the competitive populism of caste-based reservations, a few months ago, *the Odisha government proposed a 15% reservation for government school students in medical and engineering colleges to reduce "inequity arising" from lack of "physical and economic access to coaching institutions".* The state machinery hailed it a historic decision. But is it? A number of reports highlight the poor condition of government schools in many parts of the country. Odisha is no exception. Whether the State government has any serious plan of action to improve the functioning of government schools is not clear. But this decision certainly reflects a lack of political will in improving the state



of education in schools. This intervention gives the impression that little can be expected of government schools. The current obsession with developing model schools reinforces this impression.

Failing in its duty

About 62% of students attend government and government-aided schools in India. The other 38% go to private institutions, some of which belong to the elite category and the rest of which are of questionable quality. A much higher percentage of students in Odisha go to government schools. Reserving seats in higher technical institutions for government school students rather than focusing on improving these publicly funded institutions defies all logic. By announcing this policy of reservation, the government seems to be admitting that it has failed in its duty to provide the majority of students with good education and equip them with requisite competence to get admission in technical institutions on the basis of their own merit. Decades ago, students from Odisha had a high success rate in national-level competitive examinations. This was attributed to the strong educational foundation laid in government-run schools. During those days, teachers were known for their unquestionable sincerity and integrity. They were dedicated to their calling and commanded respect from the society. Over time, this seems to have changed. There is no dearth of ideas or practices that can improve the quality of education in government schools. What is lacking is the government's resolve to work on these ideas including capacity building of teachers to implement new pedagogic practices, emphasis on language teaching, filling up vacant teaching posts, and a change in the mindset among people and policymakers that government schools are typically backward and inferior to private schools. Instead of addressing relevant issues, government is trying to find a solution which could worsen the problem. The policy of automatically promoting the students to higher classes without passing examinations needs to be scrapped. Building an institution is tough. Rebuilding it is even more so. The state can't simply shirk this responsibility of improving education in government schools where an overwhelming majority of the children study. Focusing on them will go a long way in building the morale of teachers and students who are likely to grow up with an inferiority complex if flawed policies like the one mentioned above are pursued.

Benefits to few

Some may argue that the quota would help some sections of the society which have long been deprived of good education and decent jobs. But this justification can nevertheless be questioned on several grounds. One of them is that the benefits of quota, if any, would be cornered by the creamy layer of students with better access to coaching and additional technology-enabled resources. There might also be an urban bias in the benefit-sharing.

ODISHA PASSES BILL CAPPING RESERVATION OF SEATS AT 50%

The Odisha Assembly on Tuesday passed the Odisha Municipal Laws (Amendment) Bill, 2021, to cap reservation at 50%, a move that has paved the way for conducting elections to urban local bodies in the State. The Naveen Patnaik Government had introduced the Bill with amendments proposed in the Odisha Municipal Act, 1950, and the Odisha Municipal Corporation Act, 2003, on Monday. The Odisha Panchayat Laws (Amendment) Bill, 2021, which seeks amendment to the Odisha Grama Panchayats Act, 1964; Odisha Panchayat Samiti Act, 1959 and Odisha Zilla Parishad Act, 1991 was

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also introduced in the House on Tuesday. While elections to urban local bodies are long overdue, the tenure of the present three-tier panchayati raj institutions is coming to an end early next year. Due to the confusion over reservation, the government had not been able to conduct elections to urban local bodies, which are currently being governed by bureaucrats. The Opposition parties had been demanding immediate election to the local bodies. *In 2013, the Orissa High Court passed an order stating that the upper ceiling limit of reservation of seats for the SC, ST and Backward Classes shouldn't exceed 50% in accordance with the judgment passed by the Supreme Court in the K. Krishna Murthy case. The State Government had moved the Supreme Court through a special leave petition and, subsequently, through a review petition challenging the order of capping reservation at 50%. The Supreme Court had, however, upheld the decision of the Orissa High Court.* Law Minister Pratap Jena said the government was left with no other option, but to amend the relevant provisions of the Odisha Municipal Act, 1950, and the Odisha Municipal Corporation Act, 2003.

REFINING THE RESERVATION POLICY

In February, just before the Election Commission announced the schedule of the State election, the Tamil Nadu Assembly adopted a Bill to provide 10.5% reservation for the Vanniyakula Kshatriyas within the quota of Most Backward Classes (MBCs) and Denotified Communities (DNCs). In May, relying on the 102nd Constitution Amendment, the Supreme Court reiterated the constitutional position that States did not have the power to identify "socially and educationally backward" classes (SEBCs). This evoked a strong reaction from political parties, forcing the Centre to pass in August the 105th Amendment which again empowers States or Union Territories to prepare their own lists of SEBCs. From this year onwards, 27% of the all-India quota for admissions for medical and dental courses will be reserved for Other Backward Classes (OBCs) and 10% for economically weaker sections (EWS). This was an outcome of the judicial intervention and legal battles of parties such as the AIADMK and the DMK.

Breaching the cap

All these developments have given a fillip to the demand for a caste-based census and removal of the 50% cap on reservation. Those advocating for this argue that only a caste-based census can bring to the fore the composition and numerical strength of various castes. Using this as the basis, the 50% cap on reservation can be breached. There have been a few attempts in the last 10 years at caste enumeration, but they did not yield the desired results. *The 2011 Socio-Economic and Caste Census's report was made public five years ago but without the data on caste.* In Karnataka, a similar exercise was launched in 2015. The report is still not out. In Tamil Nadu, a one-man commission was constituted in December 2020 to collect data on castes. But six months later, the commission was wound up. *It is natural that political parties will not agree with the findings of a caste-based census — however well it may have been conducted — if they think that their perceptions of the strength of certain castes do not tally with the findings of the census.* Besides, any such data alone, particularly those concerning OBCs, cannot be used as the basis for breaching the 50% cap on reservation. This is because *there is no provision in the Constitution to link the quantum of reservation to the population of the OBCs.* A reading of clauses (4) and (5) of Article 15 and clause (4) of Article 16 of the Constitution reveals that the scheme of reservation for the SEBCs is permissible but meant only for those OBCs which are "not adequately represented" in the services in the State. *As laid down in the Indra Sawhney case (1992), there must be extraordinary*



circumstances to justify the quantum to exceed the cap. Tamil Nadu is a classic case where the 50% ceiling was breached early. The State provides 69% quota for Backward Classes, MBCs, Scheduled Castes (SC) and Scheduled Tribes (ST). But the scheme of quota even in Tamil Nadu was not framed keeping in mind the population of the reserved communities. According to the Second Backward Classes Commission, the population of the Backward Classes, MBCs and the DNCs in the State was about 67%, a figure that the State government still uses. In addition, SCs and STs account for 21.11%, as per the 2011 Census. Several other States have breached the cap. They have adopted the 10% quota for EWS too. However, while highlighting the cause of the Backward Classes, political parties should keep in mind the rationale behind the cap. *The Supreme Court, in the Maratha case of May 2021, said: "The 50 per cent ceiling limit for reservation laid down by [the] Indra Sawhney case is on the basis of principle of equality as enshrined in Article 16 of the Constitution."*

Need for sub-classification

At the same time, it is well known that the scheme of reservation suffers from anomalies. It needs to be refined. Primarily, if the benefits of reservation are equitably distributed among the OBCs, **sub-categorisation** is a prerequisite. While suggesting the creation of three sub-categories — extremely backward classes, more backward classes and backward classes — the National Commission for Backward Classes emphasised in 2015 more on the need for “classification of OBCs” than on streamlining the provisions on creamy layer to ensure fair implementation of the reservation policy. *It is hoped that the Rohini Commission, constituted by the Centre in October 2017 for the purpose of sub-categorisation of communities in the Central list of OBCs, completes its work in three or four months.* Some States and Puducherry have already completed the task of sub-categorisation. The parties should also take a dispassionate look at the concept of creamy layer. Fifty years ago, Tamil Nadu’s First Backward Classes Commission recommended that the “affluent sections” in the backward classes should be “precluded from reservation” for the reason of equity. The annual income limit is one of the parameters that determine the creamy layer. Since September 1993, this was revised only five times against the norm of revision every three years. In addition to frequently revising the income limit, the Central government should consider, while revising the limit, many factors such as the trend of rise in GDP, inflation, per capita income and rise in the cost of living. Even as there is a strong case for increasing the present limit of ₹8 lakh per annum for determining the creamy layer, the definition of income needs to change. At present, income from salary and agriculture are not considered but “income from other sources” is taken into account. This stipulation on the nature of source of income not only complicates the situation but is also unfair to candidates of those whose parents may earn marginally higher income “through other sources” than the ceiling. This has been amply illustrated in a communication sent in July by the Tamil Nadu government’s BC, MBC and Minorities Welfare Department’s Secretary to the Commissioner of Revenue Administration. According to the communication, for the purpose of issuing OBC certificates, District Collectors should take into account how the parents of candidates earn their annual income, apart from considering other parameters. If the parental income is ₹25 lakh through salary or ₹50 lakh through agriculture, such candidates will be given OBC certificates. But if the parents earn ₹8.1 lakh through “other sources,” their son or daughter will not get the certificate. Besides, the vacancies in the posts of OBCs have to be filled expeditiously. The parliamentary committee had said that as on January 1, 2016, OBC employees in 78 ministries and departments of the Central government constituted only 21.57% against the



quota of 27%. In respect of Groups A and B services, the share of OBCs was much lower. This only underscores the need for the Centre to conduct special drives frequently to fill the vacancies. Such an approach will take care of concerns in certain sections that the enforcement of “stringent norms” of the creamy layer might not serve the objective of the 27% quota scheme. *Instead of fighting over abstract issues, political parties should channel their energies to make substantive and qualitative changes in the way the reservation is implemented, if they are really concerned about social justice, inclusion of all and the plight of the underprivileged among the OBCs.*

THE KEY TO REVITALISING INDIA’S RESERVATION SYSTEM

Hoardings and posters lauding the Narendra Modi government for introducing reservations for Other Backward Classes (OBCs) in the National Eligibility cum Entrance Test (NEET) examinations and a renewed debate on caste census have once again brought the debate on affirmative action in the limelight. The affirmative action programme that was envisaged during the founding moments of the republic is indeed one of the remarkable provisions to have been worked out by our Constitution makers. It has been historically significant in enunciating the principle of justice in a deeply unequal and oppressive social order such as ours.

Still no equity

While it is undeniable that these provisions have been one of the protagonists of Indian democracy’s success stories, these have also accumulated a fair share of problems and call for immediate policy attention and debate. *Through reservation of seats in political and public institutions of the state, it was thought that the hitherto marginalised groups — which have suffered generations of oppression and humiliation — would, finally, be able to find place in the power sharing and decision-making processes.* However, this strategy of removal of disabilities has not translated into an equalisation of life chances for many groups in our heterogeneous society.

Problems with current policy

There is now a strong demand from those who have not been able to accrue the benefits of reservations from within the marginalised sections, to devise some policy option which may be able to supplement the existing system of reservation. The fact that the current system suffers from the “problem of reification” is not just wishful thinking, but a hard fact. The data released by the Justice G. Rohini Commission’s report on the sub-categorisation of OBCs gives a good synoptic view to understand this. Based on the last five years’ data on appointments in central government jobs and OBC admissions to central higher education institutions, *the commission concluded that 97% of central OBC quota benefits go to just under 25% of its castes. As many as 983 OBC communities — 37% of the total — have zero representation in both central government jobs and admissions to central universities.* Also, the report states that *just 10% of the OBC communities have accrued 24.95% of jobs and admissions.* Clearly, the assumption that the disadvantages of every sub-group within each category are the same is severely misplaced. It is important to note that the Rohini Commission’s data are based just on the institutions that come under the purview of the central government. We hardly have any legible data on the socio-economic conditions of varied social groups at more local levels of State and society. Consequently, asymmetrical distribution of reservation has severely deterred political projects of unified subaltern solidarity. Parties that were once able to build large Bahujan solidarities are now finding it difficult to garner



such support. This should give us hints about the extent of the problem rather than ruling them out as mere conspiracies of breaking lower caste unity.

Insufficiency of data

As underlined above, there is a dire need of accurate data pertaining to the socio-economic condition of different social groups. Though caste-based reservations have been pivotal in animating upward social mobility and led to the emergence of a handful of politically mature and visible Dalit-Bahujan castes, we hardly have sufficient data about the actual reach and access of this policy measure. We do not know what liberalisation has done to castes which remained tied to more traditional sources of income and were incapable of realising the new opportunities provided by the opening of the economy. We do not know how these groups have navigated and transitioned to a more accentuated regime of capital amidst nearly no social security net on the ground. The marginal majority within still dwells in the waiting room of history, waiting to see the light of the policy grid of the state.

Affirmative action

What is urgently required is a mechanism that can address this lacuna and make the system more accountable and sensitive to intra-group demands. Since every further categorisation will only lead to reification and fragmentation in the long run, two things are required. One, we urgently need to develop a wide variety of context-sensitive, evidence-based policy options that can be tailored to meet specific requirements of specific groups. Two, we need an institution like the Equal Opportunities Commission of the United States or the United Kingdom which can undertake two important but interrelated things: make a deprivation index correlating data from the socio-economic-based census of different communities including caste, gender, religion, and other group inequalities and rank them to make tailor made policies. And, undertake an audit on performance of employers and educational institutions on non-discrimination and equal opportunity and issue codes of good practice in different sectors. This will make the formulation of policy and its monitoring simpler at an institutional level. As evident, a socio-economic caste-based census becomes a necessary precondition to initiate any meaningful reform in the affirmative action regime in India. It is worth noting that similar suggestions were made a decade ago in the recommendations that the expert committee for an Equal Opportunities Commission (2008) made in its comprehensive report that it submitted to the Ministry of Minority Affairs. However, little policy progress has been made in this regard. Successive governments have been reluctant to engage with such radical policy options, almost always caving in to immediate and myopic political gains.

JHARKHAND HOUSE CLEARS BILL FOR 75% QUOTA FOR LOCALS

The Jharkhand Assembly on Wednesday passed a Bill, which provides 75% reservation for locals in private sector jobs with a monthly salary of up to ₹40,000. Once notified, Jharkhand will become the third State, after Andhra Pradesh and Haryana, to pass such a law. 'The Jharkhand State Employment of Local Candidates Bill, 2021' was tabled in the House in March but was later referred to a six-member select committee. The committee, chaired by Labour Minister Satyanand Bhokta, amended the Bill with a few changes. It was named 'The Jharkhand State Employment of Local Candidates in Private Sector Bill, 2021' and the monthly salary cap was increased from

3RD FLOOR AND 4TH FLOOR SHATABDI TOWER, SAKCHI, JAMSHEDPUR



₹30,000 to ₹40,000. “Every employer shall register such employees receiving gross monthly salary as wages not more than ₹40,000 as the limit notified by the government from time to time on the designated portal,” states the Bill.

JHARKHAND SPEAKER FORMS PANEL TO LOOK INTO NAMAZ ROOM ISSUE

Amid a raging controversy over allotment of a namaz (Islamic prayer) room in the Jharkhand Assembly, Speaker Rabindra Nath Mahto on Thursday formed an all party, seven-member panel, on the last day of the monsoon session to look into the issue and come out with a report within 45 days.

The monsoon session that began on September 3 remained stormy and witnessed protests by the main Opposition BJP over the allotment both inside and outside the House. Fixing a deadline of 45 days for the seven-member panel with legislator Stephen Marandi as its convener, the Speaker asked the panel to come out with its report at the earliest.

7-member committee

The seven-member committee besides Mr. Marandi, will have Pradeep Yadav, Neelkanth Singh Munda, Sarfaraz Ahmed, Vinod Singh, Lambodar Mahto and Deepika Pandey Singh as members. Earlier, ruling party MLA Sarfaraz Ahmad made a proposal that Speaker should form a committee to study whether there is a need for a namaz room. BJP member and former Chief Minister Babulal Marandi objecting to a statement that a namaz room was allotted during his term as CM, said “no such allotment was made while I was CM. Constitution of India does not permit it.” BJP legislators, sporting black straps raised slogans like “Lathi, Goli, Wali Sarkar Nahi Chalegi” while protesting ‘lathi charge’ and use of water cannon on protesters on Wednesday. BJP members also staged a dharna outside the Assembly. Police had used water cannons and batons on Wednesday to break up protests by the BJP against allotment of the namaz room. *A row broke out in Jharkhand after the Assembly Speaker allotted a room in the Assembly for offering namaz through a notification last week.* The Opposition leaders have been protesting against the decision, calling it “unconstitutional”. They are also demanding a separate hall for chanting Hanuman Chalisa (prayers to Lord Hanuman).

INDISCRIMINATE FORCE

As the country has grappled with insurgencies, from Kashmir and Punjab, to the Northeast and Maoist-affected areas, the security forces have often invited accusations of strong-arm tactics and heavy-handed conduct. In such incidents, across areas of conflict, the facts can be disquietingly similar: *The men in uniform claim they had no option but to open fire; the victims are then accused of being insurgents, who had launched an attack in the first place.* The veracity of such accounts has been challenged in multiple cases and *inquiries have revealed that a trigger-happy force had trained their guns on innocents.* One such probe has found that on the night of May 17-18, 2013, the CRPF’s CoBRA unit fired 44 rounds, killing eight people, including four minors *in Edesmetta in Chhattisgarh’s Bijapur district.* The judicial inquiry report submitted to the state cabinet on Wednesday has concluded that *none of those killed were Maoists, as was alleged by the security forces.* About 30 people had come together to celebrate a seed festival on the night of the shooting, when a 1,000-strong contingent of the CRPF showed up. The gathering, the report points out, was unarmed. The paramilitary forces had not followed marching norms, there was no intelligence



behind the operations and there was no crossfire. Similar transgressions had been reported in a judicial inquiry into another incident, also in Bijapur, about a year before the Edesmetta shooting. In 2019, a one-judge commission had found that the CRPF had opened fire unilaterally, killing 17 people, seven of them minors. In conjecturing that the firing could have been a panic response of some officers to “an unexpected gathering”, the two inquiries give the paramilitary force some benefit of the doubt. But they also punch holes into the CRPF’s own investigation into the incidents. In Edesmetta, for instance, no items “recovered from the field were sent for forensic analysis”. *Failures to distinguish between insurgents and civilians, intended and unintended, are costly. They precipitate a cycle of violence, extracting a heavy toll on the common people, especially those belonging to the marginalised communities.* In Chhattisgarh, 27 people were killed in a Maoist attack a week after the Edesmetta incident. But the flip side of the story, from areas that have put their insurgency-tormented past behind them — as in Punjab, parts of the Northeast, even some erstwhile Maoist bastions — is equally telling. Persuading people of their stakes in the country’s democratic process and its developmental goals has proved the most potent counter to militancy. Security forces must learn the right lessons and they must be held accountable when they don’t.

TOWARDS A MORE HUMANE POLICE FORCE

Earlier this month, Chief Justice of India N.V. Ramana expressed concern at the degree of human rights violations in police stations in the country. He said that “the threat to human rights and bodily integrity is the highest in police stations”. He also said that “in spite of constitutional declarations and guarantees, lack of effective legal representation at the police stations is a huge detriment to detained persons”. However, a reality check shows that the picture is not so bleak and efforts are being made to improve the human rights protection regime in police stations.

Deaths in police custody

Deaths in police custody are indeed a matter of grave concern. Each such death must be seriously inquired into, to unravel the truth. National Crime Records Bureau (NCRB) data reveal that though the number of custodial deaths varies year to year, on average of about 100 custodial deaths have taken place every year between 2010 and 2019. Of them, about 3.5 persons allegedly died due to injuries caused by policemen, 8.6 while escaping from custody, 28.1 due to suicide, and the rest due to various reasons like illness and injuries caused in road accidents. A judicial inquiry, which is mandatory for every suspicious custodial death, was conducted in 26.4 cases. Though every death in custody needs to be prevented, suspicious deaths which bring disrepute to the police system must be rooted out completely. *The foremost measure to reduce instances of custodial violence is to reduce the number of arrests. The law on arrest says that arrest for offences punishable up to seven years of imprisonment should be made only when the police officer is satisfied that such arrest is necessary to prevent the person from tampering with evidence, to prevent the person from committing any further offence, etc.* The Supreme Court held that *each arrest must be necessary and justified; having the authority to arrest is alone not sufficient.* In Arnesh Kumar v. State of Bihar (2014), it was held that *despite the offence being non-bailable under Section 498A of the Indian Penal Code (IPC), which relates to torture for dowry, arrest is not mandatory as per Section 41 of the Code of Criminal Procedure (CrPC).* In Special Action Forum v. Union of India (2018), *the Court further held that the police officer shall furnish to the magistrate the reasons and materials which necessitated the arrest for further detention of the accused.* The purpose of these checks is to ensure



that the police does not abuse the power of arrest. NCRB data show that the ratio of the number of arrests to the number of IPC offences has decreased from 1.33 in 2010 to 0.96 in 2019 and despite an increase in total IPC offences, the actual number of arrests has reduced by more than five lakh in the last five years. Though the arrests in the previous years' cases may increase to some extent, it is hoped that violence in custody will be checked if the amended law is implemented in letter and spirit. *The National Police Commission (1977-81), the Law Commission in its 154th report (1996) and the Malimath Committee Report (2003), among others, and the Supreme Court in Prakash Singh v. Union of India (2006), have recommended that the investigating police should be separated from the law-and-order police to ensure better expertise in investigation. It was suggested that the separation start in towns which have more than 10 lakh population. It is believed that a separate wing will do more professional investigation and will not use unwarranted methods to extract confession from the accused.* The Central Bureau of Investigation and the National Investigation Agency have already earned the reputation of the country's premier investigation agencies. *Though efforts have been made by some States in this direction, more resources are required in policing to implement the Court's directions. One of the alleged reasons for using extreme methods is to extract a quick confession from the suspect. Though the total police force has increased in the last five years, the civil police mostly remains over-stretched. Therefore, unless investigating officers are increased in proportion to the number of serious offences, the quality of investigation may suffer, and the Malimath Committee's recommendation that an investigating officer should preferably investigate no more than 10 cases every year will continue to remain a dream.* Similarly, with the increase of newer types of crime like white collar crime and cybercrime, subject experts are needed to assist the police in the investigation. It cannot be denied that much has changed in the police consequent to the judgment in *D.K. Basu v. State of West Bengal (1996)*. In that case, the Supreme Court laid down guidelines to check custodial torture and increase transparency and responsibility of the police officer effecting arrest. Most of these guidelines such as providing information to a friend or relative about the arrest, medical examination, and permission to meet a lawyer have now been incorporated in the CrPC. Investigating officers mostly comply with them. Further, in order to check the violation of human rights, CCTV cameras have been installed in police stations. In *Paramvir Singh v. Baljit Singh (2020)*, the Supreme Court has directed States to cover more area of each police station under CCTV cameras and have storage facility of audio-video recording for 18 months. An independent committee shall study the footage and periodically publish reports of its observations. Thus, sufficient steps are being taken to ensure that the abuse of human rights is minimised. *Custodial death is perhaps one of the worst crimes in a civilised society governed by the rule of law. The guilty, therefore, must be punished severely for his misconduct and criminal act.* NCRB data show that on average about 47.2 criminal cases were registered annually against policemen in last 10 years. Departmental action against errant officers is a rule in the police force, rather than an exception. The National Human Rights Commission also oversees deaths in custody due to human rights violations and recommends compensation in appropriate cases.

Protecting human rights

The police officers must know that their mandate is to protect human rights and not violate them. They need to be sensitised regularly and encouraged to employ scientific tools of interrogation and investigation like *the lie detection test, narco test and brainfingerprinting test.* *The Home Ministry has recently linked the 'police modernisation scheme' with police reforms. Unless sufficient action is taken by the State governments and the police authorities, incentives in the form of*



additional funds will not be released. The CJI's suggestion to install display boards on human rights to disseminate information about the constitutional right to legal aid and availability of free legal aid services may deter police excesses. Our commitment to the protection of human rights is unconditional and total. Many steps have been taken so far to check custodial violence and no stone shall be left unturned to eliminate such violence in toto.

ALLOW SPYING WITHOUT NOD, SAYS KERALA BILL

The police can listen in on any communication, without waiting for official approval of the competent authority, to curb organised crimes, a draft of the Kerala Control of Organised Crimes Bill has proposed. The draft Bill suggests that an officer not below the rank of Additional Director-General of Police (ADGP) can authorise an application made by the investigating officer within 48 hours of interception. The ADGP can permit the interception of wire, electronic or oral communication if he 'reasonably determines' that an emergency situation involving 'conspiratorial activities threatening the security or interest of the State' or 'imminent danger of death or serious physical injury to any person' exists, says the draft. The draft will be scrutinised by a panel led by the Chief Secretary on Friday. *The bill comes even as a petition, filed by senior journalists N. Ram and Sashi Kumar, for an independent probe into the mass surveillance of over 142 potential "targets", including journalists, lawyers, Ministers, Opposition politicians, constitutional functionaries and civil society activists using the spyware Pegasus, is under the consideration of Supreme Court.* The draft bill further states that the interception shall immediately terminate in the absence of an order approving the interception or the communication sought is obtained or when the application for the order is rejected, whichever is earlier. The evidence collected through such interception will be admissible against the accused in the case. The contents of the intercepted communication shall be, if possible, recorded on tape or wire or other comparable devices. *Under normal circumstances, the Act suggests that a police officer not below the rank of Superintendent of Police can approach the competent authority to be formed for the purpose of seeking permission for interception. A panel led by the State Chief Secretary shall review the orders of the competent authority in 10 days, it was proposed.*

LONG WAIT FOR A DEPUTY SPEAKER FOR LOK SABHA

With the Delhi High Court asking the Union government on Wednesday to explain its stand on a petition that said keeping the post of Deputy Speaker of the Lok Sabha vacant is a violation of Article 93 of the Constitution, the issue is once again in the spotlight. Petitioner Pawan Reley pointed out that the position had been vacant for the past 830 days.

Constitutional post

The Congress's floor leader in the Lok Sabha, Adhir Ranjan Chowdhury said, "It is a Constitution-mandated position and not a ceremonial one. During each session, the Congress has demanded that the election to the post be held, but our demands have been ignored." Senior Trinamool Congress leader Derek O'Brien said the longest time that this post had remained vacant was in the 12th Lok Sabha and even then on the 59th sitting of Parliament, election to the post was held. "Modi-Shah is dismantling every institution, including Parliament. We have been screaming ourselves hoarse. Angry. Sad," Mr. O'Brien said. Congress Chief Whip in the Lok Sabha Kodikunnil Suresh



said that by convention, this post went to the Opposition. “During the Budget Session of Parliament, Lok Sabha Speaker Om Birla contracted COVID-19. The **panel of chairpersons** are not equipped to handle the job,” he noted. *As of now, there are nine members who are part of the panel from the BJP, the DMK, the YSR Congress Party, the BJD, the Trinamool Congress and the Revolutionary Socialist Party.* A Deputy Speaker enjoys the same legislative powers as the Speaker. And in the absence of the Speaker because of death, illness or any other reason, the Deputy Speaker assumes the administrative powers.

First attempt

Soon after the 2019 Lok Sabha election, the government had made some effort to fill the position. It approached the YSR Congress Party, which turned down the offer since it would have been difficult to carry on a protest against the government for not according special status to Andhra Pradesh while occupying the post. Parliamentary Affairs Minister Pralhad Joshi and his deputy in the Lok Sabha, Arjun Ram Meghwal, were not available for comment. Mr. Birla had said that it was for the House to elect a Deputy Speaker and it was not the Speaker’s job. BJD MP Bhartruhari Mahtab, who is a member of the panel of chairpersons, said the Lok Sabha’s functioning was not affected by the lack of a Deputy Speaker. “Currently, the Maharashtra Assembly is functioning without an elected Speaker after the resignation of Nana Patole,” he said. As the combined Opposition did not have the strength to elect a member of their choice, the choice fell on the government. The fact that there was no recognised leader of the Opposition also hampered the process, he said. In 1984, when Rajiv Gandhi came to power with an overwhelming majority, the Deputy Speaker’s position was given to the AIADMK, he noted.

SC REJECTS BENGAL PLEA TO APPOINT DGP WITHOUT UPSC INVOLVEMENT

Supreme Court on Friday rejected West Bengal government’s plea to allow it to appoint the state Director General of Police without the involvement of the Union Public Service Commission (UPSC), saying it had already dealt with and dismissed similar prayer in the past and repeating it amounts to “abuse of process of law”. “Your argument was rejected earlier also... Please don’t file repeated applications. This is an abuse of the process of law,” Justice L Nageswara Rao heading a three-judge bench told Senior Advocate Sidharth Luthra, who appeared for the state. *The Mamata Banerjee government had moved the top court seeking modification of its 2018 order in the Prakash Singh case on reforms in the police which made it mandatory for states to appoint DGP from a panel of three most senior police officers drawn up by the UPSC.* The application said, “The Constitution of India does not vest UPSC with the power to assess the respective merit of the officers holding the rank of DGP in the state cadre for determining the fitness to be appointed as the DGP/Head of Police Force of the state, since it is the state government which can have the proximate opportunity to assess the fitness of officers of that rank who had rendered service to the state in the state cadre”. *It pointed out that police and public order are subjects that fall in the jurisdiction of the state that the involvement of the UPSC would curtail the state’s legislative power.* The application was filed in a pending plea seeking implementation of the Prakash Singh judgment.



CM MANOHAR LAL KHATTAR WANTS IPS OFFICER ON IAS CADRE POST, ANIL VIJ BLOCKS MOVE

In a move that runs contrary to the All India Services (Cadre) rules, Haryana government is pushing to appoint an IPS officer on a cadre post meant for IAS officers. While CM Manohar Lal Khattar's office has backed the move to appoint an IPS officer's appointment on the cadre post meant for IAS officers, Home Minister Anil Vij has refused to relieve the IPS officer till state government takes prior permission from the central government, which is a mandatory requirement in such cases under the AIS (Cadre) Rules. The matter pertains to recently announced appointment of IPS officer Kala Ramachandran as Principal Secretary (Transport), Haryana. The officer figured among 10 IPS officers whose transfer/posting orders were issued on September 1. The officer was also given additional charge of the Crimes Against Women department. However, soon after the transfer orders were issued, Vij dug in his heels and vehemently objected to the IPS officer's appointment on the cadre post meant for IAS officers. The Home Department has cited relevant AIS (Cadre) rules, under which a prior permission from Centre's Department of Personnel and Training (DoPT), is required in such cases. Sources in the government, however, told The Indian Express that the Chief Minister's Office was still insistent on going ahead with the officer's transfer.

Sources disclosed that despite Vij's stern objections and advice asking the government to first obtain DoPT's approval and then post an IPS officer on a cadre post meant for IAS officers, the Chief Minister's Office is firm on going ahead with the appointment. Sources added that even while Vij had ordered that Kala Ramachandran shall not be relieved for her new assignment, the Home Department sent the file to the Chief Secretary's office for further orders.

Not the first case

Kala Ramachandran's appointment against the IAS cadre post is not the isolated case. Haryana government is already facing flak from the Union government for violating IAS cadre rules. In several earlier appointments of IPS officers on IAS cadre posts, the state government had not taken the mandatory permission of DoPT before making such appointments. Senior IAS officer Ashok Khemka has raised the issue of such appointments in violation of IAS cadre rules, with the CM's office, PM's office and even with the DoPT. Khemka, on November 3, 2020 and December 9, 2020, had raised the issue of Haryana government posting non-cadre officers on cadre posts in violation of Rule 9 of All India Services (Cadre) Rules. Based on Khemka's representations, DoPT had directed the Haryana government to ensure compliance of the AIS Cadre Rules while posting/transfers of officers in the state. The DoPT had also sought Haryana government's explanation on all such appointments that were made in the state. Although the state government did file their reply, the DoPT rejected the same.

THE JUDICIAL ROLE IN IMPROVING LAWMAKING (VIKRAM A. NARAYAN AND JAHNAVI SINDHU ARE ADVOCATES SPECIALISING IN CONSTITUTIONAL LAW)

The deterioration in the quality of deliberation in Parliament over time has prompted calls for reform from different stakeholders. *On Independence Day, Chief Justice of India (CJI) N.V. Ramana also highlighted this problem, noting that the ambiguities and gaps in laws passed without meaningful deliberation trigger avoidable litigation.* While the CJI suggested that lawyers and



intellectuals enter public life to improve deliberation, the judiciary can also play a crucial role in improving the lawmaking process. *Many rely on the volume of Bills passed by Parliament in a session as a measure of its efficiency. However, this measure is flawed as it does not account for what is lost when efficiency is achieved by passing laws without adequate notice and deliberation.* Most, if not all, of these laws create burdensome obligations on persons and often affect their fundamental rights. Legislators, as representatives of the people, are expected to exercise a duty of care before casting their vote. This entails due deliberation about the implications of the law, posing amendments and questions to the concerned Minister, and requiring expert evidence through standing committees. Moreover, it is in the legislative organ that diverse interest groups find representation. Deliberation in such a forum ensures that the views of persons who are adversely affected by a law are heard and actively engaged with. *Rushed lawmaking, rendering Parliament a rubber stamp, sacrifices two core ideals of a constitutional democracy, namely, equal participation and respect for fundamental rights.*

Evaluating legislative process

The judiciary can play an important role in improving the lawmaking process and securing these ideals. A straightforward way of doing this is by enforcing the text and spirit of the constitutional provisions governing legislative procedures. The Constitution contains certain detailed provisions laying out how laws are to be passed by Parliament and the State Legislative Assemblies. Unfortunately, these are often undermined. For example, *even when the result through voice votes are unclear, the exact number of "ayes" and "nays" are not always counted, suggesting that Bills may be passed without securing the majority vote required under Article 100. This issue arose most recently when the controversial farm laws were reportedly rushed and passed by voice vote in the Rajya Sabha despite objections by Opposition members. Similarly, Bills are certified as Money Bills to bypass the Rajya Sabha even where they do not meet the specific description of Money Bills provided under Article 110.* This Article identifies seven areas that can be governed through the enactment of Money Bills, including the imposition of tax, the regulation of borrowing and appropriation of money out of the Consolidated Fund of India. In the Aadhaar case, the Supreme Court, to an extent, recognised its power to check whether such procedural provisions had been complied with. However, these provisions will only be taken seriously if the judiciary addresses their violations in a timely manner. The longer a challenge is pending, the more ground the State has to argue that rights and obligations created under the law should not be disturbed for a "mere" procedural violation. *Another important method is for the judiciary to make deliberation a factor in evaluating the constitutional validity of laws. In exercising judicial review, the court's role is to call on the State to provide justifications explaining why the law is reasonable and, therefore, valid. While doing so, the court can also examine whether and to what extent the legislature deliberated the reasonableness of a measure. The legislative inquiry would usually include evaluating the factual basis justifying the law, the suitability of the law to achieve its aim, and the necessity and proportionality of the law relative to its adverse impact on fundamental rights.* The Supreme Court, in fact, adopted this approach in the Indian Hotel and Restaurants Association (2013) case. The court invalidated a law prohibiting dance performances only in hotels with less than three stars as rooted in class prejudice and, therefore, violative of equality. While the State justified the classification on the ground that only such hotels were sites of trafficking, the court rejected this claim by examining the lawmaking process and found that the State did not have empirical data to support this claim. *The judiciary can also make deliberation a factor in choosing whether to*



employ the doctrine of “presumption of constitutionality”. This doctrine requires the court to exercise restraint and defer to legislative judgments on the reasonableness of a law. It is rooted in the fiction that the legislature is a widely representative, deliberative organ, and thus “understands and correctly appreciates the needs of its own people”. *When laws are passed without deliberation and without examination of the empirical basis on which they are premised, the State usually finds it more difficult to explain why such laws constitute a reasonable restriction on rights and, therefore, heavily relies on the doctrine of presumption of constitutionality to resist close judicial scrutiny. By extending this doctrine to such laws, the judiciary undermines the guarantee of judicial review provided to protect fundamental rights. Instead, if the judiciary confines the doctrine only to cases where the State shows that laws and their consequences were carefully deliberated in Parliament, the judiciary can encourage legislative bodies to ensure a deliberative lawmaking process.*

Remedying dysfunction

The CJI’s suggestion that the legislature be reformed from within is admittedly the ideal solution to remedying legislative dysfunction without raising concerns of separation of powers. However, legislative majorities have little incentive to cooperate for such reform, and significant public mobilisation on the issue would be necessary to change this. Against this backdrop, the judiciary can and should employ the tools available to it to nudge legislative bodies to improve their lawmaking processes. In fact, *striking down laws on procedural grounds also mitigates concerns of separation of powers in certain respects. Unlike review on purely substantive grounds, it does not foreclose legislative bodies from re-legislating the issue and ensuring that the procedural defects in the law are rectified and the law is properly deliberated in Parliament.* The Indian judiciary has often demonstrated that it is possible to enrich democracy by addressing dysfunctions in other institutions. By adopting a swift and systematic approach to reviewing the legislative process, the judiciary can help restore faith in the ‘temples of democracy’ and push us toward the culture of justification the Constitution sought to create.

IT SURVEYS ON PREMISES OF NEWSPORTALS IN DELHI; NEWSCLICK FACES ACTION BY THIRD AGENCY

Income Tax surveys were conducted on the premises of news portals NewsLaundry and NewsClick in Delhi on Friday, with a senior department official telling The Indian Express that the surveys were related to alleged tax evasion. “Surveys have been carried out in the case of both NewsLaundry and NewsClick. The department’s officials conducted surveys on their premises in Delhi on charges of tax evasion,” the official said. *The Income Tax Act empowers officials to enter any premises of the assessee, such as residences, shops, factories or offices for a search and seizure operation. Surveys, which are conducted under Section 133A of the Income Tax Act, take place only on business premises. Surveys start during normal business hours, whereas searches can be conducted any time of the day. During surveys, I-T officials look into documents such as books of accounts, bank accounts, cash, stock and non-valuable documents.*

EX-GOVERNOR FACES SEDITION CASE OVER UP GOVT COMMENT



The Rampur police has booked former Uttar Pradesh governor Aziz Qureshi on sedition charges for allegedly making derogatory comments against the Yogi Adityanath government. Qureshi had gone to Rampur late Saturday evening to meet Samajwadi Party leader Azam Khan's wife Tanzeem Fatima, a local MLA. Azam Khan and his son Abdullah Azam Khan are in judicial custody in connection with cases pending against them. Tanzeem Fatima was released from jail in December last year. Leaving after meeting Fatima, Qureshi allegedly compared the Adityanath government to a "blood-sucking demon". On the basis of a complaint filed by local BJP leader Akash Saxena, an FIR was lodged against Qureshi at the Civil Lines Police Station Sunday under IPC Sections 153-A (promoting enmity between two groups on grounds of religion, race, place of birth, residence, language, etc, and acts prejudicial to maintenance of harmony), 153-B (imputations, assertions prejudicial to national integration), 124-A (sedition) and 505 (1)-B (intent to cause fear or alarm to the public). Saxena said when Qureshi visited Azam Khan's house, several people including mediapersons had gathered. "While speaking to the public, Aziz Qureshi made derogatory remarks against the Uttar Pradesh government," Saxena complained, adding that Qureshi's statement was doing the rounds on social media and may create tension between communities.

SPIRIT OF FEDERALISM LIES IN CONSULTATION

Recently, various State governments raised concerns about Central unilateralism in the enactment of critical laws on subjects in the Concurrent List of the Seventh Schedule of the Constitution. Kerala Chief Minister Pinarayi Vijayan stated that it is not in the essence of federalism for the Union government to legislate unilaterally, avoiding discussions with the States on the subjects in the Concurrent List. Tamil Nadu Chief Minister M.K. Stalin raised the issue by calling on other Chief Ministers against the Union government usurping powers under the State and Concurrent Lists. The Kerala Legislative Assembly unanimously passed a resolution against the Electricity (Amendment) Bill, 2020, while the Tamil Nadu Legislative Assembly passed a resolution against the controversial farm laws. The States and the Legislative Assemblies standing up for their rights assumes significance in the wake of the Union government introducing a number of laws without taking the States into confidence, thereby undermining the federal principles. Around a year back, *Parliament passed the farm laws without consulting the States. The laws, essentially related to Entry 14 (agriculture clause) belonging to the State List, were purportedly passed by Parliament citing Entry 33 (trade and commerce clause) in the Concurrent List.* According to various decisions of the Supreme Court, beginning from the State of Bombay vs F.N. Balsara case, *if an enactment falls within one of the matters assigned to the State List and reconciliation is not possible with any entry in the Concurrent or Union List after employing the doctrine of "pith and substance", the legislative domain of the State Legislature must prevail.* The farm laws were passed by Parliament even as it does not have legislative competence to deal with agriculture. The *lack of consultation* in a matter that intrinsically deals with millions of farmers also led to massive protests that, incidentally, still continue in streets across India.

'Redundancy of local laws'

When the *Major Ports Authorities Act, 2021*, was passed by Parliament earlier this year, even the Bharatiya Janata Party (BJP)-ruled State government in Goa objected to the law, stating that it would lead to the redundancy of the local laws, including the Goa Town and Country Planning Act, the Goa Municipalities Act, the Goa Panchayat Raj Act, the Goa Land Development and Building



Construction Regulations, 2010, and the Goa Land Revenue Code. *When it comes to non-major ports, the field for legislation is located in Entry 31 of the Concurrent List. According to the Indian Ports Act, 1908, which presently governs the field related to non-major ports, the power to regulate and control the minor ports remained with the State governments. However, the new draft Indian Ports Bill, 2021, proposes to change the status quo by transferring the powers related to planning, developing and regulating the non-major ports to the Maritime State Development Council (MSDC), which is overwhelmingly controlled by the Union government.* Coastal States like Odisha, Andhra Pradesh, Tamil Nadu and Kerala have objected to the Bill that proposes to seize the power of the State government with respect to non-major ports. Various States like West Bengal, Tamil Nadu and Kerala have also come forward against the *Electricity (Amendment) Bill, 2020*. The field related to *electricity is traceable to Entry 38 of the Concurrent List. The power to regulate the sector was vested with the State Electricity Regulatory Commissions (SERCs), which were ostensibly manned by individuals appointed by the State government. However, the proposed amendment seeks to change the regulatory regime from head-to-toe with the establishment of a National Selection Committee, dominated by members nominated by the Union government that will make appointments to the SERCs. Further, the amendment proposes the establishment of a Centrally-appointed Electricity Contract Enforcement Authority (ECEA) as the sole authority having jurisdiction over matters regarding the performance of obligations under a contract related to the sale, purchase or transmission of electricity.* In effect, the power to regulate the electricity sector would be taken away from the State government. *This is apart from other proposed changes, including changing the licensing regime to facilitate private sector entry without State government approval.*

Cause of concern

The Union government increasingly extending its hands on subjects in the Concurrent List is a cause of grave concern as the balance of the Constitution is now turned on its head. The model envisioned in the Government of India Act, 1935, was adopted by the framers of the Constitution and certain subjects were put in the Concurrent List by giving the Union and the State Legislatures concurrent powers regarding them. The fields in the Concurrent List were to be of common interest to the Union and the States, and the power to legislate on these subjects to be shared with the Union so that there would be uniformity in law across the country. However, *one of the worst fears of Constituent Assembly member K.T.M. Ahmad Ibrahim Sahib Bahadur has now come true, with subjects in the Concurrent List being transferred to the Union List over a period of time due to the Union government's high-handedness.* The Sarkaria Commission Report had specifically recommended that there should be a “coordination of policy and action in all areas of concurrent or overlapping jurisdiction through a process of mutual consultation and cooperation is, therefore, a prerequisite of smooth and harmonious working of the dual system”. It was further recommended that the Union government, while exercising powers under the Concurrent List, limit itself to the purpose of ensuring uniformity in basic issues of national policy and not more. *The National Commission to Review the Working of the Constitution (NCRWC), or the Venkatchaliah Commission, had recommended that individual and collective consultation with the States should be undertaken through the Inter-State Council established under Article 263 of the Constitution.* As the Supreme Court itself had held in the S.R. Bommai vs Union of India case, the States are not mere appendages of the Union. The Union government should ensure that the power of the States is not trampled with. The intention of the framers of the Constitution is to ensure that public welfare is subserved and the key to that lies in listening to stakeholders. *The*



essence of cooperative federalism lies in consultation and dialogue, and unilateral legislation without taking the States into confidence will lead to more protests on the streets.

WHATSAPP ROLLS OUT END-TO-END ENCRYPTION FOR CHAT BACKUPS

In what could lead to possible pushback from security agencies and governments across the world, global instant messaging giant WhatsApp said on Friday it will start offering end-to-end encryption on backup of messages. In a series of tweets, WhatsApp global chief executive officer (CEO) Will Cathcart, while announcing the launch, said the company had been working on the product for some time now. “This has been years in the making. We’re taking advantage of developments in hardware storage to safely store your backup encryption key in a vault no one else can access. We’re providing options to remember a 64-bit key or choose a password we do not know and cannot access. Neither can Apple or Google,” Cathcart said on Twitter. WhatsApp currently provides Android phone users the option to backup their chats either on Google Drive or some other storage of their choice, while for iPhone users it provides the same option on iCloud. The company, however, makes it explicitly clear that the media and messages that users backup in iCloud or Google Drive are not protected by WhatsApp’s end-to-end encryption. Defending the launch of the new service, which is likely to make it difficult for security agencies to request access to the backup of the chats, Cathcart said that everyone, including people, experts and the industry must push for more security since devices have become extremely important in people’s lives. “Some governments continue to suggest using their powers to require companies to offer weaker security. We think that’s backwards: we should demand more security from companies for people’s sensitive information, not less,” he said. An end-to-end encryption on backups means that media and messages, stored on either Google Drive or iCloud will now be encrypted with a unique and completely random encryption key. Users can also opt to have a password, the company said. “To enable E2EE (end-to-end encryption) backups, we developed an entirely new system for encryption key storage that works with both iOS and Android. When someone opts for a password, the key is stored in a Backup Key Vault that is built based on a component called a hardware security module (HSM)—specialised, secure hardware that can be used to securely store encryption keys”, Facebook, which owns WhatsApp, said in a blog post. India is one of the largest markets for WhatsApp with more than 53 crore users. Under the new IT Rules, the government has mandated that companies specifically in the business of instant messaging must enable a provision to trace the first originator of the message on the platform. On May 25 this year, which was the last day to comply with the new social media and intermediary guidelines, WhatsApp had approached the Delhi High Court with a plea challenging the provision of tracing the first originator of the message. In its plea, WhatsApp said that this would require it to break its “end-to-end” encryption on its platform, which would in turn infringe upon the fundamental right to privacy of users. The Ministry of Electronics and Information Technology, however, had said that WhatsApp’s move to legally challenge the provision of tracking the first originator of a message is an “unfortunate attempt” and “a clear act of defiance of a measure whose intent can certainly not be doubted”.

T.N. MAKES IT OFFICIAL: WORKERS HAVE RIGHT TO SIT

It might not have all the connotations of a Rosa Parks’ protest, but the Bill that the Tamil Nadu government introduced in the Assembly on Monday is revolutionary enough by recognising workers’ ‘right to sit’. Kerala is the only other State to have legislated on the ‘right to sit’, and that, in

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response to protests conducted by sections of the labour force. In Tamil Nadu, the government has taken a proactive step by introducing a legislation that will provide a chair to each worker, and a whole lot of dignity, besides helping the employees avoid the discomfort and health issues arising from remaining on their feet throughout the day.

Act to be amended

The Bill, which will benefit thousands of employees of large and small establishments, especially those working at textile and jewellery showrooms, was introduced by Minister for Labour Welfare and Skill Development C.V. Ganesan. It seeks to amend the Tamil Nadu Shops and Establishments Act, 1947, by adding a sub-section. The proposed Section 22-A reads, "The premises of every establishment shall have suitable seating arrangements for all employees so that they may take advantage of any opportunity to sit which may occur in the course of their work and thereby avoid the 'on their toes' situation throughout the working hours." The subject was placed at a meeting of the State Labour Advisory Board on September 4, 2019, and was unanimously approved by the members.

CASE AGAINST BAGHEL'S FATHER FOR 'DEROGATORY REMARKS'

The Raipur police have registered a case against Chhattisgarh Chief Minister Bhupesh Baghel's father, Nand Kumar Baghel, for allegedly making derogatory comments against a community, an official said on Sunday. After a controversy erupted over the alleged remarks of his father, the Chief Minister said he was pained by such comments and asserted that the police would take appropriate action in the matter. Following a complaint filed by the 'Sarv Brahmin Samaj', the D.D. Nagar police here registered an FIR late on Saturday night against Nand Kumar Baghel, 86, the official said. The case was registered under IPC Sections 153-A and 505(1)(b). *The outfit, in its complaint, alleged that Mr. Nand recently appealed to people to boycott Brahmins by terming them as foreigners, and also asked people to not let them enter their villages. It also accused him of asking people to "evict" Brahmins out of the country.* According to the police, Mr. Nand reportedly made the remarks at an event in Uttar Pradesh recently.

'Pained by comments'

The Chief Minister, in a statement, said, "The remarks made by my father Nand Kumar Baghel against a specific class have come to my attention. The comments have hurt the sentiments of the class as well as social harmony and I am also pained by it." "Nobody is above the law in my government even if he is the Chief Minister's 86-year-old father," he added.

BECOMING STAKEHOLDERS

The tripartite agreement signed by the Centre, five insurgent groups active in Karbi Anglong, and the Assam government, marks the culmination of an extended process of negotiation to end insurgency in the region. According to the Memorandum of Settlement, greater autonomy will be devolved to the Karbi Anglong Autonomous Council; the identity, language, culture of Karbi people will be protected; and more focused development carried out in the Council area. The government will also consider notifying Karbi language as the official language of the Council. Over a thousand armed insurgents have surrendered their arms under the peace deal. *The Northeast's map is dotted*



with big and small insurgent groups that have made demands ranging from a separate nation-state to statehood within the Indian Constitution and autonomy under the state government. The Naga insurgency has been an inspiration for these separatist movements, which exploit alienation caused by an insensitive and exploitative state, and engage in extortion. While the focus has been on big groups such as the NSCN-IM and ULFA, the smaller insurgencies have been no less disruptive of the state-building process in the region. *If the ULFA emerged as an expression of Assamese nationalism, many smaller groups, some of which pre-date the Assam Movement of the late 1970s, have fought to protect their distinct ethnic, linguistic and cultural identity from being subsumed within a broader Assamese identity. They have tried to build on older memories of kinship and legacies of ancient kingdoms and refute the umbrella of the nation state.* The Centre's double-barrelled approach to this threat to sovereignty has been to offer autonomy under the Constitution on the one hand while using security forces to crush militancy, on the other. Insurgents who negotiate for peace are accommodated in state legislatures or Autonomous Councils. This approach has had various degrees of success, in Mizoram, Tripura, the Bodo areas. *In Assam's hill districts of Dima Hasao and Karbi Anglong, separatism that rejected Sixth Schedule status transformed into a demand for an autonomous state under Article 244(a) of the Constitution after militancy peaked in the 1990s. The Karbi Anglong agreement signed on Saturday falls short of fulfilling that demand though it promises more autonomy than currently enjoyed by the Autonomous Council under the Sixth Schedule of the Constitution.* However, autonomy and funds may not be sufficient to improve the condition of the people on whose behalf ceasefire agreements and settlement deeds are signed. Autonomous Councils are often captured by vested interests, who invoke fears of a militant past, and the enhanced development funds are diverted to private parties. The transition from an insurgent to a stakeholder or agent of democracy is not easily achieved.

THE ALLIANCE AFTER THE DEATH OF ITS PATRIARCH

The death of Syed Ali Shah Geelani, the 92-year-old separatist leader in Kashmir, came as a body blow to the All Parties Hurriyat Conference, which was already divided and weak, and particularly the pro-Pakistan segment in it. Ailing and living in a house-turned-detention centre for over a decade, Geelani, who co-founded Hurriyat, died on September 1, just five months after his close aide and lieutenant Muhammad Ashraf Sehrai, 78, died in a Jammu jail. The two had stirred the political cauldron of Kashmir as Jamaat-e-Islami members for around six decades. The Jamaat was banned by the Centre on February 28, 2019, two weeks after the Pulwama attack left 40 CRPF jawans dead in south Kashmir. *With Geelani and Sehrai dead and the Jamaat banned, the constituency that sees a solution to the Kashmir dispute in merging with Pakistan is now without a structure or a face.* Masrat Alam, another prominent pro-Geelani face in the valley, who heads the Muslim League, has been in jail since 2014.

The rise

The All Parties Hurriyat Conference (APHC), widely known as the Hurriyat, came into being in July 1993. It was an outcome of the armed rebellion that swept through Jammu & Kashmir in 1989. The unprecedented militancy broke out just three years after the Muslim United Front — of which Geelani and Jamaat-e-Islami were also a part — saw a crushing defeat in the polls, which was touted to be widely rigged in favour of the National Conference and its partners. By 1993, the armed rebellion



saw itself split into different ideological compartments, including those that demanded complete independence like the J&K Liberation Front (JKLF) of Yasin Malik; and those which sought a merger with Pakistan such as the Hizbul Mujahideen of Syed Salahuddin. When the special envoys from New Delhi and abroad started meeting to discuss the future of Kashmir, they demanded to see a joint political front from the Kashmir militants. So, around 26 political parties, civil society members and traders' organisations came together to form the Hurriyat. In its constitution, all the parties agreed that Kashmir was a "disputed State", called for a "peaceful struggle" and a solution "as per the resolutions passed by the United Nations", which calls for the right to self-determination of people of J&K. Kashmir's head cleric Mirwaiz Umar Farooq, who was 19 years old in 1993 and had mooted the idea of forming a joint forum, became the first chairman of the amalgam that had both pro-Pakistan and pro-independence organisations in it. The Hurriyat, which wielded influence over the militant outfits and was able to control the streets, became a formidable force in the 1990s. In an address made at Burkina Faso in 1995, then Prime Minister P.V. Narasimha Rao, in an apparent offer to separatists, said "short of azadi (freedom), sky was the limit as far as the demand in Kashmir for autonomy was concerned". Riding high on its growing popularity among the masses, the Hurriyat's call for boycotting the 1996 Assembly elections and the 1999 Lok Sabha elections saw noticeable impact on the ground, with many polling booths registering zero voter turnout. Most Hurriyat leaders, including Geelani and Yasin Malik, were lodged in different jails for their anti-election campaign in 1999. Pakistan also started recognising the Hurriyat as "the sole voice" of Kashmiris. The Pakistani Embassy and visiting dignitaries from Islamabad started inviting the Hurriyat-affiliated political outfits for dinners and discussions over the Kashmir issue to the chagrin of New Delhi. This necessitated more engagement with the Hurriyat leaders by the Centre. However, the government exploited the personality clashes within the Hurriyat to pick and choose the leaders to negotiate separately. The engagement, however, did not lead to anything concrete. The September 11, 2001, attacks in the U.S. saw worldwide anger growing against Islamist armed movements. As the West's attention turned against Islamist militancy and started perceiving it through the prism of terrorism, the Hurriyat also saw its goodwill waning and divisions started cropping up.

The split

The first major fissure emerged when the Hurriyat constituents accused the Peoples Conference, headed by Abdul Ghani Lone, of fielding proxy candidates in the 2002 Assembly elections. Later, Mirwaiz Umar Farooq's decision to engage with the BJP-led National Democratic Alliance (NDA) further deepened the divide, with Geelani raising questions about the futility of engaging New Delhi without a concrete road map for Kashmir. As the growing differences resulted in the Hurriyat's split in 2003, 12 out of 26 constituents removed Maulana Abbas Ansari, who was pro-Mirwaiz, as its chairman and named Masrat Alam of the Muslim League, who belonged to the Geelani faction, as its head. Later, the Ansari faction met deputy Prime Minister L.K. Advani in 2004 to initiate a dialogue on Kashmir. It also supported former Pakistan President Pervez Musharraf's four-point formula and advocated a triangular dialogue between Delhi-Srinagar, Delhi-Islamabad and Srinagar-Islamabad after 2005. The ouster of Musharraf from power and the end of the term of Prime Minister Manmohan Singh put the curtain on the four-point formula, which many see as the closest ever Kashmir got to a final settlement in the past three decades.

BJP's approach



After its emphatic election victory in 2014, the BJP's approach towards the Hurriyat also steadily changed. The first major salvo from the BJP came in 2015 when India put a precondition to Pakistani National Security Adviser (NSA) Sartaj Aziz not to meet Hurriyat leaders in New Delhi ahead of the NSA-level talks. Since then, Hurriyat leaders' meetings with the Pakistani Embassy were discouraged or barred. The government started a crackdown on the Hurriyat in 2017 when many leaders, including Mirwaiz's spokesman Shahid-ul-Islam and Geelani's son-in-law Altaf Shah, were arrested. Pro-independence JKLF was banned in March 2019, immediately after the Pulwama attack, and its chairman Yasin Malik was arrested. The frequent raids and questioning of Hurriyat leaders by the National Investigation Agency and the Enforcement Directorate silenced the separatist groups. Both Geelani and Mirwaiz were placed under house detentions. By the time the Centre ended J&K's special constitutional position on August 5, 2019, *the Hurriyat factions were rendered paper tigers with no structure or manpower to mobilise supporters. The Hurriyat's inability to respond forcefully to the Centre's decision has earned it a bad name even among its supporters, who have started questioning the entire leadership. Now, with Geelani's death, the alliance faces a vacuum.* The Hurriyat appears to be weakened organisationally, but the sentiment it represents still remains strong among a sizeable population of Kashmir. The Centre's recent statement that it's not going to ban the Hurriyat immediately suggests that removing the platform completely from the political landscape of J&K is not a favourable idea. The Hurriyat's absence will remove an interface between the underground militant outfits and the government. In the future, for any talks, the Centre may have to engage with militants directly, if the Hurriyat goes off the scene.

DU COLLEGES SHINE IN NATIONAL RANKINGS

Five out of the top 10 colleges under the National Institutional Ranking Framework (NIRF) ranking announced by the Union Education Ministry are Delhi University colleges, with Miranda House topping the list yet again. For Miranda House, this is the fifth consecutive year when it has been ranked first, with the college receiving its first rank position in 2017. This year, Lady Shri Ram (LSR) College for Women secured the second position followed by St. Stephen's College, Hindu College and Shri Ram College of Commerce (SRCC) securing the eight, ninth and tenth position, across the country. While LSR maintained its second rank for the second consecutive year, both Hindu College and St. Stephen's College dropped by a few ranks while SRCC rose from the 12th position in 2020 to among the top 10 colleges this year. In 2020, Hindu College had secured the third position while St. Stephen's College had secured the fourth position.

IITS TOP CENTRE'S RANKINGS FOR 2021

The Indian Institute of Technology (IIT), Madras was ranked the best higher education institution in the country for the third year in a row by the Union Education Ministry, which released its India Rankings 2021 under the National Institutional Ranking Framework on Thursday. The IITs dominated the overall rankings, grabbing seven of the top 10 positions. The Indian Institute of Science (IISc), Bengaluru was ranked second, followed by the IITs in Bombay, Delhi, Kanpur, Kharagpur, Roorkee and Guwahati. Jawaharlal Nehru University (JNU) and Banaras Hindu University (BHU) were at rank nine and 10, respectively. Among universities, the IISc was ranked one, followed by the JNU, the BHU, the University of Calcutta, the Amrita Vishwa Vidyapeetham, Coimbatore, Jamia Millia Islamia, New Delhi, the Manipal Academy of Higher Education, Jadavpur

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University, the University of Hyderabad and Aligarh Muslim University. Delhi University was placed 12 among universities and 19 overall. Among engineering institutions, the *IIT, Madras* was number one, followed by the IITs in Delhi, Bombay, Kanpur, Kharagpur, Roorkee, Guwahati and Hyderabad, and the National Institutes of Technology (NITs) in Tiruchirapalli and Surathkal.

IIM-Ahmedabad on top

For management institutions, IIM-Ahmedabad was ranked one, followed by IIM-Bangalore, IIM-Calcutta, IIT-Kozhikode, IIT-Delhi, IIM-Indore, IIM-Lucknow, Xavier Labour Relations Institute in Jamshedpur, IIT-Kharagpur and IIT-Bombay. Jamia Hamdard was ranked one for pharmacy, followed by Panjab University. Manipal College of Dental Sciences was ranked the best in the dental category. All-India Institute of Medical Sciences in New Delhi scored the top rank for medical institutions, followed by Post Graduate Institute of Medical Education and Research in Chandigarh, Christian Medical College in Vellore, National Institute of Mental Health and Neuro Sciences in Bengaluru, Sanjay Gandhi Postgraduate Institute of Medical Sciences in Lucknow, Amrita Vishwa Vidyapeetham, BHU, Jawaharlal Institute of Post Graduate Medical Education and Research in Puducherry, King George's Medical University in Lucknow and Kasturba Medical College in Manipal. Among institutions teaching law, National Law School of India University in Bengaluru was ranked number one, followed by National Law University in Delhi, NALSAR University of Law in Hyderabad, West Bengal National University of Juridical Sciences, IIT-Kharagpur, Gujarat National Law University, Jamia Millia Islamia, National Law University in Jodhpur, Symbiosis Law School in Pune and Kalinga Institute of Industrial Technology in Bhubaneswar. IISc was ranked the best research institution, a category included for the first time. Miranda House in Delhi remained the best college, followed by Lady Shri Ram College for Women and Loyola College. While releasing the rankings, Education Minister Dharmendra Pradhan said there was need for developing regional ranking frameworks and increasing participation by institutions. The Ministry launched the rankings in 2016 and has added more categories over the years.

KERALA PANCHAYAT OFFICE BANS 'SIR', 'MADAM'

The Mathur gram panchayat in Kerala's Palakkad district has become the first local body in the country to ban the use of salutations like 'Sir' and 'Madam'. A special meeting of the panchayat council on Tuesday took the historic decision that could likely kickstart a wave of reforms in the use of official language. *The panchayat viewed salutations like 'Sir' and 'Madam' as remnants of the colonial rule.* "It's been 75 years since we secured freedom from the British. It's time we showed the supremacy of the people in a democratic government," said P.R. Prasad, vice-president of the Mathur panchayat, moving a resolution. People reaching the panchayat office for various purposes will no longer have to call officials "Sir" or "Madam". *Instead, they can address them by their designations or names. Every panchayat official will now display their names on their table. If people feel addressing an elderly or senior person by name will be disrespectful, they can use the more friendly and endearing terms like Cheta (elder brother) or Chechi (elder sister).* The panchayat has asked the Official Language Department to suggest proper alternatives to "Sir" and "Madam". The panchayat also decided to drop words like 'apekshikkunnu' or 'abhyarthikkunnu' (meaning I request) in letters. Instead, people can use 'avakasapedunnu' (I demand) or 'thalparyapedunnu' (I desire). The panchayat has displayed a notice outside the office telling people that if anyone is



denied any service for not using the banned words, they can complain to the panchayat president or secretary. “In a democracy, government officials and elected representatives are the servants, the people are the supreme authority. People should not be at our mercy for their rights,” said Mr. Prasad. *Mathur panchayat president Pravitha Muraleedharan said it was a bold step towards reducing the gap between officials and the people.* The panchayat council took the decision unanimously, assuming that scrapping words that indicate colonial hangover will bring in an air of friendliness.

ASSAM CABINET DROPS ‘RAJIV GANDHI’ FROM NAME OF ORANG NATIONAL PARK

The Himanta Biswa Sarma government in Assam on Wednesday announced that the Rajiv Gandhi Orang National Park — the oldest game reserve in the state, located on the north bank of the Brahmaputra — will be known as the Orang National Park. The development comes weeks after the Centre dropped former Prime Minister Rajiv Gandhi’s name from the Khel Ratna award. Wednesday’s decision was taken by the state Cabinet after “taking cognizance of the Adivasi and Tea Tribe Community’s demands”, a release from the Chief Minister’s Office (CMO) said. “The Chief Minister had recently met the representatives of the Tea Tribe and Adivasi community and they had requested that we restore the original name of the park,” said Assam government spokesperson and I&PR Minister, Pijush Hazarika, addressing the press after the meeting. Reacting to the development, Congress MP from Assam Gaurav Gogoi tweeted: “When the next Congress Government is formed in the state of Assam, on the first day we will cancel the decision of the BJP government to remove the name of former Prime Minister Rajiv Gandhi from the Orang National Park. Indian culture teaches us to respect martyrs unlike RSS.” Located 140 km from Guwahati, the park, *named after the eponymous ethnic group*, is known for the one-horned rhino, tigers, elephants, wild boars, pygmy hogs, and a variety of fish, among a host of other flora and fauna species. *It is often called ‘Mini Kaziranga’ owing to the similarities in topography, and a rich population of the one-horned rhino.* Speaking to The Indian Express, Assam Forest Minister Parimal Suklabaidya said that the change in name was a “longstanding demand” of local communities living around the park. “It was always the Orang National Park — until the Congress inserted former Prime Minister Rajiv Gandhi’s name in it. So we have just respected local sentiments by restoring the original name.” *Orang was notified as a game reserve by the British in 1915, making it the oldest such reserve in the state.* Dr Budhin Hazarika, researcher and former honorary wildlife warden of the Mangaldai Wildlife Division, under which Orang falls, said that a multitude of tribes (Hajong, Orang, Koch, etc.) lived in Orang in the 1900s but abandoned the area after an outbreak of Black Fever. “In 1915, the British notified it as a game reserve, after which it was declared a Wildlife Sanctuary in 1985,” he said. In 1999 it was upgraded to National Park, and in 2016, recognised as a Tiger Reserve.

CONGRESS SLAMS ICHR FOR ‘OMITTING’ NEHRU’S ROLE IN INDIA’S INDEPENDENCE

Congress leaders have criticised the Indian Council for Historical Research for ‘omitting’ the contribution of Jawaharlal Nehru during the ‘Azadi ka Amrit Mahotsav’ to commemorate the 75th year of Independence. Lok Sabha member Shashi Tharoor shared a screenshot of the main page of ICHR’s website that displayed personalities such as Mahatma Gandhi, B. R. Ambedkar, Sardar Patel, Netaji Subhash Bose, Rajendra Prasad, Madan Mohan Malaviya, Bhagat Singh and Vinayak Damodar Savarkar. However, Pandit Nehru was conspicuously missing. “It is not merely petty but

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absolutely ahistorical to celebrate Azadi by omitting the pre-eminent voice of Indian freedom, Jawaharlal Nehru,” Mr. Tharoor tweeted with the screenshot. Rajya Sabha member Jairam Ramesh added, “Not surprising from this regime and its toadies masquerading as scholars, but atrocious nevertheless.”

IN NEW JNU COURSE, ‘JIHADI VIOLENCE’ IS ONLY FORM OF ‘FUNDAMENTALIST RELIGIOUS TERROR’

“Jihadi terrorism” is the only form of “fundamentalist-religious terrorism”, and Communist regimes in the erstwhile Soviet Union and China were the “predominant state-sponsors of terrorism” that influenced “radical Islamic states”. These are some of the key assertions in a new course on counter-terrorism for engineering students pursuing a dual degree programme at Jawaharlal Nehru University (JNU). The optional course, titled ‘Counter Terrorism, Asymmetric Conflicts and Strategies for Cooperation among Major Powers’, was cleared during a meeting on August 17 of the university’s Academic Council. *The JNU Teacher’s Association has alleged that no discussion was allowed in the meeting in which the course was passed.* The course will be offered to students pursuing an MS with specialisation in International Relations after a BTech in Engineering — online classes for the monsoon semester start on September 20. The Council is the university’s highest decision-making body for academic programmes. Its clearance for the course will have to be endorsed by the Executive Council, which decides on management and administrative issues, as part of procedure. One of the new course’s modules, titled ‘Fundamentalist-religious Terrorism and its Impact’, states: “Fundamentalist – religious inspired terrorism has played a very critical and dominant role in the spawning of terrorist violence in the beginning of the 21st century. *The perverse interpretation of the Koran has resulted in the rapid proliferation of a jihadi cultist violence that glorifies death by terror in suicidal and homicidal variants.*” It states: “The exploitation of the cyberspace by the radical Islamic religious clerics has resulted in the electronic propagation of jihadi terrorism world over. Online electronic dissemination of Jihadi terrorism has resulted in the spurt of violence in non-Islamic societies that are secular and are now increasingly vulnerable to the violence that (is) on the increase.” Another module, titled ‘State-sponsored Terrorism: It’s Influence and Impact’, refers only to the Soviet Union and China. “Terrorism has always a geographical base and support havens for its operations. State sponsored terrorism has been largely during the ideological war between the West and the Soviet Union and China. *The Soviet Union and China have been predominant state-sponsors of terrorism and they have been heavily involved in terms of their intelligence agencies training, aiding and providing logistical support to Communist ultras and terrorists,*” it states. “In the post-Cold War period, the trend has been well adapted by several radical Islamic states that have mirrored the earlier tactical strategies of the Communist powers and have continued to aid and arm the various terrorist groups,” it reads.

It does not meet the basic standard of academic rigour, say students

Jawaharlal Nehru University Students’ Union on Sunday demanded to roll back a course titled ‘counterterrorism, asymmetric conflicts and strategies for cooperation among major powers’ to be taught to engineering students at the university pursuing a dual degree programme with specialisation in international relations. The students alleged that the course did not meet the basic standard of academic rigour and demanded that the course details be made public and be subjected to scrutiny by all relevant stakeholders, including subject experts. The students’ body said that it



rejects the introduction of such courses that reek of the “Islamophobic agenda of the administration” and demanded that the course be rolled back.

Myopic understanding

The students in a statement said “two of the modules under this course are potential inciters of Islamophobia and present a myopic understanding of countering terrorism. The modules of ‘Fundamentalist-Religious Terrorism and its Impact’ and ‘State-sponsored Terrorism: Its Influence and Impact’ reveal *attempts of misusing the university space to escalate propaganda-based misrepresentation of facts to satisfy the communal and anti-Communist propaganda of the current regime with a total disregard to basic principles of scientific pedagogy*”. JNU Vice-Chancellor M. Jagadesh Kumar had said that the objective of the course is to give students an in-depth understanding on the challenges emanating from terrorism to India’s national security and how India can get equipped with the adequate responses in the case of any eventuality. “It is imperative that an academic institution like JNU takes the lead and builds a good set of counterterrorism specialists. India urgently needs a critical mass of such specialists in this field,” Mr. Kumar said.

‘Curriculum holistic’

The university said that the curriculum has been designed keeping in mind the terrorist activities at the global level and India’s experiences in handling them. It added that the curriculum is holistic and also contains sections on the role of intelligence information and the counterterrorism cooperation among major powers.

NO SINGLE STORY

Literature, by instinct and in practice, is against the oppression of the single story. It is interested, not in dogma, but in textures and voices, chronicles and records that confound easy truths. By pushing us into zones of discomfort and disquiet, it allows us a clearer view of human life. In doing so, it also offers a powerful way to speak back to power. It’s an understanding that appears to have escaped Delhi University authorities, who have *struck off the works of Tamil writers Bama and Sukirtharani, as well as the short story ‘Draupadi’ by Mahasweta Devi, from a paper of the undergraduate English literature syllabus*. No reasoned argument has been offered by the DU’s Oversight Committee for the decisions that several members of the university’s academic council have described, in a note of dissent, as “vandalism”. *The Delhi University registrar defended the changes by stating a preference for “literary content ... that does not hurt the sentiments of any individual”. He also objected to the language of Mahasweta Devi’s ‘Draupadi’ — the story of Dopdi Mejhen, a Santhal woman gang-raped in police custody — as going against “culture and ethics”, and the fear that it would make “students hate the military.”* It appears that behind such decisions is the idea of the classroom as a sanitised encounter — to be measured by the deference of students to all kinds of authority, especially the state. The summary dismissal, too, of the works of Bama and Sukirtharani, who powerfully represent the experience of living in an oppressive caste society, confirms this narrow vision and its anxieties. In the name of “culture” and “ethics”, it undoes decades of scholarship and debate that have pushed literature departments to a more expansive understanding of literary experience and merit — as gendered, as influenced by caste, and race and empire. Anything but the single wholesome story. That such a decision has been taken by a committee which does not include members from the English Literature department, among other



disciplines, also leads to worrying questions of the way syllabi are being vetted. According to the DU registrar, however, “I can read English, you can read English. If something offensive is written somewhere, we don’t need a PhD in literature to understand that.” Scholars and students of literature must not be distracted from their work – the critical study of all texts, whether nationalistic or not — by such censorious instincts. Nor should the classroom be held hostage to the “sentiments” of those who take offence at any challenge to the “consensus”. Delhi University must rethink its decision to shrink the syllabus.

REPUTATION & HARM

Over the last few years, a growing number of people and institutions have been labelled “anti-national” and accused of belonging to the “tukde tukde gang” — students like Umar Khalid and Disha Ravi, teachers like Anand Teltumbde, activists like Sudha Bharadwaj, entire universities and those protesting against the CAA, NRC and farm laws. This name-calling has had disturbing consequences — a chilling effect on free speech and dissent, a narrowing of public spaces under the burden of a restrictive and unforgiving patriotism. *These labels also act as dog whistles to the mob, which often hounds those so targeted in both digital and real-world spaces.* Now, the “tukde tukde gang” has been expanded by the Panchjanya — a publication associated with the Sangh Parivar, that counts as its first editor BJP stalwart and former prime minister Atal Bihari Vajpayee — to include Infosys. The RSS has distanced itself from the Panchjanya piece, but this is a step down a very slippery slope. By any reckoning, Infosys Limited is a blue-chip Indian company, part of the backbone of the IT and related services industry. It was listed on the Nasdaq as early as 1999 and, long before tech “unicorns” became a frequent occurrence, had a billion-dollar valuation. The company, whose founders did not inherit but made their wealth, has been, and continues to be, a powerful symbol of an aspirational and confident IT and corporate sector, a testament to the rise of 21st-century, post-liberalisation India. *The Panchjanya cover story titled “Saakh aur Aaghat (Reputation and Harm)”, which alleges that Infosys is in cahoots with “Naxals, Leftists and the tukde tukde gang” to try and “destabilise the Indian economy” cites as reason for these entirely unsubstantiated accusations the alleged problems in the functioning of the Income Tax Portal that Infosys has been developing.* It is no one’s case that the tech giant should not be held accountable for glitches in a system that is crucial to filing tax returns. And the government is within its rights to demand that the company fix these issues – as Finance Minister Nirmala Sitharaman has already done. But a technical software glitch is not a conspiracy. Now more than ever, the Indian economy, already ailing before the pandemic, needs investment from, and cooperation of, the private sector. *The “Atmanirbharta” vision outlined by the prime minister, or the Centre’s asset monetisation drive, is unlikely to succeed if organisations close to the ruling party and its ideological fountainhead are seen to target corporations and question their patriotism.* The ball is also in the court of India Inc. *Barring a few exceptions, corporate and industry leaders have maintained a studied — and perhaps strategic — silence about the vitriol that has been seeping into the public discourse, and corroding it.* Now that the guns are trained on one of their own, it may be time to speak up. Both their bottom-lines and the national interest are at stake.

SURVEY DETAILS ‘CATASTROPHIC’ IMPACT OF SCHOOL CLOSURE

The prolonged closure of primary and upper primary schools since the onset of the pandemic has led to “catastrophic consequences” for school students, particularly in rural India, says an

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emergency report. Based on the School Children's Online and Offline Learning (SCHOOL) survey conducted by researchers, who worked in coordination with eminent economist Jean Dreze, the 'Emergency Report on School Education' says that only 8% of school students in rural India have been able to access online education, while at least 37% have stopped studying altogether. "The SCHOOL survey makes it clear that the reach of online education is very limited: the proportion of schoolchildren who were studying online "regularly" was just 24% and 8% in urban and rural areas respectively. One reason for this is that many sample households (about half in rural areas) have no smartphone," found the survey that was conducted by around 100 volunteers across India. The report covered 1,362 sample households spread across 15 States, including Assam, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Uttar Pradesh, Tamil Nadu and West Bengal. The survey also found that the Dalit and Adivasi children were at a greater disadvantage as a mere 5% of the children from these groups had access to online classes. According to the findings, access to online education among students in those houses with smartphones is also handicapped by the fact that the smartphones are mainly used by the working adults who are not always able to share the gadgets with the children at home.

No access to teachers

Another casualty of the prolonged closure of schools has been the relation between the teachers and students in both urban and rural sectors, with 51% of the respondents in the urban areas and 58% in rural India saying that they had not met teachers during the month preceding the survey. Researchers also found that there have been many teachers who went out of their comfort zones to help students during the 17-month-long closure of schools. In addition to education, the closure affected the level of nutrition among the children in rural schools where the midday meals have been stopped. "Midday meals have been discontinued in all the sample States with the closure of schools. Among parents with a child enrolled in a government school, about 80% reported receiving some food (mainly rice or wheat) during the preceding 3 months as a substitute for their child's midday meals," stated the report. Most parents surveyed have supported reopening of the schools at the earliest. Ten percent of the parents in urban areas had some hesitation in sending their children to school but, overall, 97% of parents supported reopening of schools. The report said the prolonged school lockdown, one of the longest in the world, has led to a "colossal disaster". "It will take years of patient work to repair this damage. Reopening schools is just the first step, still being debated. In fact, even preparations for that first step (such as repairing school buildings, issuing safety guidelines, training teachers, enrolment drives) are virtually invisible in many States," said the researchers.

IS COVID-19 NOW ENDEMIC IN INDIA?

As India gets ready to face a possible third wave of SARS-CoV-2, World Health Organization (WHO) chief scientist Dr Soumya Swaminathan has said that "India seems to be entering some stage of Covid-19 endemicity where there is low- to moderate-level transmission". *Earlier this year, scientists had indicated in a survey carried out by the journal Nature that the SARS-CoV-2 virus is set to become endemic and would continue to circulate in pockets of the global population.*

What is endemicity?



Endemic means something that is present all the time. For example, said leading virologist Dr Shahid Jameel, influenza is endemic, unlike smallpox which has been eradicated. *“Only those pathogens can be eradicated that don’t have animals (another species) as a reservoir. Smallpox and polio are human virus examples, rinderpest is a cattle virus. This means if there is a virus/pathogen that is present in some animal reservoir like bats, camels or civet cats, then it can transmit again once the level of immunity wanes in the population against the disease caused by it,”* Dr Jameel said. *“In the case of coronavirus disease, it will continue to circulate as it is present in the animal reservoir. This also means that it will cause disease to the extent that people have had no vaccination against or exposure. If, however, enough people are vaccinated or have been exposed to the infection, then the virus will cause symptomatic infection but not disease. So, that is what is considered becoming endemic – it is there but not causing disease,”* Dr Jameel said.

When is SARS-CoV-2 likely to become endemic?

That will depend on how fast it spreads and mutates. There are many variables that have to be considered, Dr Jameel said, and there is no clear answer regarding when the virus is likely to be endemic. “Instead of getting bogged down on whether the virus has become endemic or not, the need is to focus on vaccination and limit transmission. It is not possible to predict when the virus is going to be endemic,” Prof Jameel said. The last serological survey by the Indian Council of Medical Research (ICMR) had shown from a representative sample of the population — 70 districts out of 718 — that roughly two-thirds of the population have antibodies. Again, out of those two-thirds, some would have had the antibodies because they have now been fully vaccinated. However, since vaccination rates are still fairly low, the general assumption is that most people who have antibodies have been infected but not all have had disease. This means a majority will be protected from symptomatic disease later on, Dr Jameel explained; they may get infected but are protected. “Again, that is assuming the virus is not going to change to a form that transmits easily and evades immunity. One cannot predict if and when the virus mutates into something where vaccines start failing,” Prof Jameel said.

WHY ARE ‘BREAKTHROUGH’ INFECTIONS A CONCERN?

India’s second wave has not fully dipped and over the past seven days, daily infections of COVID-19 have logged over 40,000 cases. The rise in daily infections is primarily seen in Kerala and Maharashtra, which paradoxically are also among the States which have a high rate of vaccination. In this context, there are concerns about the rise in ‘breakthrough infections’ or confirmed infections in those who have got the second dose of the vaccine at least two weeks earlier.

Are those who are doubly vaccinated getting COVID-19?

If a person gets infected with the SARS-CoV-2 virus 14 days after the second shot of the vaccine, it is called a ‘breakthrough infection’. The two-week window is the time it takes for the body to produce necessary antibodies following a shot of the vaccine. A ‘breakthrough infection’ refers to the virus being able to penetrate the protective barrier of antibodies. There are no official estimates, nationally, of how many ‘breakthrough infections’ have been reported in India but news reports in mid-August, quoting unnamed officials, estimated that 80,000-100,000 people got infected, nearly half in Kerala. The State has a COVID-19 genome surveillance programme that periodically monitors the prominent coronavirus variants as well as whether some variants are more closely



linked to instances of 'breakthrough infections'. According to the latest update on August 30, 7,202 coronavirus samples, or about 0.1% of its cumulative caseload of 400,000 confirmed cases, had been sequenced. A subset of those who tested positive in April, May and June had 'breakthrough infections'. The total number is not known yet, but 155 such breakthroughs were analysed, 147 of whom were fully vaccinated with Covishield and eight with Covaxin.

How significant are such infections?

It appears that so far breakthroughs are not translating into serious disease requiring hospitalisation. In the Kerala analysis, 151 were "mildly symptomatic" and four were asymptomatic. *A third were healthcare workers, who because of prolonged and close exposure to a variety of patients are at a greater risk of contracting infection.* In recent months, more studies are emerging on 'breakthrough infections'. *A preprint by researchers at the CSIR-Institute of Genomics and Integrative Biology (CSIR-IGIB) and Max Hospitals in Delhi found that nearly a quarter of 600 fully vaccinated healthcare workers contracted the virus after vaccination. Earlier, studies from the CMC, Vellore, and PGIMER, Chandigarh, too had reported that between 1% and 10% of fully vaccinated healthcare workers had contracted the infection. Less than 5% needed hospitalisation and no lives were lost, indicating that vaccines were effective in preventing severe sickness and death.* Internationally, the trend is not too different either. *Israel and the U.S., despite high vaccination coverage, continue to report fresh cases, though the infection rate is much higher in the unvaccinated.* There was a qualitative difference between the CSIR study and the others. *While the CMC and PGIMER reports showed 'breakthrough infections' as those confirmed by a gold-standard RT-PCR test, the CSIR study relied on a blood test that measured levels of antibodies directed towards the nucleocapsid region of the coronavirus, which is different from the region (spike protein) that vaccine-generated antibodies normally target. Currently, all the vaccines are designed to produce antibodies against the spike protein and so high levels of antibodies against the nucleocapsid region were presumed markers of a fresh coronavirus infection. None of the infections made the healthcare workers sick enough to warrant a test and so it could well be that the number of 'breakthrough infections' are much higher than those confirmed by RT-PCR tests.* The bigger concern, however, is that those with a 'breakthrough infection', under the belief that they are fully protected, may be less stringent with using masks and could be carriers of infection. *The U.S. Centers for Disease Control and Prevention reports that the viral load in those with a 'breakthrough infection' can be as much as those unvaccinated, which is why mask mandates are back despite significant vaccination coverage. That 'breakthrough infections' occur is not a surprise. In clinical trials, all vaccines available have reported efficacy rates between 70% and 90%. This implies that between 10% and 30% of a vaccinated population will be vulnerable to infection.* Vaccines, however, were premised on inuring the body to disease and so far the evidence is that they are overwhelmingly effective.

Is the Delta variant responsible for the rise in cases?

When the underlying coronavirus variants were analysed in the Kerala study, 126 were found to have the Delta variant (B.1.617.2), nine had the Kappa variant (B.1.617.1) and six had Delta-Plus variants, that is sub-lineages of the Delta with one or more of its defining mutations. These mutations mostly help the virus escape detection by antibodies. The India SARS-CoV-2 Genome Consortium (INSACOG), which monitors emerging variants nationally, has analysed 51,651 coronavirus genomes as of August 30. Of them, 31,721 cases were international variants of concern and among them 21,449 were Delta variants. A mere 393 cases were Delta-Plus, though



many Delta variants are in the process of being reclassified as Delta-Plus (there are 13 such sublineages) because, while it does not necessarily make them more virulent or harmful, they serve as markers of an evolutionary change in the coronavirus and need to be tracked, say genome scientists. Delta has also been demonstrated to reduce antibody levels elicited by vaccines. *Antibody levels are not the only measure of protection and immunity by T-cells, which cannot be easily evaluated in a lab, are also important for neutralising the virus.* However, vaccine production technologies such as m-RNA and DNA are premised on their ability to be tweaked quickly for newer variants. The makers of Covaxin claim that their vaccine, being an inactivated whole virus, is geared up to be more effective against variants than other vaccines primarily targeted at the spike protein. An ICMR study showed a 65.2% protection against the Delta variant in a double-blind, randomised, multicentre, Phase 3 clinical trial of Covaxin.

THE LAG BETWEEN JABS

The Kerala High Court's intervention regarding the time lag between the two doses of Covishield vaccine is both interesting and unusual. It has asked the Government to allow the scheduling of the second dose four weeks after the first for those who want it. A single judge has held that the relaxation in the 84-day norm for some categories of people, when it is normally not open to the public to get their second jabs earlier, amounts to discrimination. The direction that CoWIN, the national vaccination portal, should allow scheduling of the second dose after 28 days — the period initially fixed — for those who want early protection is likely to be questioned on appeal, even though it has its own logic. The petitioners are two companies that have purchased vaccines for their employees and their family members and did not want to wait for the current mandatory 12-16 week period to administer their second doses. Pointing out the relaxation from the minimum 12-week rule for some categories among those travelling abroad, the petitioners wanted the same relaxation for employees availing of paid vaccination. The court has countenanced this argument favourably and termed as discriminatory the denial of “early protection” to those who wanted the second dose after 28 days. The court framed it as an issue over “better protection” offered by the scientifically validated 12-week gap between two doses, and “early protection” favoured by individuals. The Union government argued that the relaxation was to meet unavoidable contingencies, and an earlier second dose could not be claimed as a matter of right. The court based its order on what it believed to be “discrimination” in favour of some sections but refrained from deciding the question “whether a person is entitled to make a choice between early protection and better protection” while accepting the Government's free vaccine. It is fairly obvious that a delayed second dose enables reaching more people for their first dose. This means the order to allow earlier administration of the second dose could impinge on the public health objective of giving some protection to more people rather than full protection to fewer people. To that extent, the court's intervention in a policy matter may invite an appeal. However, it also raises the issue whether the policy of an 84-day gap between doses should continue, given the increased pace of vaccination. Despite being approved by experts, the change from the four-to-six weeks norm to the current 12-16 weeks may have been dictated as much by higher efficacy as by the extent of vaccine availability then. The time may have come for the Government to review the norm and allow a shorter gap based on the availability of vaccines and COVID-19 prevalence in a given geography.



NIPAH VIRUS IN THE TIME OF COVID-19

A 12-year-old boy infected with the Nipah virus died in a private hospital in Kozhikode on Sunday morning. The boy showed symptoms of encephalitis and myocarditis – inflammation of the brain and heart muscles respectively. The re-emergence of the Nipah virus in Kerala poses a fresh risk in the state that is already struggling with the Covid-19 pandemic, contributing about 60% of all new cases in the country these days. However, this is not the first time that Nipah virus has been detected in Kerala, or elsewhere in India, and previous outbreaks have remained largely localised and have been contained relatively quickly.

What is the Nipah virus?

The first outbreaks of the Nipah virus among humans was reported from Malaysia (1998) and Singapore (1999). The virus takes its name from the village in Malaysia where the person in whom the virus was first isolated died of the disease. Since it was first identified in 1998-99, there have been multiple outbreaks of the Nipah virus, all of them in South and Southeast Asian nations. In Bangladesh, there have been at least 10 outbreaks since 2001. In India, West Bengal had seen an outbreak in 2001 and 2007, while Kerala had reported several cases in 2018.

How does Nipah virus spread?

It is a **zoonotic virus**, meaning it has been transmitted from animals to human beings. The transmission happens mainly *through consumption of contaminated food*. But *human-to-human transmission is also considered possible*. The animal host reservoir for this virus is known to be the fruit bat, commonly known as flying fox. *Fruit bats are known to transmit this virus to other animals like pigs, and also dogs, cats, goats, horses and sheep. Humans get infected mainly through direct contact with these animals, or through consumption of food contaminated by saliva or urine of these infected animals. Person-to-person transmission is not fully established, but a recent study, published by two Bangladeshi researchers in March this year, said that previous outbreaks in Bangladesh, the Philippines and India suggested "that respiratory droplets of an infected person can transmit the virus". During previous outbreaks, people in close contact with the infected person, mainly hospital staff and caregivers, have contracted the disease.*

Does Nipah spread as fast as Covid-19?

The Nipah virus is known to spread far more slowly than SARS-CoV-2. However, it is its ability to kill that is the biggest concern. During the first outbreak in Siliguri, 45 of the 66 people confirmed to have been infected died. That is a mortality rate of 68%. In the next outbreak, in Nadia district of West Bengal, in 2007, all the five infected people died. During the most recent outbreak in Kerala in 2018, 17 of the 18 patients confirmed to have been infected died. In 2019, one case of Nipah virus infection was detected in Ernakulam, but prompt response restricted any further spread. The infected person survived. In the Malaysian outbreak in 1999, a total of 265 people had been found infected, of whom 105 had died, according to a study, 'Nipah Virus: Past Outbreaks and Future Containment', by researchers from Cochin University of Science and Technology published in the April 2020 issue of the journal Viruses. In comparison, the mortality rate of Covid-19 epidemic is expected to be around one per cent.



How well has Kerala handled previous Nipah outbreaks?

In 2018, Kerala had no past experience of handling a disease with such a high fatality rate. The state followed the protocol for Ebola virus disease which had been reported mainly in sub-Saharan Africa. At one point in June 2018, around 3,000 people were under quarantine in Kozhikode and nearby Malappuram districts. All the persons who had direct or indirect contact with the suspected Nipah cases were thus put under observation. When the state reported Nipah again in 2019, the health department already had a protocol in place to handle the situation. In 2019, only one case was reported in Ernakulam district. In 2020, the state did not report any Nipah case, but the protocol was updated and sent across the system.

How is Kerala handling the fresh Nipah concerns alongside Covid-19?

The Nipah virus victim hailed from the village of Chathamangalam, 50 km from Changaroth. Three wards under Chathamangalam panchayat in Kozhikode, where the victim lived, were completely closed down on Sunday morning. Micro-level restrictions have gone into effect. Movement to and from these three wards have been banned. Police have put up barricades and checkpoints at all locations leading to the village of the victim. With Covid-19 protocols already in place, there is heightened awareness about transmission of viral diseases. The ongoing use of PPE kits, gloves and masks, especially by healthcare workers and hospital staff, is likely to offer reduced opportunity for the transmission of the Nipah virus.

VACCINE IN THE WORKS AGAINST NIPAH VIRUS

Can a Covishield-like vaccine give protection against the Nipah virus? Preliminary animal trial results seem to suggest so. In July, researchers at the Jenner Institute, Oxford University and the National Institutes of Health, United States, reported that the ChadOx1 vaccine vector, when customised to the Nipah virus, fully protected African green monkeys, a primate species. No approved vaccine yet exists for the lethal Nipah virus that has killed a 12-year old boy in Kozhikode, Kerala. An outbreak of the virus in the State in 2018 killed 17 of the 18 confirmed with the virus. The study appears on the pre-print server bioRxiv, indicating that it is yet to be peer-reviewed. ChAdOx1 is a multi-purpose vaccine vector, meaning it can be customised to carry DNA from a wide variety of pathogens. The version of ChAdOx1 that is used in the Covishield or AstraZeneca vaccine is the ChAdOx1 with a piece of spike protein of SARS-CoV-2. For the Nipah study, the scientists loaded a piece of glycoprotein from a Nipah virus strain found in Bangladesh, where annual outbreaks occur. This test vaccine for the purposes of the study was called ChadOx1 NiV.

BCG VACCINE: 100 YEARS AND COUNTING

*The centenary celebrations of the discovery of insulin have eclipsed another seminal event in the history of medicine that has had significant impact on human health - the first use of BCG (Bacillus Calmette-Guerin), the vaccine against tuberculosis (TB) in humans. TB is caused by a bacterium called *Mycobacterium tuberculosis*, belonging to the Mycobacteriaceae family consisting of about 200 members. Some of these cause diseases like TB and leprosy in humans and others infect a wide range of animals. Mycobacteria are also widely dispersed in the environment. In humans, TB most commonly affects the lungs (pulmonary TB), but it can also affect other organs (extra-pulmonary TB). TB is a very ancient disease and has been documented to have existed in Egypt as early as 3000*

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BC. Sadly, unlike other historically dreaded diseases like smallpox, leprosy, plague and cholera that have been either eradicated or controlled to a large extent due to advances in science and technology, TB continues to be a major public health problem in the world. According to the WHO's Global TB Report, 10 million people developed TB in 2019 with 1.4 million deaths. India accounts for 27% of these cases. BCG was developed by two Frenchmen, Albert Calmette and Camille Guerin, by modifying a strain of Mycobacterium bovis (that causes TB in cattle) till it lost its capacity to cause disease while retaining its property to stimulate the immune system. It was first used in humans in 1921.

Sole vaccine

Currently, BCG is the only licensed vaccine available for the prevention of TB. It is the world's most widely used vaccine with about 120 million doses every year and has an excellent safety record. In India, BCG was first introduced in a limited scale in 1948 and became a part of the National TB Control Programme in 1962. One intriguing fact about BCG is that it works well in some geographic locations and not so well in others. Generally, the farther a country is from the equator, the higher is the efficacy. It has a high efficacy in the UK, Norway, Sweden and Denmark; and little or no efficacy in countries on or near the equator like India, Kenya and Malawi, where the burden of TB is higher. These regions also have a higher prevalence of environmental mycobacteria. It is believed that these may interfere with the protective effect against TB. However, in children, BCG provides strong protection against severe forms of TB. This protective effect appears to wane with age and is far more variable in adolescents and adults, ranging from 0–80%. A large clinical trial between 1968–1983, by the ICMR's National Institute for Research in Tuberculosis (then called the Tuberculosis Research Centre) in Chengalpattu district of Tamil Nadu, indicated that BCG offered no protection against pulmonary TB in adults, and a low level of protection (27%) in children. India is committed to eliminate TB as a public health problem by 2025. To achieve this goal, we would not only need better diagnostics and drugs but also more effective vaccines. Over the last ten years 14 new vaccines have been developed for TB and are in clinical trials. Of particular interest is a Phase 3 clinical trial by the ICMR, of two vaccines; a recombinant BCG called VPM 1002 and Mycobacterium indicus pranii (MIP). MIP was identified and developed into a vaccine in India. Results of this trial are eagerly awaited. In addition to its primary use as a vaccine against TB, BCG also protects against respiratory and bacterial infections of the newborns, and other mycobacterial diseases like leprosy and Buruli's ulcer. It is also used as an immunotherapy agent in cancer of the urinary bladder and malignant melanoma.

In progress

Interestingly, it has been observed that in some countries that have had BCG vaccination as a national policy, the burden of SARS CoV-2 morbidity and mortality was significantly less compared to countries which did not. Clinical trials to know if this is indeed true, are underway, including in India. In these distressing times of Covid-19, it is interesting to compare development of vaccines for Covid-19 and TB. For Covid-19 in about 18 months, 17 vaccines have received emergency use authorization in various countries, and 97 are in clinical trials. For TB, a single vaccine has been in use for the last 100 years and 14 new vaccines are in clinical trials. For R&D of Covid-19 vaccines, US\$ 8.5 billion have been earmarked (Global Contributions to ACT-Accelerator, Vaccines category); for TB the amount is US\$ 0.117 billion (Global Funding for TB Vaccine Research, 2019). *If viewed in the backdrop of the deaths caused by these two diseases*



(Covid-19 - 1.7 million in 2020; TB - 1.4 million in 2019), one can see the stark inequity in investment in vaccine development. While we commemorate the centenary of BCG vaccine use in humans, we need to acknowledge that more effective vaccines are needed to reach the targets of TB elimination. The experience and success of development of new vaccines for Covid-19 have shown that this is possible if TB gets similar political, financial and pharmaceutical support.

FILTHY AND UNHEALTHY

At least 40 people, most of them children, have lost their lives in Firozabad in Uttar Pradesh to a mysterious fever, which officials suspect as dengue. More than 200 children are undergoing treatment at the paediatric section of the children's hospital in the area. An ICMR team that tested samples from the hospital has ruled out Covid. Firozabad's district magistrate, Chandra Vijay Singh, who carried out an inspection of the hospital, told this newspaper that *people had complained about "cleanliness problems in some areas"*. He also gave information about "an intensive spraying" drive in the affected areas and said "many teams are monitoring the situation". But the truth is that it required a visit by UP chief minister Yogi Adityanath to the outbreak-hit areas for the administration to spring into action, nearly a week after the disease assumed grave proportions. *The best way to prevent dengue is to prevent bites by mosquitoes infected by the pathogen. In other words, sanitation and preventing water logging hold the key to disease control and elimination — an imperative underlined by the WHO and national health agencies.* The Union Ministry of Health and Family Welfare's strategy for prevention and control of dengue talks of the importance of local bodies in framing area-specific responses to tackle the disease. By all accounts, the Firozabad administration has fallen short in this respect. Like in several other parts of the country, neglect in basic sewerage and waste disposal facilities affects the quality of people's lives in the area's working-class colonies, home to more than 60 per cent of its population. The locality at the epicenter of the current outbreak has a sewer drain running perpendicular to its entry point, it has several open drains and a large garbage dump about 100 metres inside the locality that testifies to the negligible impact of the Centre's flagship project, Clean Indian Mission, on Firozabad. *While the jury is still out on whether the epidemic is dengue, doctors in the area seem to be certain that lack of cleanliness is the primary reason for the disease stalking the area.* Meanwhile, another mysterious disease has been reported from Mathura — like Firozabad, a part of the Agra division. Officials here talk of "some deaths" caused by *scrub typhus — a vector-borne disease caused by bacteria and with proven links to poor hygiene and sanitation.* Mathura and Firozabad are part of the UP government's "smart city" plans. Clearly, the administration in these areas have a long way to go in being alert to peoples' well-being.

NOTHING LIKE CRIMINAL KIDNEY: KERALA HC SETS ASIDE AUTHORISATION PANEL'S DECISION

Kerala High Court has set aside the decision of an authorisation committee for transplantation of human organs that rejected an application for kidney donation on the ground that the donor had criminal background. A bench of Justice P V Kunhikrishnan in his verdict on August 27 said, "A person who is involved in multiple criminal offences cannot be a donor is unsustainable in the light of the fact that *there is no prohibition for the same as per the Transplantation of Human Organs and Tissues Act, 1994 and The Transplantation of Human Organs and Tissues Rules, 2014.*" The court was hearing the petition of a donor and a needy patient, who challenged the decision of the

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Ernakulam district authorisation committee for transplantation of human organs. Apart from setting aside the decision, the court urged the committee to reconsider the application of the petitioners, the donor and the patient, at the earliest. The patient has no close relative who can donate a kidney to save his life. Hence, a close friend come forward as a donor, but that the authorisation committee decision came as a setback. The court said the only embargo in Rule 2014 is that the donor should not be a drug addict. The authorisation committee cannot go beyond their jurisdiction and reject the application. *“There is no organ in the human body like a criminal kidney or criminal liver or criminal heart. There is no difference between the organ of a person without a criminal antecedent and the organ of a person who has no criminal antecedents. Human blood is passing through all of us,”* observed the judge.

HOME SWEET HOME

It seems like yesterday when, as most working people suffered salary losses and professional precarity, and tried to thread the needle of “work-life balance” while being trapped at home, tech companies across the world were celebrating “the new normal”. Now, the biggest IT giants in the world — who saw their profits soar in the last two years as the demand for digital products and services soared — are facing a bit of an HR problem. It turns out that there is no normal any more when it comes to workplaces. And since Silicon Valley set the template for work-from-home during the early days of the Covid-19 pandemic, how it deals with return-to-office will be closely watched. While many companies have decided to postpone return to office until next year, others — including Zoom — are trying to come up with some sort of hybrid model. After all, for the longest time, tech companies promoted the idea that innovation was significantly accelerated by informal interactions in professional settings. This is why the offices of Google and Facebook provide recreational activities for their employees. Unfortunately, two years on, most workers have gotten used to the rhythm of working from home and the old theory of “office breeds innovation” has fewer and fewer takers. The problem, really, is this: The new normal has indeed become normal. Struggling through domesticity while trying to be professional certainly took a toll and now that the challenge has been overcome, the long commutes to work don’t look all that inviting. In fact, even for the bottom line, it’s likely cheaper to pass on the overheads of running workspaces — electricity, canteens, etc — to the worker. Why, then, many are asking, should they return to work, especially given the fear around the Delta variant? Some sociologists have a cynical answer: It’s the managers who need workers, not the other way around. After all, if the office is empty, what’s the point of being the boss?

PANEL SET UP TO DRAFT BILL ON DRUGS, COSMETICS AND MEDICAL DEVICES

Eight-member committee will submit draft document by November 30

The Union government has constituted a committee for framing legislation regarding new drugs, cosmetics and medical devices. The eight-member panel, headed by Drugs Controller General of India V.G. Somani, is scheduled to submit a draft document by November 30. The Ministry of Health and Family Welfare, in an order dated August 27, said the committee would prepare the New Drugs, Cosmetics and Medical Devices Bill. The other members of the panel are Rajiv Wadhawan (Director, Ministry of Health and Family Welfare); S.E. Reddy; A.K. Pradhan; the Drugs Controllers of Haryana, Gujarat and Maharashtra; and IAS officer N.L. Meena. The committee is

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allowed to co-opt one or more member if needed. The order further states that the committee shall undertake pre-legislative consultations and examine the present Act, previously framed Drugs and Cosmetics Bills and submit a draft document for a new Drugs, Cosmetics and Medical Devices Bill.

LATE-RUNNING TRAINS TO COST RAILWAYS DEAR

The Supreme Court has held that the Railways will have to pay passengers compensation for the late running of trains if unable to establish or prove that the delay was due to reasons beyond its control. “These are the days of competition and accountability. If the public transportation has to survive and compete with private players, they have to improve the system and their working culture,” a Bench of Justices M.R. Shah and Aniruddha Bose observed in an order on Tuesday. *The court upheld the compensation awarded to a passenger whose train was delayed by four hours while travelling to Jammu with his family in 2016.* They missed their flight and had to take an expensive taxi to Srinagar. They also lost their booking of a boat on Dal Lake. *The District Consumer Forum put it down as deficiency in service by the Railways. The forum ordered the North Western Railway to pay the disgruntled passenger ₹15,000 for taxi expenses and ₹10,000 towards booking expenses, along with ₹5,000 each towards mental agony and litigation expenses.* Though the Railways went on appeal, the effort failed both at the State and National Consumer Disputes Redressal Commissions. The consumer fora, in the same voice, said the Railways had never explained why the train was delayed.

Railways’ argument

In the top court, Additional Solicitor-General Aishwarya Bhati, for the Railways, vehemently submitted that late running of trains could not be said to be a deficiency of service. She quoted Rules 114 and 115 of the Indian Railway Conference Association Coaching Tariff, which said there should not be any liability of the Railways to pay compensation for the late running of trains. “There may be a number of reasons for delay and late running of trains,” she argued. However, the court was not convinced. “No evidence at all was led by the Railways explaining the delay and/or late arrival of trains at Jammu,” it said. The court said “every passenger’s time is precious, they might have booked tickets for further journeys”. “Like in the present case from Jammu to Srinagar and thereafter further journey,” it noted.

MANDA BUFFALO GETS ‘UNIQUE BREED’ TAG

The National Bureau of Animal Genetic Resources (NBAGR) has recognised the Manda buffalo, found in the Eastern Ghats and plateau of Koraput region of Odisha, as the 19th unique breed of buffaloes found in India. The Manda are resistant to parasitic infections, less prone to diseases and can thrive on modest resources. This buffalo germ-plasm was first identified through a survey conducted by the Animal Resource Development (ARD) department of Odisha in collaboration with the Orissa University of Agriculture and Technology (OUAT). Bishnupada Sethi, former ARD director and Susanta Kumar Dash, an animal geneticist of OUAT, had played a key role in seeking national recognition for the Manda breed. The NBAGR, affiliated to Indian Council of Agriculture Research, made an assessment and recognised it as an indigenous and unique breed.



T. N. ASSEMBLY ADOPTS SPECIAL RESOLUTION AGAINST FARM LAWS

The Tamil Nadu Assembly on Saturday adopted a special resolution, moved by Chief Minister M.K. Stalin, urging the Union government to repeal the three farm laws. While the legislators of the AIADMK and the BJP walked out opposing the resolution, their ally, the PMK, voted in favour of it. The DMK government also announced that it would withdraw cases registered against farmer associations and political parties for their protests against these laws. The resolution said the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, and the Essential Commodities (Amendment) Act, 2020, were "not suitable" for agricultural development and farmers' welfare and, therefore, urged the Union government to repeal them. Mr. Stalin argued that the Union government having "arbitrarily" enacted the legislation without consulting the States was against federal principles. "The Union government arbitrarily enacting laws for a department under the State government even without consulting any of the States is against federal principles. Hence, these laws have to be rejected," he said.

BREAK THEIR HEADS

Nobody must be allowed to breach the security cordon without a "broken head". That was the brutish, illegal instruction sub-divisional magistrate Ayush Sinha — caught on camera— gave to the police on Saturday in Karnal, where farmers had gathered to protest against a BJP meeting led by Chief Minister Manohar Lal Khattar. In the aftermath of a lathi charge that left several farmers injured, the officer has claimed the video recording was selective and that no crackdown on protesters happened in his vicinity. The chief minister says the officer's "choice of words" was not correct, but that "strictness" was required to maintain law and order, even as his deputy from another party has promised appropriate action against the SDM. The question for the Haryana Chief Minister is this: How can any notion of "strictness" in a democracy get away with being so flagrantly anti-people? And what does it say about the Haryana government if the law and order machinery treats the farmers as the enemy, not citizens with a grievance and a constitutional right to protest? The larger question is this: Where is politics, and the politician? The scenes from Karnal on Saturday have once again underlined that politicians have all but abdicated their responsibility to play the mediating and moderating role vis a vis the farmers' movement against the Centre's three farm laws. Political interventions are actually reactions, after the event. For the most part, protesting farmers have been left to confront a stone-walling and quelling police force — even as what is most needed are not check-posts and barricades but outreach by the people's representatives, and a listening state. It is true that the Centre has conducted 11 rounds of talks with the farm union leaders and that in round 10, the NDA government bent enough to place on the table an offer to suspend the farm laws. And that the dialogue broke down in January because the farmers refused to relent from their maximalist demand of a complete repeal of the laws, and a legal guarantee for MSP, and then, due to the movement's brief lapse into violence on January 26. But what is also true is that the Centre's dialogue had come too late, and after too much name-calling. By then the movement had already surged and strengthened on the back of fears and insecurities of farmers, mainly in Punjab and Haryana, over the new legislation shortchanging them while benefiting big corporates. That the Centre was seen to push through the changes last year, first as ordinance amid pandemic, without consultation, and then as law through Parliament



without adequate debate, laid the ground for the distrust that has only thickened since. Now, nine long months after the mobilisation moved to Delhi's borders, and with assembly elections to Punjab only months away, it is essential that politics finds its way back in. The farmers' problem cannot be kicked down the road, it is not going to go away by a strategy of wearing them out. There is no alternative to the government engaging the farmers through their representatives and leaders, and persuading them about the benefits and efficacy of the new laws.

DATABASE CREATED WITH RECORDS OF 5.5 CR. FARMERS

The Centre has created a National Farmers' Database with records of 5.5 crore farmers, which it hopes to increase to 8 crore farmers by December by linking it to State land record databases, according to Agriculture Minister Narendra Singh Tomar. Addressing Chief Ministers at a virtual conference on agriculture on Monday, Mr. Tomar said the farmers' database was key to advances in digital agriculture. "Agriculture has to be linked with digital technology, scientific research and knowledge," he said, according to an official statement. Mr. Tomar explained that the national database was created by taking data from existing national schemes such as PM-KISAN, soil health cards and the insurance scheme PM Fasal Bima Yojna. So far, 5.5 crore farmers had been identified in this manner. The Minister urged the States to create their own databases using the national database's federated structure and also allow linkages to the land records maintained by the States. With the help of State governments, a total of eight crore farmers would be included by the end of the year, he said. He also urged them to study the Karnataka model for digital agriculture presented at the conference. In July, Mr. Tomar told the Lok Sabha that the database could be used "for targeted service delivery with higher efficiency and in a focussed and time-bound manner" and that it was the core for the proposed Agristack digital agriculture ecosystem. Already, companies such as Microsoft, Amazon and Patanjali had been asked to develop technology solutions for farmers using data from the database. Activists have raised privacy and consent concerns about using farmers' data in such a way.

PUNJAB BREATHES INNOVATION, FINDS GAINFUL USES FOR PADDY STUBBLE

Close to autumn every year, stubble burning returns to worsen air pollution across India's northern plains. However, to curb the menace during the paddy harvesting season, Punjab, the key grain-producing State, is all set this year to promote paddy straw as a "resource to create wealth". The State government is working to present "paddy straw" as a resource that creates value and wealth for industry and the farming community, rather than being a waste product of paddy cultivation. While farmer outfits have welcomed the move, some industry bodies have their reservations. *The government recently decided to permit certain categories of industries to install paddy straw-fired boilers, for which the industries will be given fiscal incentives.* The industries included in this scheme are sugar mills, pulp and paper mills, besides any industry having boiler installation with steam-generating capacity more than 25 tonnes per hour (TPH). Also, new and existing units of distilleries and breweries, proposing replacement of old boilers or expansion with installation of new boilers, are required to use paddy straw as fuel in boilers.

Fiscal incentives



To spur the use of straw, the government has decided to provide cumulative fiscal incentives of ₹25 crore to the first 50 existing industries on 'first come, first served' basis. Besides, the government has also approved non-fiscal incentives to industries in terms of availability of 'panchayat' land for storage of paddy straw with lease agreement of up to 33 years. Asserting that Punjab is very seriously cognisant of the stubble burning issue, Chief Secretary Vini Mahajan told The Hindu that the State is taking all measures possible to promote both in-situ and ex-situ management of paddy straw.

The paddy crop, which is harvested with combine harvester machines leaves behind a stubble in the farm. To destroy this stubble many farmers find burning the residue the most effective and cheap method as they want to prepare their fields for the next winter crop. The short time-window between paddy harvesting and sowing the wheat crop — just about three weeks — is one of the primary reasons why farmers resort to stubble burning. In Punjab and Haryana, paddy harvesting is usually done between the second half of September till the end of October. The sowing of wheat crop normally starts from the first week of November and continues for over a month and a half.

However, expressing concern over the government's move, Badish Jindal, president, Federation of Punjab Small Industries Association said the paddy straw contains a lot of mud and cleaning it is not an easy process. "The government should purchase and process the stubble from farmers and provide it to the industry free of cost. Also, the paddy straw contains silica, and hence the metallurgy for boilers needs to be chrome-based, which makes it costlier," he said. Jagmohan Singh, general secretary of the Bhartiya Kisan Union-Ekta (Dakonda) welcomed the government's decision. "It's a positive step and but its success shall depend only if the farmer is given a suitable price for the stubble," he said. Despite the ban on stubble burning and action against those burning crop residue under the Air (Prevention and Control of Pollution) Act, 1981, farmers continue to resort to the practice, claiming lack of alternatives. According to the government data, in 2020 as many as 76,590 cases of farm fires were reported in Punjab. In 2019, there were 52,991 such incidents and 51,766 incidents were recorded in 2018. It is estimated that over 15 million tonnes of paddy straw is burnt in the open fields ahead of the winter sowing.

SUKHET'S VILLAGERS TRADE WASTE FOR WELLNESS, GET FREE LPG REFILLS

While the rising prices of LPG cylinders are pushing refills out of reach for most people, especially in rural areas, bucking the trend is Munni Devi, a mother of three sons and owner of three cows in Sukhet village in Jhanjharpur block of Madhubani district in Bihar. Earlier, most of Munni Devi's time was spent over an earthen stove in a corner of her house. Fired with wood, crop waste and cow dung, the stove billowed noxious smoke into the house, leaving her ill and breathless. Every month she had to consult a local doctor for huffani (breathing) trouble. Rampari Devi, in her sixties, and her daughter-in-law Lalo Devi too had similar stories of ill-health and visits to doctors. Though they had LPG connections, the rising cost of refills put the cleaner cooking fuel out of reach. But not any more. In the last six months, the lives of these rural women has changed dramatically with the Sukhet model that allows them to get their LPG cylinders refilled every two months in exchange for cow dung and the farmyard waste. *The unique programme, which was lauded by Prime Minister Narendra Modi in his latest episode of 'Mann ki Baat' on August 29, offers four-fold benefit to the villagers: it ensures a pollution-free environment at home, waste disposal,*



monetary assistance for LPG cylinders and availability of organic fertiliser to the local farmers. Today the mud stoves of Sukhet lie abandoned.

Man on a mission

The Sukhet model is an initiative by the Dr. Rajendra Prasad Central Agricultural University (RPAU) at Pusa in Samastipur district and the brainchild of Vice-Chancellor Ramesh Chandra Srivastava, a vermicompost enthusiast. “I was quite impressed with the government’s Ujjawala Yojna to provide free LPG connections to people but I found out that in rural areas people are not being able to refill LPG cylinders for two reasons: their economic condition and the patriarchal nature of society. I mulled over the problem and later introduced this model, popularly known today as the Sukhet model for refilling their cylinders in exchange for farmyard waste and cow dung,” Dr. Srivastava told The Hindu. *The agri scientist had earlier launched vermicomposting to produce organic manure in two unlikely settings — the temples of Baba Baidyanath Dham in Deoghar of Jharkhand and Garibnath Temple of Muzaffarpur in Bihar — where flowers and leaves offered to the deities are collected and composted.* Under the Sukhet model, two local workers visit households that have cattle to collect cow dung and farmyard waste and bring it to a vermicomposting yard. “Any family which gives us 1,200 kgs of cow dung and wet garbage waste every two months gets their LPG gas cylinders refilled for free. *Everyday, they have to meet the target of 20 kg of cow dung and garbage waste to avail the refill.* Since February 4, 2021, as many as 44 households of this village are getting this facility while many more have evinced keen interest,” said Sudhir Das, who is in charge of the Sukhet model and the Jhanjharpur Krishi Vigyan Kendra (KVK).

“The only problem is that only those households who have cattle to give us cow dung are able to benefit from the Sukhet model,” he pointed out. Along with Mr. Das and Mr. Yadav, two supporting staff, two drivers and a scientist from Pusa are engaged to make this model a “role model for other villages and panchayats in the State”. “RPAU, Pusa is going to emulate the Sukhet model in seven more places in Bihar — East Champaran, West Champaran, Siwan, Saran, Gopalganj, Vaishali and Samastipur,” said Dr. Srivastva.

NOT ENOUGH RAIN

The southwest monsoon hasn’t turned out great this year, unlike in 2019 and 2020. *Rainfall in the season (June-September) has so far been 7.9 per cent below the historical average for the country.* But more than the aggregate figure, it’s the temporal distribution that has raised question marks. A three-week long dry spell from around June 20 resulted in farmers missing the main kharif sowing window between mid-June and mid-July. The monsoon did revive from July 12-13 and so did plantings. But August recorded 24 per cent rainfall deficiency. *Even if the September rains match the India Meteorological Department’s “above-normal” prediction, it would primarily benefit the rabi season crop. And with current water levels in major reservoirs lower than a year ago, not much hope should be placed on a bumper rabi harvest offsetting the likely kharif losses.* The farm sector grew 4.3 per cent in 2019-20 and 3.6 per cent in 2020-21, more than the overall GDP, at 4 per cent and minus 7.3 per cent, respectively. Agriculture acted as a shock-absorber for the economy, especially in the post-Covid lockdown period. The government’s *latest Periodic Labour Force Survey data for July 2019-June 2020 shows the proportion of those engaged in farming activity increasing to 45.6 per cent, from 42.5 per cent in 2018-19. As a report in this newspaper has pointed*

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out, this marks a reversal of the historical trend of agriculture's declining share in total employment. 2019-20 and 2020-21 were both crisis years for the Indian economy, which registered a sharp slide in growth even pre Covid and then went into contraction. While that led to job losses across most sectors — be it manufacturing, construction, hotels, tourism, transport or retail trade — agriculture could absorb some of the labour that got shed. And that, in turn, was made possible by the back-to-back good monsoons. The monsoon's performance makes a repeat of the above story unlikely this year. *According to the Centre for Monitoring Indian Economy, agricultural employment, which averaged 124 million during May-July, fell to 116 million in August. That clearly has to do with the fields not receiving rain when required.* Simply put, agriculture cannot play saviour this time. With the worst of Covid hopefully behind us, other engines of the economy have to start firing. India has to resume and go beyond its normal growth trajectory, wherein jobs are created more in manufacturing, construction and services. Agriculture's own future lies in becoming more productive and adding value outside the farms.

EXPERTS FLAG DIVERSION OF FRESH WATER FROM BRAHMANI RIVER

Environmentalists on Friday expressed concern over the massive diversion of fresh water from the Brahmani river basin, which could pose a grave threat to the famous mangrove vegetation in Odisha. Bhitarkanika — a notified Ramsar wetland — is spread over 195 sq. km and is home to 62 mangrove species. Besides, 1,600 salt water crocodiles crawl on the mudflats of the Bhitarkanika mangrove forest. Mangroves grow in brackish water. Proportionate fresh water flow from the Brahmani river basin and the Kharasrota river keep the salinity level of the water along the shore down. The brackish water becomes ideal for the mangroves to grow and stay healthy.

Guzzler industries

The Wildlife Society of Orissa (WSO), an environmental pressure group, had drawn public attention on the excess water allocation for industries, which is likely to reduce fresh water discharge to the sea. "The Talcher-Angul coal mines, steel and power plants as well as the Kalinganagar steel and power hub are drawing enormous quantities of fresh water from the Brahmani river," said Biswajit Mohanty, secretary, WSO. "Against an available 4,400 mcum of fresh water stored by the Rengali reservoir, 4,318 mcum, that is almost equal to the available water supply shall be withdrawn from the river," he said. According to the WSO secretary, 105 million litres, as per government claims, would be withdrawn for the mega drinking water project. Mr. Mohanty said, *"The reduction in water flow would lead to drastic changes in the water regime of the Bhitarkanika mangroves. The Sunderbans mangrove forest was drastically affected after the Farraka barrage was commissioned."* Stating that the lack of normal flow of fresh water would increase saline ingress upstream, the WSO secretary said it would affect the local flora and fauna as well as the livelihoods of the farmers and fishermen. Besides, *there could be a quantum increase in the man-crocodile conflict since the estuarine crocodiles would leave the core sanctuary area and migrate upstream once salinity increases, he said.*

WHY ARE HYDROPOWER PROJECTS IN THE HIMALAYAS RISKY?

The Environment Ministry, in an affidavit placed in the Supreme Court earlier this month, has disclosed that it has permitted seven hydroelectric power projects, which are reportedly in



advanced stages of construction, to go ahead. One of them is the 512 MW Tapovan Vishnugadh project, in Joshimath, Uttarakhand that was damaged by a flood in February.

What's the history of hydel projects in the Himalayas?

In the aftermath of the Kedarnath floods of 2013 that killed at least 5,000 people, the Supreme Court had halted the development of hydroelectric projects in Uttarakhand pending a review by the Environment Ministry on the role such projects had played in amplifying the disaster. A 17-member expert committee, led by environmentalist Ravi Chopra, was set up by the Ministry to examine the role of 24 such proposed hydroelectric projects in the Alaknanda and Bhagirathi basin, which has the Ganga and several tributaries. The Chopra committee concluded that 23 projects would have an “irreversible impact” on the ecology of the region. Following this, six private project developers, whose projects were among those recommended to be axed, impleaded themselves in the case on the ground that since their projects had already been cleared for construction before the Kedarnath tragedy, they should be allowed to continue. The SC directed a new committee to be set up to examine their case. This committee, led by Vinod Tare of the Indian Institute of Technology, Kanpur, concluded that these projects could have a significant environmental impact. The Environment Ministry in 2015 set up yet another committee, led by B.P. Das, who was part of the original committee, but had filed a “dissenting report”. The Das committee recommended all six projects with design modifications to some. The Water Resources Ministry, then led by Minister Uma Bharti, has been consistently opposed to hydropower projects in the Ganga. In charge of the National Mission for Clean Ganga, the Water Ministry has maintained that the cleanliness of the river was premised on minimum levels of water flow in all seasons and the proposed projects could hinder this. By 2019, however, the renamed Jal Shakti Ministry had changed its stance to accommodate seven out of the 24 projects. Its current position is that barring these, it is “not in favour” of new projects in the Ganga river basin. Though hearings in the Supreme Court are ongoing, this is the first time that the government has a formal uniform position on hydropower projects in the Uttarakhand region.

What are the challenges such projects face?

Following the break in the Raunthi glacier that triggered floods in the Rishiganga river in Uttarakhand on February 7, which washed away at least two hydroelectric power projects — the 13.2 MW Rishiganga hydroelectric power project and the Tapovan project, environmental experts have attributed the glacial melt to global warming. *Glacier retreat and permafrost thaw are projected to decrease the stability of mountain slopes and increase the number and area of glacier lakes.* Moreover, with increased instances of cloudbursts, and intense spells of rainfall and avalanches, residents of the region were also placed at increased risk of loss of lives and livelihood.

How can these conflicts be resolved?

The challenges facing development in the Himalayan region are multi-faceted. The Uttarakhand government has said that it's paying over ₹1,000 crore annually to purchase electricity and therefore, the more such projects are cancelled, the harder for them to meet their development obligations. Several environmentalists and residents of the region say that the proposed projects being built by private companies allot only a limited percentage of their produced power for the State of Uttarakhand itself. Thus the State, on its own, takes on massive environmental risk



without being adequately compensated for it or its unique challenges accounted for. *Though the Centre is committed to hydropower projects because it's a renewable source of power, the ecological damage combined with the reduced cost of solar power means that it has in recent times said that it is not in favour of greenfield hydropower projects in the region.* But several environmental activists say that the Centre will continue to prioritise infrastructural development in the region, even if it comes at a heavy environmental cost.

INDIAN BIOLOGIST WINS GLOBAL AWARD FOR TURTLE CONSERVATION

Indian biologist Shailendra Singh has been awarded the Behler Turtle Conservation Award for bringing three critically endangered turtle conservation species back from the brink of extinction. A press statement issued by the headquarters of the Turtle Survival Alliance earlier this week said: "For some species, such as the red-crowned roofed turtle (Batagur kachuga), northern river terrapin (Batagur baska), and black softshell turtle (Nilssonia nigricans), Dr. Singh and his team's efforts are the last hope for their wild survival in the country." The award has been bestowed by several global bodies involved in turtle conservation such as Turtle Survival Alliance, IUCN/SSC Tortoise and Freshwater Turtle Specialist Group, Turtle Conservancy, and the Turtle Conservation Fund. "In just 15 years, there are few individuals that have made such monumental contributions to turtle conservation as Shailendra Singh. He and his team's efforts now span much of India, impacting well over half of its turtle and tortoise species, many of which are among the most endangered turtles on the planet," said Rick Hudson, president, Turtle Survival Alliance. "While it may take decades to witness the full impact of Dr. Singh's commitment, his name and legacy have become synonymous with Indian turtle conservation," Mr. Hudson added.

LADAKH ADOPTS STATE ANIMAL AND BIRD

Ladakh on Wednesday adopted two endangered species, snow leopard and black-necked crane, as State animal and State bird, two years after it was carved out as a separate Union Territory (UT) from the erstwhile State of J&K. Black-necked crane, only found in Ladakh region, was the State bird of J&K before August 5, 2019. "Black-necked crane and snow leopard are two endangered species and the pride of Ladakh," said Konchok Stanzin, Councillor from the Chushul constituency. Black-necked cranes, considered loyal couples, are only found in Ladakh's Changthang region. Snow leopard, whose numbers are dwindling worldwide, has been categorised as "vulnerable" in the International Union for Conservation of Nature Red List.

THIS IS RENOVATION, NOT RESTORATION

A debate over how the Jallianwala Bagh massacre should be remembered was sparked off last week after the government unveiled the renovated look of the site, leading some historians to say history was being distorted. Should the site of the brutal killing of Indians by British forces on April 13, 1919 be restored to the state it was in on that day, a largely barren ground at the end of a narrow entrance where victims became trapped, or should it be spruced up for visitors today and in the future? For the Culture Ministry, which supervised the renovation work carried out by the Archaeological Survey of India (ASI) and NBCC India, a government-owned construction company, the changes were required to preserve the site and make it more visitor-friendly. Some historians, however, argued that turning the site into a well-manicured garden and covering the entrance corridor with bright



metallic murals was an attempt at changing history. Jallianwala Bagh in Amritsar was closed for renovations for about a year-and-a-half till Prime Minister Narendra Modi dedicated it to the nation on August 28. Four new galleries were also inaugurated by the Prime Minister that day. The well in which victims jumped to their deaths trying to escape the bullets has been cleaned and cordoned off with glass. A lily pond, a sound and light show and new amenities for visitors have been created. The narrow entrance has been adorned with sculptures. *The project was designed by a Gujarat-based company, Vama Communications, which has in the past developed museums on Mahatma Gandhi in Gujarat as well as the National Police Museum in Delhi.* While inaugurating the renovated memorial, Mr. Modi said the new look of Jallianwala Bagh would inspire Indians for years to come. "It is the responsibility of every nation to preserve its history," he said.

Not a garden

Reacting to the development, historian and former Jawaharlal Nehru University Professor Chaman Lal said it was a "distortion of history". He said the project had tried to "mystify and glamourise history". *"People visiting Jallianwala Bagh should go with a sense of pain and anguish. They have now tried to make it a space for enjoying, with a beautiful garden. It was not a beautiful garden,"* Professor Lal said. Rather, Jallianwala Bagh was where Indians gathered as they had on that fateful day when Dyer and his forces entered and fired on a peaceful crowd. *Instead of restoration, the government has renovated the place, adding new features, he said.*

'Absolutely gaudy'

Historian S. Irfan Habib said he was not opposed to additions like better toilets or a cafe for visitors, but the changes made had been "at the cost of history, cost of heritage". "It is absolutely gaudy...Why should there be murals on the wall? Changes the whole idea of the place from where Dyer entered to kill. *Adding glamour to the little corridor changes the whole visual history. History itself is being rewritten and renovated.* This is the corporatisation of monuments," he said. He said the well should not have been covered and the changes were unnecessary and cosmetic in nature. *"It is a very sad trend,"* he said. *Kim A. Wagner, a London-based Professor of history and author of Amritsar 1919 – An Empire of Fear and the Making of a Massacre, said in a tweet on August 28 that the revamping of the site "means that the last traces of the event have effectively been erased".* The project was carried out by the Archaeological Survey of India and NBCC, and developed by Ahmedabad-based Vama Communications, which has in the past worked on the National Police Museum in Delhi and Mahatma Gandhi Museum in Rajkot.

ROOM IN DELHI ASSEMBLY BUILDING HOUSING 'GALLOWS' COULD OPEN UP TO PUBLIC: SPEAKER

The Delhi Legislative Assembly building could open up to the public more often once a room that houses the "gallows" found on the premises is renovated, said Speaker Ram Niwas Goel. The building was constructed in 1912 and housed the Central Legislative Assembly between 1913 and 1926. Goel claims the building fell into disuse after 1926 and the British administrators decided to hold trials for "revolutionaries" in the building. Touch-screen kiosks are also in the offing, explaining details of the freedom struggle and the Central Legislative Assembly, he said. Facilities will be set up to screen a film on the history of the Assembly and its members since 1912. A tunnel, the opening to which is at one end of the Assembly Hall, could also be open to the public, he said. The tunnel,

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which runs in a horse-shoe shape along the Assembly Hall, was cleaned and lights were installed a few years ago. Goel said *the tunnel transported “revolutionaries” from the Red Fort to the building, which had then functioned as a court under the British.* Prisoners were tried within the hall and convicts were sent to the gallows. Where Goel said the gallows stood, now lies a room strewn with files and papers. The PWD has prepared a design for the room’s renovation, he said, and it is likely to be ready by August 15 next year. The Legislative Assembly is currently open to public on Independence Day and Republic Day. As for the tunnel, the horse-shoe shape will be retained, he said. The covering to the “tunnel” was open on Friday. Located right across the room from the Speaker’s chair in the Assembly Hall, is a pit, just high enough to crouch inside. It appears to branch off in three directions, none of which were high enough to stand in or walk into. While one of the three branches comes from the Red Fort, the other heads to the gallows, and the third is in the direction of the entry to the Assembly Hall, which might have functioned as a court, Goel said. Other officials at the Legislative Assembly however surmised that the “tunnel” could have just been a horse-shoe-shaped structure installed by the British for insulation. The distance between the Red Fort and the Delhi Legislative Assembly is now a little over 6 km. Rana Safvi, city chronicler and writer, said that it was very improbable that a tunnel would connect the Red Fort and the Assembly. “The British had enough power then and did not need tunnels to hide and transport prisoners. Though it is difficult to comment without seeing the structure, the ‘tunnel’ might have had a more mundane purpose,” she said. *The construction of the Red Fort was completed in 1648, while the Assembly was built only in 1912,* she said. The building, though around 109 years old, is not protected by the ASI. ASI sources said Delhi government officials had not approached them recently to study or figure out the details of the structures they found in the building.

RAILWAYS NET-ZERO TARGET COULD CUT 15 MN TONNES OF CO2 EMISSIONS, SAVE RS 17,000 CR

Indian railways set a target in 2020 to become the world’s first net-zero emissions railway by 2030. If that happens, it could lead to an annual emissions reduction of at least 15 million tonnes of CO2, which could help meet 5 per cent of India’s Nationally Determined Contributions target, as well as save Rs 17,000 crore in fuel costs and other savings per year, according to a environment report released on Wednesday. The report, “Riding Sunbeams in India”, is prepared by environmental organisations – Delhi-based Climate Trends, UK-based Possible and Riding Sunbeams. *The Indian Railways is among the world’s largest rail networks and transports nearly 2.3 crore people daily and carries 1,160 million tonnes of goods annually, which requires enormous amounts of energy, making it the largest electricity consumer and third largest diesel consumer in India.* In 2018-19, the Railways used 17,682 terawatt-hour of electricity, 2,749 billion litres of diesel and 1,000 tonnes of coal, *accounting for 4 per cent of India’s total greenhouse gas emissions. The entire transport sector accounts for 12 per cent greenhouse gas. In 2018, the government approved plans for 100 per cent electrification of the Railways by 2023. In July 2020, the Railways stepped up its target to net-zero emissions by 2030.* “Converting all current diesel traction to electric would initially cause a 32% increase in CO2 emissions due to India’s reliance on coal to produce electricity. IR (Indian Railways) would need either to procure its own supply of clean electricity from solar and wind generators connected directly into the rail network, or develop new grid-connected renewable projects to match the traction energy supplied via the electricity grid,” said the report, adding *that it had plans to install 20 GW of solar for both traction and non-traction loads. About 51,000 hectares*

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of unproductive railway land has been identified as suitable for solar developments. Indian Railways and the Ministry of Railways have formed a joint venture Railway Energy Management Company to support the development of solar PV and wind energy projects to supply the railway's energy needs.

Railways is scaling up its renewable energy plan, including tendering 3 GW of solar projects this year and commissioning 103 MW of wind power.

102 VANDE BHARAT TRAINS TO BE OPERATIONAL BY 2024

The Railways plans to operate 102 Vande Bharat trains by March 2024. Days after Prime Minister Narendra Modi announced the operation of 75 Vande Bharat trains, the Ministry of Railways has floated tenders for manufacturing 58 rakes, each comprising 16 coaches. Tenders have already been floated for making 44 rakes. Railway officials say 102 Vande Bharat trains would be commissioned by early 2024. The Train18, later named Vande Bharat Express, was rolled out by the Integral Coach Factory, Chennai. It was showcased as India's first semi high-speed train with an operational efficiency of 160 kmph and a game-changer. On the occasion of the 75th Independence Day celebrations, Mr. Modi said 75 Vande Bharat trains would be operationalised to connect different parts of the country. In the fresh tenders, the Ministry of Railways insisted on the compliance of the Public Procurement (Preference to Make in India) Order 2017, and said there was "sufficient local capacity and competition in supply of the tendered item in required quantity and therefore public procurement of this items is restricted to Class-I Local Suppliers only". The new tender published on Saturday invited bids for design, development, manufacture and supply of equipment for three-phase propulsion and components for train sets as per Research Design & Standards Organisation specifications. While contractors should certify the percentage of local (fully indigenous) components and imported items, the tender conditions laid down that the eligibility for bidders from a country that shared land border with India to participate in the tender would be governed by the Public Procurement Orders of the Department of Expenditure. Though the Vande Bharat train was celebrated as one of the most successful products of the "Make in India" mission, it ran into a controversy over allegations of compromises on safety bringing production of more rakes to a grinding halt. There were also allegations that one company was favoured in the making of the first two rakes leading to the railway vigilance officials registering cases against several officials.

TRUE METTLE

India saw another fortnight of good tidings in sports from Tokyo. Close on the heels of the recent Olympics there, in which India claimed an overall tally of seven medals inclusive of a lone gold, the country's differently-abled athletes extended this tale of excellence into the Paralympic Games. The quadrennial event, which concluded at the Japanese capital on Sunday, witnessed an exemplary show by these athletes representing 2.2% of India's population, who are differently-abled. India finished 24th in the table with 19 medals that featured five golds, eight silvers and six bronzes. This was India's finest outing at the Paralympics and eclipsed the previous best of four medals at the Rio de Janeiro edition in 2016. In a nation where sporting culture is sacrificed at the altar of academic excellence, any news about success on the turf has to be treated as a system-altering result. The challenges for the differently-abled are tougher, considering the body's limitations that these athletes first cope with through sheer willpower, and then there is the secondary task of overcoming society's innate scepticism. A simple access-audit of India's urban

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buildings would reveal how even a ramp essential for the differently-abled is either missing or added as an after-thought. In 2016, an audit initiated by government agencies did not find a single building that was completely accessible to the differently-abled. Seen in that context, what India's paralympic contingent achieved is mind-boggling. This was a leap of faith mounted on endless hours at grounds and inside gymnasiums while sharpening muscle-memory. The Indian contingent reflected life's vicissitudes with athletes having personal stories steeped in tragedy: accidents, polio-afflictions or genetic issues. Yet, they strove towards excellence with an effervescent smile in place. Be it athletics, where javelin throwers are the toast of the month, or badminton or shooting, India had its moments of splendour. The five gold medallists — Sumit Antil, Pramod Bhagat, Krishna Nagar, Manish Narwal and Avani Lekhara — led from the front, and the last named 19-year-old shooter also won a bronze. India drew a blank in shooting at the preceding Olympics, but the differently-abled added five medals. The coaches, the Paralympic Committee of India and Sports Ministry played their parts while India excelled in a championship held in the shadow of a pandemic. Since its first medal at the 1972 Paralympics, India was a marginal presence until now. A reflexive-rewards exercise is on from various governments, and the corporate sector. If a percentage of those riches are allocated to improve sports infrastructure for the differently-abled, India will have more reasons for cheer in the coming years.



DreamIAS



BUSINESS & ECONOMICS

THE ECONOMIC REFORMS — LOOKING BACK TO LOOK AHEAD (D.N. GUPTA - A FORMER IAS OFFICER)

History matters in the complex economic system. So, it is important to briefly look at the economic reforms of the last 30 years. Evidence shows that the economic reforms which were launched in a major way in 1991 — and from time to time, subsequent interjections for liberalisation of economy and trade — have enabled some credible gains for the country. *Over a period of 30 years, burgeoning foreign exchange reserves, sustained manufacturing contribution in GDP, increased share in global exports (from a mere 0.6% in the early 1990s to 1.8%), robust information and communication technology software exports, and sustained economic growth in the range of 6%-8% are clear hallmarks of success.* The economic reforms, so far, have been more focussed on the technical nature of the economy than the system, process and people. As a result, quite a few primary drivers of the economy — human capital, technology readiness, labour productivity, disposable income, capital expenditure, process innovation in setting up businesses, and institutional capacity — have not got enough recognition. In the context of a global competitive environment, some basic issues deserve close examination. The **human resource capital (HRC)** formation, a good determinant of labour productivity, has been found wanting over the entire period of reforms. The lack of quality education, low skilled manpower and inadequacies in basic health care have resulted in low HRC. *The HRC rank for India stands at 103; Sri Lanka is at 70, China at 34, and South Korea at 27, as brought out by the Global Human Capital Report, 2017.* As indicated in the World Bank database on GDP for 2019, *the low per capita GDP in India, at \$2,104 (at \$6,997 in PPP terms, ranked 125th globally) against the world average of \$11,429 (at \$17,678 in PPP terms) has direct links to low per capita family income.* Closely linked, the report by Deloitte (*Global Manufacturing Competitiveness Index in 2016*) reflects that *the hourly wages in India have been \$1.7; they are \$38, \$24, \$20.7 and \$3.3 for the United States, Japan, South Korea, and China, respectively.* Low wages have a direct bearing on the *disposable income* of families and *leave little room for the majority of households to have enough disposable income to purchase consumer durables or industrial products, affecting demand.* *Low research and development expenditure at 0.8% of GDP, vis-à-vis higher value for other fast emerging economies such as South Korea (4.5%), China (2.1%) and Taiwan (3.3%), is resulting in lower capacity for innovation in technologies and reduced 'technology readiness', especially for manufacturing.*

Labour productivity

The *lack of HRC and low technology readiness* have impacted labour productivity adversely. *In India, labour productivity in manufacturing is less than 10% of the advanced economies including Germany and South Korea, and is about 40% of China,* as reflected in a World Bank publication of 2018, *The Future of Manufacturing-Led Development.* *Low productivity has unfavourable consequences for competitiveness, manufacturing growth, exports and economic growth.* In addition, due to a lack of capital expenditure and institutional capacity, and inefficiency in business service processes, there are *difficulties in acquiring land for businesses,* in efficient utilisation of economic infrastructure, and in providing business services, leading to a long time and more cost in setting up enterprises, resulting in a loss of creative energy of entrepreneurs. The fundamental deficiencies, as highlighted above, are at the heart of the problem. For years, the

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economy has been hit internally due to low consumer demand as a result of low household incomes as well as externally on account of lesser competitiveness and inadequacies in integration with global supply chains for trade. A Business as Usual (BAU) approach is resulting in diminishing returns.

Paradigm shift

In order to drive the economy, there needs to be fresh thinking to address the underlying issues comprehensively in an integrated manner. The new reforms will require a distinct departure. The approach should be systemic and address structural issues — HRC, skills, research and development (R&D), land management and institutional capacity. The focus should be on quality of business services, technology readiness, labour productivity and per capita income. First, to attract large investment in manufacturing and advanced services, at a basic level, investment in human capital and technology is a prerequisite. *Raising HRC by way of enhanced public sector outlay to 8% of GDP, from current about 5%, for education, skill development (including for advanced technologies) and public health, is another first step.* The reports (by McKinsey and the World Economic Forum) on advanced manufacturing suggest that **Industry 4.0 will be defined by new technologies such as robotics, 3-D printing, artificial intelligence (AI), the Internet of things (IoT), etc.,** which could usher in rapid changes of a higher order up to 10X or more in speed, scale and scope; technology obsolescence will be much faster than ever before. Consequently, efforts for technology readiness are very essential to stay competitive. It demands *enhancing public research and development expenditure to 2% of GDP over the next three years.* There is a need to work on strategies to enhance per capita income by more wages for workers through *higher skills and enhancing minimum wages, besides improving the social security net.* This calls for a concerted calibrated approach through collaborative efforts of government, industry and workers' unions. *On the issue of increased cost of labour, it can be compensated by higher productivity, some tax-benefits in the initial period of wage reforms especially for Micro, Small and Medium Enterprises, besides reducing transaction costs in business and improving infrastructure utilisation efficiency.*

Systemic approach

Using insights from the work of Nobel laureate (1993) Douglass C. North on the role of institutions in advancing the economy in a country, it is necessary to build the capacity of public institutions to create a good environment for business and industry. The process of reforms is as important as the content. Policy reforms should lay an emphasis on process innovation and promote a business-centric approach to implementing pre-determined service quality levels (SQLs), to create a friendly ecosystem by having a state-of-the-art plug-and-play model for new enterprises, and for efficient internal supply chain management to integrate with the global supply chain. Finally, largely absent in the 1990s, apart from rapid globalisation and rising aspirations, the future of the economy should be particularly viewed in the backdrop of a significant and irreversible shift in terms of a reliance on the global supply chain as a result of the knowledge-intensive nature of businesses and exponential effects caused by advanced technologies under Industry 4.0, since the 2010s. Therefore, the strategies adopted since the 1990s till now may not ensure adequate returns, and call for innovative approaches in public policymaking. In sum, it necessitates a systemic approach — encompassing inter-connected basic factors of the economic system — for policy reforms for setting the economic fundamentals right, in order to unlock creativity and



innovation in the economic system, raise the total factor productivity (TFP), or a measure of productive efficiency, and to achieve higher growth.

FLEETING CHEER

The latest GDP estimates expectedly show that national output rebounded in Q1 of the current fiscal from the record contraction in April-June 2020, when the pandemic's onset and the lockdown gutted the economy. *National Statistical Office data show GDP expanded 20.1% from a year earlier, as every one of the eight industries spanning the broad agriculture, manufacturing and services categories posted positive growth. And gross value added, which aggregates output from all the eight sectors, grew by 18.8%.* The numbers, however, show a different picture when compared with either the preceding quarter or the pre-pandemic first quarter of fiscal 2019-20. *GDP at constant prices was estimated at ₹32.38-lakh crore, a 16.9% contraction from January-March's ₹38.96-lakh crore and more than 9% shy of the ₹35.66-lakh crore in April-June 2019.* That the second COVID-19 wave extracted a significant toll is evident. *With the exceptions of electricity and other utility services and the non-contact intensive services grouping of financial, real estate and professional services, all other six industries posted double-digit quarter-on-quarter contractions.* On the expenditures front, private consumption spending flattered to deceive, posting year-on-year growth of 19.3% but still shrinking by 17.4% from the preceding three months. And most disconcertingly, *government consumption expenditure, which has invariably in the past helped shore up the economy, contracted 4.8% from a year earlier and 7.6% from the previous quarter.* Looking ahead rather than in the rear-view mirror, there have been signs of some traction in the current quarter as most States have gradually eased their localised second wave restrictions. *Exports have been one of the bright spots as the U.S. and other western economies have ramped up vaccinations and posted economic recoveries that have underpinned demand for goods and services from India.* And manufacturing has surged almost 50% year-on-year to be just under ₹24,000 crore short of the April-June 2019 output level. A fact borne out by the Manufacturing Purchasing Managers' Index from IHS Markit, whose August release shows the sector experienced a second straight month of increase in production, albeit at a slower pace than July. Still, the same PMI survey also points to the challenges ahead. Rising raw material costs have been forcing manufacturers to either absorb the impact or raise prices, as several automakers have done, risking the prospect of dampening the already tenuous demand. And lingering uncertainty has led companies to yet again freeze hiring, according to IHS Markit. *With monsoon rains in deficit, agricultural output and wider rural consumption also face a likely downturn.* Policy makers must remain laser focused on expediting vaccination coverage and taking fiscal measures to ensure overall consumption demand does not weaken any further.

SHAPE OF ECONOMIC RECOVERY

The Ministry of Statistics and Programme Implementation released the GDP (gross domestic product) and GVA (gross value added) data for the first quarter of the current financial year. The government used the Year-on-Year (Y-o-Y) comparison method — which showed that the GDP grew by 20% in Q1 this year as against the Q1 last year — to claim that India was witnessing a V-shaped recovery. Critics of the government chose to look at the Quarter-on-Quarter (Q-o-Q) method — which showed the economy contracted by 17% in Q1 this year as against Q4 (January, February and March) of the last financial year — to claim that the economy was fast losing momentum.

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So, which is telling the truth? What is the truth about the current state of the Indian economy?

The short answer: Both — the government claims of a V-shaped recovery and the critics' claim of a sharply contracting economy — are misleading. What's more, either of the claims would lead to faulty policy choices which, in turn, will hurt India's future growth. To understand why and how this is the case, let's take a detour. One of the most fundamental mistakes by Indian policymakers in the pre-Covid era was the incorrect diagnosis of India's economic growth momentum. For the longest time, the Indian government refused to accept that the economy was decelerating sharply. *Many of you would recall that India's annual growth fell sharply from over 8% in 2016-17 to just about 4% in 2019-20.* But for most of this intervening period, India's finance minister refused to accept that there was a steady and indeed sharp slowdown underway. At The Express, we kept pointing out this misstep (February 1, 2020) and how it may hurt future growth (May 30, 2020). Apart from *the refusal to accept the slowdown, the government had also made matters tough for itself by advancing the traditional date of presenting the Union Budget by a whole month.* While this may sound like an innocuous change on the surface, *in reality, it hamstrung the government from correctly assessing the state of the economy while undermining the credibility of its Budget numbers.* Read this explainer to know how. The combined effect of inadequate data and a refusal to accept the rapidly worsening state of the economy resulted in flawed policy choices. The most important one being the cut in corporate tax rates. To be sure, lower corporate tax rates can be listed as a bonafide reform and it should help India's industry in the long-term, but its timing left a lot to be desired. Read this explainer to understand why. The central problem was that it was announced at a time when India was facing a rapidly worsening demand problem. In other words, people's incomes were either growing at a slowing rate or actually contracting. Add to that the high unemployment levels which had become endemic. Altogether, what ailed with the Indian economy was inadequate demand. But what the corporate tax cut attempted to do was to boost supply — the exact opposite of what was required. The results were hardly surprising. Even before the Covid pandemic, corporations simply pocketed the tax relief — estimated to be anywhere between Rs 1.5 lakh crore to Rs 2 lakh crore — and used it to either pay off their debts or boost their profits, without even a single penny rise in net investment. It can be argued that a better alternative would have been to provide a monetary boost of the same amount to consumers instead of the producers. This could have been done either in the form of increased direct spending from the government or in the form of tax relief (say a reduction in GST rates or income tax rates). You may well say: This was all before Covid; so why bring this up now? That's because we may be repeating the same mistake — thanks to the government's ambitious claims that India has registered a "V-shaped" recovery. Here's how. Since early last year, when the Covid pandemic hit the Indian economy, ExplainSpeaking has repeatedly underscored the need to look beyond percentage change, and instead focus on absolute numbers. *In large part this has to do with the fact that in times of massive upheavals, percentage change can be quite misleading. Why? Because a 25% reduction of Rs 100 — equal to Rs 25 — is more than a 25% increase in Rs 75 — equal to Rs 18.75.* While both the fall and rise percentages are the same, the impact in absolute values is quite different; the final value is almost Rs 7 short of the original. Let's first look at the government claim. As a detailed analysis of both the GDP and GVA data in The Indian Express (<https://indianexpress.com/article/explained/india-q1-gdp-data-economy-covid-impact-modi-govt-7481191/>) showed, when one looks at absolute numbers, the picture is far from rosy.



It shows that private consumption demand — the biggest driver of India's GDP (accounting for more than 55% of all GDP) — is almost exactly back to where it was in 2017-18. So, if India's consumer demand is back to the 2017-18 level, what should the government do? Raise its spending so as to boost aggregate demand. But now look at what has happened to government spending (GFCE in the GDP table): It has fallen from the levels where it was last year. In other words, *the reduction in government spending pulled down the overall economic growth rate in Q1*. What's worse, if the government continues to believe that India has already staged a V-shaped recovery, it may not find any reasons to spend more, thus creating a similar drag on future growth. That is why it is important to understand why the government is wrong in its claim that India has staged a V-shaped recovery and why it needs to boost its spending if it wants to secure future growth momentum. For those who do not understand what different shapes of recoveries mean, here is an explainer. *Essentially, a V-shaped recovery means the economy quickly reverts to the trend of absolute GDP*. So if India's GDP was growing at 6% before the pandemic and we assume that it would have grown at 6% in 2020-21 and 2021-22 without the Covid disruption, then the Q1 GDP should have been Rs 40,07,553. In reality, it is only Rs 32,38,020. In other words, the trend level of GDP is 24% more than what the actual GDP was in Q1. To further understand how far away India is from a genuine V-shape recovery, let's calculate the number of years it would take for India to post a Q1 GDP of Rs 40,07,553. Let's suppose India grows at 7% (Year-on-Year) in the first quarters of 2022-23, 2023-24 and 2024-25. If that happens, which is a slightly optimistic assumption, then at the end of June in 2024-25, India's Q1 GDP would be Rs 39,66,714 — still short of the level that constitutes a V-shaped recovery in 2021-22. *The reality — a Q1 GDP of Rs 32,38,020 — points more towards an "L-shaped" recovery instead of a "V-shaped" one*. The story is equally worrisome when one looks at the GVA data. In fact, *for some sectors that create the most jobs in India — such as Construction and Trade, Hotels, Transport, Communication & Services etc. — the picture is much bleaker as the GVA levels have fallen back to 2017-18*. If one calculates the GVA level that a V-shaped recovery would require, one finds that it is 20% more than what the actual Q1 GVA is. Again, even if GVA grows by 7% (Y-o-Y) from here on, it will take another three years just to cross the level that marks a V-shape recovery this year. Of course, in three years time, both GVA and GDP would have grown much higher according to the original trend line and that is why the reality may be closer to an L-shaped recovery, which points to a permanent loss of GDP and GVA. Of course, Covid is a global pandemic and it has left no economy unscathed. But the point of this analysis is to correct the misconception about the shape and form of the economic recovery so that the government can make smarter policy choices this time around. For instance, *if there is a consensus that India suffers from weak consumer demand (as shown by the Private Final Consumption Expenditure (or PFCE) component in the GDP data table) and that Indians across several sectors of the economy are earning much less than what they were doing in the past (as shown by the GVA data table) then the government can think in terms of either boosting its spending in such a manner that beefs up the incomes of the worst-hit or provides a tax relief — say a cut in GST rates or taxes on petroleum products — to improve the purchasing capacity of the consumers*. Lastly, what about the critics of the government who claim that Q-o-Q, the GDP has contracted by 17%? Well, for one, if one looks at the Q-o-Q method then India's GDP rebounded quite fast in the Q2 (July, August, September) of the last financial year itself! What makes this even more bizarre is the fact that by the Y-on-Y method, India went into a technical recession in Q2 of the last financial year. Moreover, in India, often enough, the quarterly GDP levels tend to go up with each passing quarter in a financial year, and such a contraction may be visible even during normal times — that is if one compares Q1 of any financial year with the preceding Q4. But perhaps most



importantly, as this piece explained, *there is a distinct seasonality to India's annual growth and a Q-on-Q approach, while being a globally accepted norm, is sub-optimal for assessing its growth momentum.* Again, believing that the economy contracted by a whopping 17% in Q1 — when it may be recovering, albeit far more feebly than what the government claims — could again lead to flawed policy choices.

CATCHING UP

The Cabinet's approval of a Production Linked Incentive (PLI) scheme for the textile sector that is expressly targeted at the man-made fibre (MMF) and technical textiles segments is a belated acknowledgment by the Government that the ground has inexorably shifted in the global textiles trade. A relentless shift in consumer preferences and fashion trends saw MMF surpass cotton as the fibre of choice in the 1990s, since vaulting its share in worldwide textile consumption to about 75%. *India's textile and clothing exports on the other hand have continued to remain dominated by cotton and other natural fibre-based products, with MMF having contributed less than 30% of the country's \$35.6 billion in overall sectoral exports in 2017-18. And MMF's share remained relatively unchanged in the last fiscal as well when the sectoral exports were about \$33 billion.* While policy makers have been cognisant of the need to bolster support for the MMF segment, the task of crafting a meaningful initiative that would engender enhanced investment in capacity creation, leading to increased exports, has been a while in coming. Wednesday's decision on the focused PLI scheme, with a budgeted outlay of ₹10,683 crore, is the second time in 11 months that the Cabinet has approved what is broadly the same plan, with the Government using the intervening period to incorporate amendments to the incentive structure based on industry feedback. The aim of the scheme is to specifically focus investment attention on 40 MMF apparel product lines, 14 MMF fabric lines and 10 segments or products of technical textiles. These 64 items have been chosen on account of being among the top-traded lines in the global market as well as India having less than a 5% share in each of them. *The inclusion of intermediate products at industry's request also reflects the Government's keenness to ensure the scheme ultimately delivers on the broader policy objectives.* The incentives have been categorised into two investment levels. *Firms investing at least ₹300 crore into plant and machinery over two years for making a specified product would need to hit a minimum turnover of ₹600 crore before becoming eligible to receive the incentive over a five-year period, and at a second level an investment of ₹100 crore with a pre-set minimum turnover of ₹200 crore would enable qualification for the incentive.* On the face of it, the scheme appears designed with a fair deal of thought, but its operational success is likely to hinge on how new entrepreneurs and existing companies weigh the risk-reward equation, especially at a time when the pandemic-spurred uncertainty has already made private businesses leery of making fresh capital expenditure.

EXCISE MOP-UP JUMPS 48% IN APR-JULY; AT 3 TIMES OF FULL FISCAL OIL BOND LIABILITY

The government's collections from levy of excise duty on petroleum products have jumped 48 per cent in the first four months of the current fiscal year, with the incremental mop-up being 3-times of the repayment liability of legacy oil bonds in the full fiscal, official data showed. Data available from the Controller General of Accounts in the Union Ministry of Finance showed excise duty collections during April-July 2021 surging to over Rs 1 lakh crore, from Rs 67,895 crore mop-up in the same period of the previous fiscal. ***After the introduction of the Goods and Services Tax (GST) regime,***

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excise duty is levied only on petrol, diesel, ATF and natural gas. Barring these products, all other goods and services are under the GST regime. *The incremental collections of Rs 32,492 crore in the first four months of the fiscal year 2021-22 (April 2021 to March 2022) is three-times the Rs 10,000 crore liability that the government has in the full year towards repayment of oil bonds that were issued by the previous Congress-led UPA government to subsidise fuel.* Bulk of excise duty collection is from the levy on petrol and diesel and with sales picking up with a rebounding economy, the incremental collections in the current year may be over Rs 1 lakh crore when compared with the previous year, industry sources said. *In all, the UPA government had issued Rs 1.34 lakh crore worth of bonds (equivalent to a sovereign commitment to pay in future) to state-owned oil companies to compensate them for selling fuel such as cooking gas LPG, kerosene and diesel at rates below cost. Of this, Rs 10,000 crore is due to be repaid in the current fiscal,* according to the finance ministry. First, Finance Minister Nirmala Sitharaman and then Oil Minister Hardeep Singh Puri had blamed the oil bonds for limiting fiscal space to give relief to people from fuel prices trading at near record high. Sitharaman had last month ruled out a cut in excise duty on petrol and diesel to ease prices, saying payments in lieu of past subsidised fuel pose limitations. She put the total liability that the BJP government has to service at Rs 1.3 lakh crore. On September 2 — a day after Congress leader Rahul Gandhi launched a scathing attack on the government for raising cooking gas prices — Puri put the total liability at over Rs 1.5 lakh crore. *Excise duty on petrol was hiked from Rs 19.98 per litre to Rs 32.9 last year to recoup gain arising from international oil prices plunging to multi-year low as pandemic gulped demand. Of the Rs 1.34 lakh crore of oil bonds, only Rs 3,500 crore of principal has been paid and the remaining Rs 1.3 lakh crore is due for repayment between this fiscal and 2025-26, according to information made available by the Finance Ministry.*

IMF'S ASSET ALLOCATION A BOOSTER SHOT, FOREX RESERVES JUMP BY RECORD \$16.6 BN

Following the International Monetary Fund's (IMF's) allocation of special drawing rights (SDR) worth \$17.86 billion, the country's foreign exchange reserves jumped by record \$16.66 billion in the week ended August 27, 2021 to hit an all-time high of \$633.56 billion. Over the last two years, forex reserves have grown by \$200 billion. In the week ended August 27, the IMF allocated SDR of 12.57 billion (equivalent to around \$17.86 billion at the latest exchange rate) to India, taking it from \$1.54 billion on August 20 to \$19.41 billion. The rise in forex reserves during the week was purely on account of SDRs as foreign currency assets fell by \$1.4 billion during the week and gold was up by just \$192 million. *SDR is an international reserve asset, created by the IMF in 1969 to supplement its member countries' official reserves. To date, a total of SDR 660.7 billion (equivalent to about US\$943 billion) have been allocated and it includes the largest-ever allocation of about SDR 456 billion approved on August 2, 2021 (effective on August 23, 2021). The value of the SDR is based on a basket of five currencies—the US dollar, the euro, the Chinese renminbi, the Japanese yen, and the British pound sterling. The latest allocation was made to address the long-term global need for reserves, and help countries cope with the impact of Covid.* SDR allocations play a role in providing liquidity and supplementing member nations' official reserves, as was the case amid the global financial crisis. India's foreign exchange reserves have risen sharply over the last two years. While the forex reserves stood at \$429.6 billion on September 6, 2019, it has risen by \$204 billion over the last two years and now stands at \$633.56 billion. *The rise in forex reserves not only provides cushion to the economy in terms of covering the import expenditure, it has also resulted into stability in rupee against the dollar and rupee has strengthened against the dollar significantly over the last*

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two weeks, following the jump in reserves. While rupee was trading at 74.35 on August 20, it closed at 73.02 on Friday and has appreciated 1.8 per cent over two weeks. While strong inflows by foreign portfolio investors and FDI inflows over the last two years have led to this jump in forex reserves over the two year period, it was also supported by low crude oil prices. While it went past the \$500 billion mark in the week ended June 5, 2020, it crossed the \$600 billion mark a year later in the week ended June 4, 2021.

WHY BIG TECH COMPANIES' FORAY INTO FINANCIAL SERVICES IS RAISING CONCERNS

E-commerce giant Amazon's financial services unit Amazon Pay has partnered with investment platform Kuvera to offer wealth management services to the former's customers, which include investments in mutual funds and fixed deposits. This follows Google Pay's deal with Equitas Small Finance Bank for fixed deposits. The involvement of large tech players in the financial services segment is something that has been specifically flagged by the Reserve Bank of India (RBI).

What is Amazon Pay's partnership with Kuvera?

Under the partnership, Kuvera will provide services, products and technology know-how to Amazon Pay that will facilitate investments in mutual funds, fixed deposits, etc for its customers. "Through this arrangement with Amazon Pay India, we seek to add value to the investors' journey. Our goal is to accelerate the democratisation of investing and wealth management in India," Kuvera's founder and CEO Gaurav Rastogi said.

Have there been other partnerships like this?

The most recent partnership involving a big tech company and a financial services firm for wealth management was *Google Pay's deal with Equitas Small Finance Bank for fixed deposits.* Several tech companies, though, have tied up with banking partners for short-term financing instruments. *These include Amazon Pay that has tied up with Capital Float and IDFC FIRST Bank for the Amazon Pay Later instrument, and Paytm, which has tied up with Clix Finance India Pvt. Ltd for its postpaid service.* Kunal Shah-led platform CRED also has an online lending platform in partnership with IDFC FIRST Bank.

What has the RBI said about involvement of tech companies in the financial services space?

While the RBI hasn't commented on specific deals, in the Financial Stability Report released in July 2021, the central bank flagged concerns with big tech firms offering digital financial services. "Specifically, concerns have intensified around a level-playing field with banks, operational risk, too-big-to-fail issues, challenges for antitrust rules, cyber security and data privacy. *Big techs present at least three unique challenges. First, they straddle many different (non-financial) lines of business with sometimes opaque overarching governance structures. Second, they have the potential to become dominant players in financial services. Third, big techs are generally able to overcome limits to scale in financial services provision by exploiting network effects,*" it added.

TO FOCUS ON SCALE, BILLDESK CO-FOUNDERS MAY STAY ON AFTER PROSUS DEAL CLOSE

When it came to a decision on whether to go public or raise investments from a specialised partner to chart out the next phase of growth for what was arguably India's first pure play 'fintech' that

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now handles more than half of the country's online billing transactions, co-founders of BillDesk MN Srinivasu, Ajay Kaushal and Karthik Ganpathy, along with their other investors, decided on the latter option. A bet different to what Paytm, one of its biggest rivals in the payments gateway segment, seems to have taken as it gears up for its proposed \$2.2 billion IPO. *On Tuesday, Dutch conglomerate Prosus announced 100 per cent acquisition of BillDesk for \$4.7 billion. Prosus operates in India's fintech space through its unit PayU.* Post the acquisition, the two brands will continue to operate separately at least for some time, given the deep relationships each of them have with their merchants and banks. For the three co-founders, the deal presents an opportunity to run their business at an even higher scale with backing of a deep-pocketed investor like Prosus, as they plan to stay on even after selling their stakes. Through the deal, the co-founders who started the company more than 20 years ago, find an exit for their 29.6 per cent stake that they held in BillDesk, estimated to be worth around \$1.4 billion. The company's other institutional investors were General Atlantic, Temasek Holdings, Visa, TA Associates, March Capital and Clearstone Venture Partners.

THE PAYPAL-PAIDY DEAL, AND INTEREST IN THE 'BUY NOW, PAY LATER' SPACE

American payments giant PayPal has agreed to buy Japanese 'buy now, pay later' (BNPL) firm Paidy for \$2.7 billion, in what is yet another major deal in the segment after Twitter CEO Jack Dorsey-run Square bought Australian Afterpay for \$29 billion last month.

What is buy now, pay later (BNPL)?

The BNPL model has evolved over the years as a payment option to buy goods and services online through small sized credits. In this model, unsecured loans are extended to online shoppers on the lines of a credit card, but these are smaller in amount and have a shorter repayment schedule. *Over the last one year, BNPL companies across the world have seen a boom in their business, and experts suggest this is happening on account of the stimulus money being pumped into the system by the US government, particularly because of diminished spending capabilities caused by Covid-19 pandemic.* However, *some economists are also looking at BNPL as a potential debt-trap for millennials.* Reportedly, *iPhone maker Apple is said to be in talks with Goldman Sachs to launch its own BNPL service.*

Why has PayPal bought Paidy?

In a statement, PayPal said: "The acquisition will expand PayPal's capabilities, distribution and relevance in the domestic payments market in Japan, the third largest e-commerce market in the world, complementing the company's existing cross-border ecommerce business in the country." The American company is already considered a key player in the BNPL market, holding stakes in companies such as Sezzle and Z1P.AX Co Ltd. In an investor presentation, PayPal noted that shopping volume in Japan has more than tripled to around \$200 billion in the last 10 years, but more than two-thirds of all purchases are still paid for in cash, thereby presenting a huge opportunity for BNPL to proliferate.

Is BNPL prevalent in India?



In India, there are several BNPL wallets that are prevalent in e-commerce, grocery, and food delivery platforms. These include PayU-run LazyPay, Simpl, Zest Money, Amazon Pay and Paytm Postpaid, in addition to several pay later services being offered by banks such as ICICI Bank. Goldman Sachs has predicted that BNPL will rise to become the fastest growing online payment option, with its market share growing from 3 per cent now to 9 per cent in 2024.

HOW TOKENS INSTEAD OF CREDIT CARD DETAILS CAN MAKE TRANSACTIONS SAFER

Many merchants and e-commerce entities force customers to store debit or credit card details, which increases the risk of card data being stolen. This can be avoided now with the Reserve Bank of India allowing tokenisation of cards while making payments.

What is tokenisation?

It refers to replacement of card details with an alternative code called a 'token', which is unique for a combination of card, token requestor (the entity that accepts a request from the customer for tokenisation of a card and passes it on to the card network to issue a token) and the device, the RBI says. It reduces the chances of fraud arising from sharing card details. The token is used to perform contactless card transactions at point-of-sale (PoS) terminals and QR code payments. The RBI has also extended tokenisation of Card-on-File (CoF) transactions — where card details used to be stored by merchants — and directed the merchants not to store card details in their systems from January 1, 2022. A CoF transaction is one in which a cardholder has authorised a merchant to store his or her Mastercard or Visa payment details, and to bill the stored account. E-commerce companies and airlines and supermarket chains often store card details. "With effect from January 1, 2022, no entity in the card transaction or payment chain, other than the card issuers and card networks, should store the actual card data. Any such data stored previously will be purged," the RBI said in a circular. The RBI had earlier barred storage of data in March 2020 but extended the deadline to December 31, 2021.

How does tokenisation work?

The cardholder can get the card tokenised by initiating a request on the app provided by the token requestor. The token requestor will forward the request to the card network which, with the consent of the card issuer, will issue a token corresponding to the combination of the card, the token requestor, and the device. Tokenisation has been allowed through mobile phones or tablets for all use cases and channels like contactless card transactions, payments through QR codes and apps, according to the RBI. The tokens are generated by companies like Visa and MasterCard, which act like Token Service Providers (TSPs), and they provide the tokens to mobile payment or e-commerce platforms so that they can be used during transactions instead of the customer's credit card details. When users enter their card details into a virtual wallet like Google Pay or PhonePe, these platforms ask one of these TSPs for a token. The TSPs will first request verification of the data from the customer's bank. When the data has been verified, a code is generated and sent to the user's device. Once the unique token has been generated, it remains irreversibly linked to the customer's device and cannot be replaced. Thus, each time a customer uses his or her device to make a payment, the platform will be able to authorise the transaction by simply sharing the token, without having to reveal the customer's true data. Tokens can be generated to safeguard payments in mobile wallets and physical or online stores like Amazon.



Who can tokenise cards?

The RBI has permitted card issuers to act as TSPs, which will offer tokenisation services only for cards issued by or affiliated to them. "The ability to tokenise and de-tokenise card data will be with the same TSP. Tokenisation of card data will be done with explicit customer consent requiring Additional Factor of Authentication (AFA) validation by the card issuer," the RBI said. Normally, in a tokenised card transaction, *the stakeholders involved are the merchant, the merchant's acquirer, card payment network, token requestor, issuer and customer.* The registration for a tokenisation request is done only with explicit customer consent through AFA, and not by way of a forced, default or automatic selection of check box, radio button, etc. Customers will also be given the choice of selecting the use case and setting up limits. *Customers have the option to set and modify per-transaction and daily transaction limits for tokenised card transactions.*

What happens after tokenisation?

According to the RBI, for transaction tracking and reconciliation, entities can store limited data — last four digits of actual card number and card issuer's name — in compliance with applicable standards. Actual card data, token and other relevant details are stored in a secure mode by authorised card networks. The token requestor cannot store the card number, or any other card detail. Card networks are also mandated to get the token requestor certified for security conforming to international best practices / globally accepted standards. A customer can choose whether or not to let his or her card tokenised. Besides, *the card issuer should also give the cardholder the facility to view the list of merchants for whom he or she has opted for CoF transactions, and to de-register any such token.*

Why is the RBI going for tokenisation?

Citing convenience and comfort for users while undertaking card transactions online, many entities involved in the card transactions store actual card details, which is CoF. In fact, some merchants force their customers to store card details. *Availability of such details with a large number of merchants substantially increases the risk of card data being stolen,* the RBI said. *In the recent past, there have been incidents where card data stored by some merchants have been compromised or leaked.* Any leakage of CoF data can have serious repercussions because many jurisdictions do not require an AFA for card transactions. Stolen card data can also be used to perpetrate frauds within India through social engineering techniques, the RBI said.

THE 10% EDGE

The Centre is set to list India's largest insurance firm, state-owned Life Insurance Corporation of India, on the stock exchanges to help meet disinvestment targets for the year. The Cabinet Committee on Economic Affairs approved the IPO in July. Earlier, *actuarial* firm Milliman Advisors was appointed to assess the embedded value of LIC. Currently, at least 16 *merchant bankers*, including global players HSBC, Goldman Sachs, Bank of America, Citigroup and BNP Paribas, are in the race to help manage the public issue. The government is expected to announce its choice shortly. Next, a Group of Ministers constituting the alternative mechanism on strategic disinvestment will approve the actual quantum to be placed on offer.



Why is LIC coming out with a public offering?

The government has in recent years found it difficult to meet disinvestment targets. *Divestment of stakes in Air India and BPCL has been delayed for various reasons, including COVID-19*, and may see fruition this financial year. *The Centre has an ambitious disinvestment target of ₹1.75 lakh crore for FY22*. A successful LIC IPO, in which the government will sell a sizeable stake, will help it meet this goal. While a date has not been announced, the listing of LIC is expected in the third or fourth quarter of 2021-22.

How much could the Centre mop up via the IPO?

Chief Economic Adviser K. Subramanian had said in March that the LIC IPO could fetch up to ₹1 lakh crore. *While the LIC Act of 1956 has been amended to allow the listing, details as to the number of shares on offer or the price band are not yet out. The amendments allow for an increase in the authorised share capital of LIC to ₹25,000 crore divided into 2,500 crore shares of ₹10 each.*

How will it benefit those with policies?

The government has said it would reserve up to 10% of the issue size in the IPO for LIC policyholders.

Markets regulator SEBI's rules state the aggregate of reservations and firm allotments for employees in an issue shall not exceed 10% of the proposed issue amount. *Market rules also set out that an issuer company can offer the shares to employees at a discount of maximum 10% to the floor price.* There are reports that the government could offer a discount on the issue price for LIC policyholders. Currently, *LIC pays 5% of its surplus to the government and the rest to policyholders. That could change as it will become accountable to shareholders for dividend payments. The sovereign guarantee by the government for policies, though, will continue post-IPO.*

Why is there talk of a split IPO?

The stock market has seen numerous public offerings recently, such as food delivery facilitator Zomato's ₹9,375 crore mop-up. Overall, investors were hungry enough to absorb ₹27,000 crore in IPOs between just April and July. Financial services provider Paytm has also lined up an IPO worth ₹16,600 crore — making it the largest so far in India, topping Coal India's ₹15,200 crore offering in 2010. By the time the LIC IPO hits the road, investors may not have enough appetite to absorb the entire offering at one go. Splitting the IPO in two parts with the second tranche being a follow-on offer would make it a first-of-its-kind offering in the country.

What changes did SEBI make to smoothen LIC IPO path?

In February, SEBI tweaked its rules to allow promoters of companies with a market capitalisation of ₹1 lakh crore post-IPO to reach 10% public shareholding in two years and raise that figure up to 25% in five years. Earlier, any company with a market cap of ₹4,000 crore and above had to achieve 25% public shareholding in three years.

Why is the market agog with expectation for this IPO?

Life insurance in India is still nascent, with only about 2.82% penetration as of 2019, according to insurance regulator IRDAI. So, the addressable market is huge. Two, *about two decades after*



private players have been allowed entry, LIC's market share is still at a high of 66.2%, as per IRDAI's FY20 report. According to primeinfobase.com, the value of equity holdings of LIC, India's largest institutional investor, touched an all-time high of ₹7.24 lakh crore as on March 31, 2021 — across almost 300 companies in which it had at least 1% stake.

WHY IS THERE A PUSH FOR ASSET MONETISATION?

What does the government expect to earn from leasing of public assets like airports, roads, coal mines and hotels? Will it help to boost economic activity?

Finance Minister Nirmala Sitharaman announced the National Monetisation Pipeline (NMP), which is expected to fetch around ₹5.96 lakh crore to the government. Following through on the Budget's plan to monetise public assets to fund fresh capital expenditure on infrastructure, the government released a list of projects and facilities to be offered to private investors over the next four years through structured leasing and securitisation transactions.

What is the National Monetisation Pipeline?

The NMP names a list of public assets that will be leased to private investors. Only brown-field assets, which are assets that are already operational, are planned to be leased out under the NMP. So, to give an example, an airport that is already operational may be leased out to an investor. Assets that are yet to be developed, such as an undeveloped piece of land, for example, may not be leased out. Importantly, there won't be any transfer of ownership from the government to the private sector when assets are leased out. The government only plans to cede control over its assets for a certain period of time, after which the assets must be returned to the government unless the lease is extended.

Will NMP help the economy?

The government believes that leasing out public assets to private investors will help free capital that is stuck in these assets. For example, say the government has invested thousands of crores in a road project. It may take the government decades to recover its investment through the annual toll revenues. Instead, the government can recover a good chunk of its investment by leasing out the right to collect toll for the next 30 years to a private investor. *The government can use this money, in turn, to build fresh infrastructure under the National Infrastructure Pipeline (NIP). In fact, the proceeds from the NMP are expected to account for about 14% of the total outlay for infrastructure under the NIP.* The government believes all this spending will boost economic activity. Analysts also believe that the government has now through the NMP found the right model for infrastructure development. The government, they say, is best suited to tackle the ground-level challenges in building infrastructure, while the private sector can operate and offer indirect finance to these projects through the NMP.

What are the risks?

The allocation of assets owned by governments to private investors is often subject to political influence, which can lead to corruption. In fact, *many in the Opposition allege that the NMP will favour a few business corporations that are close to the government.* The expected boost to



economic activity due to higher government spending may also need to be weighed against the opportunity costs. For one, *the money that the government collects by leasing out assets comes from the pockets of the private sector. So higher government spending will come at the cost of lower private spending.* The NMP also does not address the various structural problems such as legal uncertainty and the absence of a deep bond market that hold back private investment in infrastructure. However, it is worth noting that assets are perceived to be better managed and allocated by the private sector than by the government. To the extent that the NMP frees assets from government control, it can help the economy. There are also concerns that the leasing of airports, railways, roads and other public utilities to private investors could lead to *higher prices for consumers.* If the government merely cedes control of public utilities to private companies without taking steps to foster greater competition, it can indeed lead to poor outcomes for consumers.

What lies ahead?

The success of the NMP will depend on the demand for brown-field government assets among private investors. The government's past disinvestment projects such as the sale of Air India did not catch the fancy of investors owing to the stringent conditions set by the government. In the case of Air India's sale, the buyers were supposed to possess a certain minimum net worth and stay invested in the airline for at least three years. Many analysts also believed that the government was expecting buyers to pay too much for a debt-ridden airline. *The pricing of assets and the terms of sale will thus determine the level of interest that private investors show for assets leased under the NMP.* In the past, doubts have been raised about the allocation of airports and other assets to certain private business groups. So the process that the government adopts this time to allocate assets may come under scrutiny. There is likely to be the demand for an open, competitive auction of assets.

THE LONG AND THE SHORT OF THE NMP (BISWAJIT DHAR - PROFESSOR, CENTRE FOR ECONOMIC STUDIES AND PLANNING, SCHOOL OF SOCIAL SCIENCES, JAWAHARLAL NEHRU UNIVERSITY, NEW DELHI)

Under the NMP, the Government intends to lease or divest its rights over these assets via long-term leases against a consideration that can be upfront and/or periodic payments. Thus, expected financial flows from leasing or divesting the Government's share in these entities would be a major benefit for the central government, which is in the throes of a fiscal crisis. At the end of 2020-21, the central *government's debt to GDP ratio* had exceeded 60%, increasing from 48.6% a year before. Current expectations are that in 2021-22, this figure will be close to 62%. Given this situation, the NMP is being projected as the ability of the Government to raise resources and to work its way out of the fiscal logjam.

Significant impact

The most surprising aspect of the Finance Minister's announcement regarding the NMP is that the Government has avoided mentioning the consequences of asset monetisation on the ordinary citizens of the country. To understand this issue, two obvious dimensions need to be considered. First, *the assets that are being offered for leasing or divestment have all been created through substantial contribution by the tax-paying public, who have stakes in their operation and*

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management. Second, these assets have, until now, been managed by the Government and its agencies, which operate in public interest and are not driven by the profit-making considerations. Therefore, charges borne by the public for using these assets have remained reasonable. With private companies getting the sole responsibility of running all these assets, from highways and railways to all the major utilities such as power, telecom and gas, the citizens of this country would be double-taxed. First, they paid taxes to create the assets, and would now pay higher user charges. The reason for this is simple. Unlike the public sector entities, private companies are mandated, and quite justifiably so, to maximise their profits and to increase the returns enjoyed by the shareholders. In other words, it is not social benefit, but higher private returns that drives the corporates. Therefore, as the Government prepares to transfer “performing assets” to the private companies, it has the responsibility to ensure that user charges do not price the consumers out of the market. This critical dimension has not clearly been spelt out even in the NITI report. It is evident that consumers’ interest can be protected only if the Government can curb profit-maximising tendencies of the companies through regulators. *In the past episodes of privatisation of utilities, instead of effective regulation, there have been instances of regulatory capture instead, resulting in the exploitation of consumers.* Take for example the privatisation of the power distribution system in the country’s capital. The then Congress government privatised power distribution, and this resulted in a steep increase in power charges that not only threatened to price out the poorer sections but adversely affected the middle class as well. Providing cheaper power was one of the main election promises of the Aam Aadmi Party, which was fulfilled by providing subsidised power to the consumer. But little does the capital’s electorate realise that the Government is providing subsidies from the taxes it collects. This implies that the city’s taxpayers are either paying higher taxes and/or foregoing public services for “benefiting” from “cheaper” power charges, while the companies are continuing to earn their promised profits.

Tapping the tax route

Finally, since the proposed asset monetisation has resulted from the resource crunch faced by the Government, a pertinent question is whether there were other avenues that it could have been tapped for plugging the resource gap. One possibility was to increase the tax revenue, for at 17.4% in 2019-20, India’s *tax to GDP ratio* was relatively *low, as compared to most advanced nations.* Improvements in tax compliance and plugging loopholes have long been emphasised as the surest way to improve tax revenue, but little has been done, as the following example shows. Since 2005-06, the Government has been providing data on the profits declared and taxes paid by companies that file their returns electronically. This data reveals that in 2005-06, 40% of these companies had declared that they were not earning any profits, and this figure had increased to over 51% in 2018-19. Further, the share of the reporting companies earning profits of ₹1 crore or less was 55% in 2005-06; this figure had declined to 43% in 2018-19. These numbers lend themselves to only one conclusion. India’s large companies have been exploiting the loopholes for reporting lower profits and to escape the tax net. But why have successive governments been so indulgent?

On public sector efficiency

According to NITI Aayog, the “strategic objective of the Asset Monetisation programme is to unlock the value of investments in public sector assets by tapping private sector capital and efficiencies”. The NITI Aayog objective *assumes that public sector enterprises are inefficient*, which is contrary to the reality. *In 2018-19, while 28% of these enterprises were loss-making*



(<https://bit.ly/3jLPHQ7>), the corresponding figure for large companies was 51%. Is it realistic to assume that the asset monetisation programme would deliver efficiencies?

IRE OVER TOY TRAIN MONETISATION PLAN

A section of people in the Darjeeling hills of West Bengal are protesting against the Centre's proposed monetisation of the Darjeeling Himalayan Railways (DHR). They have staged protests at 10 stations of the heritage railway that connects New Jalpaiguri with Darjeeling, across 87.48 km. There are four fully functional and operational railways networks in mountains and hilly terrains in India — the Darjeeling Himalayan Railway located in the foothills of the Himalayas in West Bengal; the Nilgiris Mountain Railways located in the Nilgiri Hills of Tamil Nadu; the Kalka Shimla Railway located in the Himalayan foothills of Himachal Pradesh; and the Matheran Railway located in Maharashtra. The protests against the proposed monetisation of the DHR were led by supporters of Anit Thapa, the chairperson of Gorkhaland Territorial Administration. Nipen Chettri, one of leaders who participated in the protests, said *private companies' focus would be on profit, and local aspirations of the people would be ignored.* Raj Basu, secretary general of the DHR India Support Group, said they were not against privatisation, but it could not be a unilateral decision. *"The Railways, the UNESCO and the local people should sit together and create guidelines, so that the heritage site can be preserved and sustained,"* he said. Mr. Basu, whose support group has about 2100 active members, wondered *why private companies would invest in a Railway whose earnings were ₹5 crore while the investment required to sustain it was ₹20 crore.* He said the DHR was the *only surviving, fully functional two-feet gauge railway in the world and that it was the pride of the people of Darjeeling.* The services of the DHR resumed on August 25, 2021, after being suspended for almost a year due to COVID-19. The toy train service *known for its curves and loops had suffered major damages over the past few years due to frequent landslides.* On Monday, THE DHR INTRODUCED A SHORT SERVICE FROM SILIGURI JUNCTION TO RONGTONG, TO ATTRACT MORE TOURISTS. BUILT IN THE BRITISH ERA BETWEEN 1879 AND 1881, THE DARJEELING TOY TRAIN WAS DECLARED A UNESCO WORLD HERITAGE SITE IN 1999.

WHAT ARE THE NEW I-T RULES ON PF SAVINGS?

The Finance Ministry on Tuesday notified new Income Tax rules to impose a fresh tax on Provident Fund (PF) savings. In her 2021-22 Budget speech, Finance Minister Nirmala Sitharaman proposed taxing the income on PF contributions of over ₹2.5 lakh a year. This limit was later enhanced to ₹5 lakh for PF accounts wherein employers make no contributions. However, there was a lack of clarity on how this tax was to be levied and the new rules seek to address it.

What is the government's rationale behind the move?

Till this year's Budget, all income on provident fund savings was exempt from tax. The provision aimed at ensuring people retire with an adequate nest egg was being misused, according to the Finance Ministry. Ms. Sitharaman asserted at her press conference after her Budget speech that "some people go to the extent of contributing ₹1 crore each month [into their PF accounts]". For such people to get tax concessions as well as an assured income is not comparable with an employee who earns ₹2 lakh and gets 8% return on PF savings, she said. "This exemption without any threshold

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benefits only those who can contribute a large amount to these funds as their share,” the Budget documents explained. After facing criticism over the proposal, the Revenue Department later highlighted that more than 1.23 lakh high net worth individuals (HNIs) had deposited over ₹62,500 crore in their employees’ provident fund (EPF) accounts in 2018-19. *The largest EPF account has a staggering ₹103 crore balance, they pointed out, while the top 20 HNIs have a cumulative balance of ₹825 crore. Of an estimated 4.5 crore EPF accounts, the source said about 0.27% members had an average corpus of ₹5.92 crore and so were earning over ₹50 lakh a year as ‘tax-free assured interest’.* This is the second time the NDA government has sought to tax EPF savings — in 2016, a Budget announcement to tax 60% of EPF account balances at the time of withdrawal was rolled back. *In the previous year’s Budget, contribution by employers into employee welfare schemes like the EPF or the National Pension System (NPS) or a superannuation plan was capped at ₹7.5 lakh a year.*

Which PF accounts will be affected?

EPF accounts managed by the Employees’ Provident Fund Organisation (EPFO) and the General Provident Fund (GPF), where government employees save for retirement, will be impacted. There are also a few thousand large companies that manage the retirement savings of their workforce in-house through ‘exempt’ EPF trusts, in order to ensure their employees don’t have to run from pillar to post to access these savings when in need or at the time of retirement. *Public Provident Fund (PPF) accounts are not affected by the new tax, nor are retirement savings accumulated under the NPS. EPF accounts are mandatory for employees earning up to ₹15,000 a month in firms employing over 20 workers, with 12% of the basic pay and dearness allowance deducted as employees’ contribution and another 12% remitted by the employer.* However, government as well as private sector employees are allowed to make voluntary contributions over and above the statutory deductions into the GPF or the EPF respectively. The ₹2.5 lakh annual contribution limit shall apply to EPF members, while in the GPF or other PFs wherein there is no contribution from the employer, the threshold has been set at ₹5 lakh.

Why were new rules needed to implement this tax?

A similar tax provision was introduced in the Budget for income from annual premium payments of over ₹2.5 lakh into unit-linked insurance products, but that clearly stated that maturity benefits will be subjected to capital gains tax. In the case of PFs, though the intent of the tax levy was elaborated on, there was no clarity on how it was to be operationalised. For instance, practitioners were not clear if the tax had to be imposed at the time of retirement or withdrawal from the PF account, or each year at the time of annual income accrual. If it had to be done annually, should the PF trustees deduct the tax at source on such income, or should a tax assessee include it in her or his income tax return and pay taxes. There were also concerns that this tax could be levied on future income on past PF contributions over the new tax-free limits. The Chairperson of the Central Board of Direct Taxes at the time, P.C. Mody, had told The Hindu that taxpayers should factor in the interest income earned on contributions beyond ₹2.5 lakh or ₹5 lakh, as the case might be, at the time of filing their tax returns. As interest credits from the EPFO are seldom effected in the same year, due to delays in the declaration of the annual EPF rate and actual credits to the members’ accounts, this formulation posed another problem in implementation.



On September 2 eight of India's major banks — State Bank of India, ICICI Bank, Axis Bank, IDFC First Bank, Kotak Mahindra Bank, HDFC Bank, IndusInd Bank and Federal Bank — joined the Account Aggregator (AA) network that will enable customers to easily access and share their financial data.

The framework, which has been under discussion since 2016 and in the testing phase for some time, will now be open to all customers.

What is an Account Aggregator?

According to the Reserve Bank of India, an Account Aggregator is a non-banking financial company engaged in the business of providing, under a contract, the service of retrieving or collecting financial information pertaining to its customer. It is also engaged in consolidating, organising and presenting such information to the customer or any other financial information user as may be specified by the bank. *The AA framework was created through an inter-regulatory decision by RBI and other regulators including Securities and Exchange Board of India, Insurance Regulatory and Development Authority, and Pension Fund Regulatory and Development Authority (PFRDA) through and initiative of the Financial Stability and Development Council (FSDC). The licence for AAs is issued by the RBI, and the financial sector will have many AAs.* The AA framework allows customers to avail various financial services from a host of providers on a single portal based on a consent method, under which the consumers can choose what financial data to share and with which entity.

What does an Account Aggregator do?

It reduces the need for individuals to wait in long bank queues, use Internet banking portals, share their passwords, or seek out physical notarisation to access and share their financial documents. An Account Aggregator is a financial utility for secure flow of data controlled by the individual.

AAs with an operating licence include CAMSFinServ, Cookiejar Technologies (FinVu), FinSec AA Solutions (OneMoney) and NESL Asset Data Limited. AAs with in-principle approval include Perfios Account Aggregation Services, PhonePe Technology Services and Yodlee Finsoft.

How does it work?

It has a three-tier structure: Account Aggregator, FIP (Financial Information Provider) and FIU (Financial Information User). An FIP is the data fiduciary, which holds customers' data. It can be a bank, NBFC, mutual fund, insurance repository or pension fund repository. An FIU consumes the data from an FIP to provide various services to the consumer. An FIU is a lending bank that wants access to the borrower's data to determine if the borrower qualifies for a loan. Banks play a dual role – as an FIP and as an FIU. An AA should not support transactions by customers but should ensure appropriate mechanisms for proper customer identification. An AA should share information only with the customer to whom it relates or any other financial information user as authorised by the customer. "AAs enable secure, consented data flows while protecting user privacy. In conjunction with other platforms like the UPI, Account Aggregator creates in India the most cutting edge digital financial infrastructure in the world," said M Rajeshwar Rao, Deputy Governor, Reserve Bank of India.

What data can be shared?



An Account Aggregator allows a customer to transfer his financial information pertaining to various accounts such as banks deposits, equity, mutual fund and pension funds to any entity requiring access to such information. There are 19 categories of information that fall under ‘financial information’, besides various other categories relating to banking and investments. For sharing of such information, the FIU is required to initiate a request for consent by way of any platform/app run by the AA. Such a request is received by the individual customer through the AA, and the information is shared by the AA, after consent is obtained. “The AA framework is an excellent initiative that will compile all the digital footprints of the customer at one place and make it easy for lenders like us to access it. It will enable us to provide very quick turnarounds to our customers,” said Manoj Viswanathan, MD & CEO of HomeFirst Finance.

Can an AA see or store data?

Data transmitted through the AA is encrypted. AAs are not allowed to store, process and sell the customer’s data. No financial information accessed by the AA from an FIP should reside with the AA. It should not use the services of a third-party service provider for undertaking the business of account aggregation. User authentication credentials of customers relating to accounts with various FIPs shall not be accessed by the AA, the RBI says.

CONTAINER CRUNCH TAKES TOLL ON FREIGHT RATES: LOCK EMPTY CASES, SAY EXPORTERS

In light of rising freight rates due to the global container shortage, exporters have called on the government to provide freight subsidies and curb the movement of empty cases out of India. Freight rates to a number of key ports have risen by over 300 per cent since August 2020. Exporters have also called for the release of about 20,000 containers that have been abandoned or detained by various agencies to augment their supply, The Indian Express has learnt. The government is currently in talks with key stakeholders to help exporters deal with the shortage and rise in freight rates. *Delays in unloading of containers at various ports due to Covid-related curbs and an unexpectedly quick recovery in global trade has led to an international container shortage.* “Some countries are putting a premium on the import of empty containers,” said Ajay Sahai, director general and CEO, Federation of Indian Export Organisations (FIEO), adding this was compounding the container shortage. Sahai said the Kolkata port had restricted the export of empty containers to a maximum of 100 per vessel for a three-month period and that other ports should also curb the export of empty containers. An exporter said the shortage meant that companies did not know when materials would reach their destination and that long delays in shipments reaching their destinations were leading to working capital issues, as payments were being delayed by 2-3 months. The FIEO has also called for a freight support scheme for all exports till the end of the fiscal — by when freight rates are expected to normalise. The FIEO has recommended that such a scheme also be applicable to LCL (Less than Container Load) cargo to ensure that small exporters are not excluded. Exporters have also said the option of priority booking offered by some shipping lines was adding to freight costs. “*Priority booking* should be stopped and revert to first come, first served booking,” Sahai said. Commerce Minister Piyush Goyal had recently said at a meeting with textile exporters that the government “cannot mandate or force (these freight) rates” since if government forced the rates downwards, then shipping firms could also demand a hike in rates when they are low. Experts said even though the shortage and high freight rates were



international issues, persistent structural worries had led to Indian exporters facing a worse situation. *“The average turnaround time for ships in India is about 2.7 days while the world average is 23.5 hours,”* said Biswajit Dhar, professor at JNU’s Centre for Economic Studies and Planning, noting that this was adding to container shortage for Indian exporters.

WHICH SECTORS FUELLED EXPORTS GROWTH SO FAR IN FY22?

Merchandise exports hit \$33.14 billion in August, up 45.2 per cent year- on-year, backed by strong international demand, according to data released by the Commerce Ministry. Last month added to a strong export performance in the first four months of this fiscal, which has seen exports rise by about two-thirds to \$163.7 billion compared to April-August FY21 and about 23 per cent higher than April-August FY20 which was not hit by the pandemic. The government is targeting merchandise exports of \$400 billion for FY22. Imports too saw an increase, up 51.1 per cent year-on-year in August to \$47 billion, raising the trade deficit for this fiscal thus far to \$55.9 billion up from \$22.7 billion a year ago.

What are the key causes behind rising exports?

The key drivers behind growth in exports have been higher shipments of engineering goods, petroleum products, gems and jewellery and textiles and garments. A sharp rise in demand from the US, UAE and China have led to an increase in demand for engineering goods this fiscal, according to the Engineering Exports Promotion Council. Engineering goods exports rose 58.8 per cent over that in August 2020. Petroleum product exports rose 139.8 per cent, bolstered both by a recovery in demand for mobility and a sharp uptick in the price of crude oil and petroleum products compared to the year ago period. Exports of gems and jewellery rose 88 per cent on the back of renewed demand compared to the year-ago period.

How is India’s export performance compared to the pre-pandemic period?

While total exports during the first five months have risen by 23 per cent compared to April-August in FY20, non-oil and non-jewellery exports have risen by only 3.3 per cent, indicating that higher crude oil prices and a recovery in demand for gems and jewellery have played a significant role in pushing up the overall value of exports.

What is driving higher imports and the trade deficit?

Significant increases in gold imports have been the key driver in the higher merchandise trade deficit. “Gold imports surged further to a five month high of \$6.7 in August 2021, and were responsible for 88 per cent of the rise in the merchandise trade deficit relative to July 2021,” said Aditi Nayar, chief economist, Icria Ratings. Gold imports rose by 82.2 per cent in August compared to the year-ago period. The import of crude oil and petroleum products remained stable relative to July 2021, but were up 80.4 per cent from the year-ago period on the back of a significant increase in crude oil prices and improved demand for petroleum products.

WHY IS THE JIOPHONE NEXT DELAYED?

The launch of JioPhone Next, a smartphone out of the collaboration between Reliance Jio and Google, has been delayed by a few months on account of the semiconductor shortage and the two

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companies wanting to test the device further. Chip shortages, prevalent globally through the last year, have claimed several casualties across the smartphone and automobile industries.

What is the JioPhone Next?

JioPhone Next is a smartphone that will be powered by an optimised version of the Android Operating System, which includes features such as Google Assistant, automatic read-aloud and language translation for any on-screen text, a smart camera with India-centric filters. At the Reliance Industries annual general meeting June 24, the company's Chairman Mukesh Ambani had said that JioPhone Next will be the "most affordable smartphone globally."

Why the delay and when will it be launched?

In a joint statement Friday, Jio and Google said: "Both companies have begun testing JioPhone Next with a limited set of users for further refinement and are actively working to make it available more widely in time for the Diwali festive season. This additional time will also help mitigate the current industry-wide, global semiconductor shortages."

Why is the world facing a shortage of semiconductors?

The chips, or semiconductors, which are the brain-centre of any electronic technology, have become a rare commodity in the post-Covid era. Several large factories in places like South Korea and Taiwan have shut down, creating a huge pent-up demand that these foundries were unable to satisfy after opening up. On the one hand, the pandemic caused a surge in demand for electronic devices such as smartphones, laptop, computers, etc. The manufacturing and logistical bottlenecks meant the situation was only exacerbated. *The shortage that began last year is expected to go on till 2022. To prevent a future situation like this, a number of companies are planning to reduce their dependence on only a few large factories that supply to the whole world.*

DreamIAS



WHAT CHANDRAYAAN-2 HAS SENT

The failure of Chandrayaan-2, India's second mission to the Moon, to make a soft-landing on the lunar surface had led to much disappointment. The lander and rover malfunctioned in the final moments and crash-landed, getting destroyed in the process. But that did not mean the entire mission had been wasted. The Orbiter part of the mission has been functioning normally, and in the two years since that setback, the various instruments on board have gathered a wealth of new information that has added to our knowledge about the Moon and its environment. Earlier this week, the Indian Space Research Organisation (ISRO) released the information gathered by the scientific payloads till now, some of which were still to be analysed and assessed.

What is the information gathered?

The Orbiter is carrying eight instruments. Through different methods, these instruments are meant to carry out a few broad tasks — study in more detail the elemental composition of the lunar surface and environment, assess the presence of different minerals, and do a more detailed mapping of the lunar terrain. ISRO has said each of these instruments has produced handsome amount of data that sheds new light on the moon, and offers insights that could be used in further exploration. Some of the most significant results so far:

WATER MOLECULE: *The presence of water on the Moon had already been confirmed by Chandrayaan-1, India's first mission to the Moon that flew in 2008.* Before that, NASA missions Clementine and Lunar Prospector too had picked up signals of water presence. *But the instrument used on Chandrayaan-1 was not sensitive enough to detect whether the signals came from the hydroxyl radical (OH) or the water molecule (H₂O, which too has OH).* Using far more sensitive instruments, the *Imaging Infra-Red Spectrometer (IIRS)* on board Chandrayaan-2 has been *able to distinguish between hydroxyl and water molecules, and found unique signatures of both.* This is the most precise information about the presence of H₂O molecules on the Moon till date. Previously, water was known to be present mainly in the polar regions of the Moon. *Chandrayaan-2 has now found signatures of water at all latitudes, although its abundance varies from place to place.*

MINOR ELEMENTS: The *Large Area Soft X-Ray Spectrometer (CLASS)* measures the Moon's X-ray spectrum to examine the presence of major elements such as magnesium, aluminium, silicon, calcium, titanium, iron, etc. This instrument *has detected the minor elements chromium and manganese for the first time through remote sensing, thanks to a better detector.* The finding can lay the path for understanding magmatic evolution on the Moon and deeper insights into the nebular conditions as well as planetary differentiation. CLASS has mapped nearly 95% of the lunar surface in X-rays for the first time. *Sodium, also a minor element on the Moon surface, was detected without any ambiguity for the first time.* Scientists at ISRO believe that based on the CLASS findings with respect to sodium, "a direct link of exospheric sodium to the surface can be established (with global data)", a correlation that remains elusive till date. The finding also opens up the avenue to explore processes causing the sodium to be present on the surface as well as the exosphere.

STUDYING THE SUN: One of the payloads, called Solar X-ray Monitor (XSM), besides studying the Moon through the radiation coming in from the Sun, has collected information about solar flares.



XSM has observed a large number of microflares outside the active region for the first time, and according to ISRO, this “has great implications on the understanding of the mechanism behind heating of the solar corona”, which has been an open problem for many decades.

How does all this help?

While the Orbiter payloads build upon existing knowledge of the Moon in terms of its surface, sub-surface and exosphere, it also paves the path for future Moon missions. Four aspects — mineralogical and volatile mapping of the lunar surface, surface and subsurface properties and processes involved, quantifying water in its various forms across the Moon surface, and maps of elements present on the moon — will be key for future scope of work. A key outcome from Chandrayaan-2 has been the exploration of the permanently shadowed regions as well as craters and boulders underneath the regolith, the loose deposit comprising the top surface extending up to 3-4m in depth. This is expected to help scientists to zero in on future landing and drilling sites, including for human missions. Some key future Moon missions that hope to make use of such data include the Japan Aerospace Exploration Agency (JAXA)-ISRO collaboration Lunar Polar Exploration (LUPLEX) mission scheduled for launch in 2023/2024. Its aim is to obtain knowledge of lunar water resources and to explore the suitability of the lunar polar region for setting up a lunar base. *NASA’s Artemis missions plan to enable human landing on the Moon beginning 2024 and target sustainable lunar exploration by 2028.* The Chinese Lunar Exploration Programme too plans to establish a prototype of the International Lunar Research Station (ILRS) at the lunar south pole and build a platform supporting large-scale scientific exploration.

What was missed because of the crash-landing?

The most obvious miss has been the opportunity to demonstrate the technology to make a soft-landing in outer space. ISRO scientists maintain that the accident was caused by a relatively small error that has been identified and corrected. But, *to demonstrate this technology all over again, ISRO would have to send a fresh mission, Chandrayaan-3, planned for next year.* It is expected to have only a lander and rover, and no Orbiter. *The lander Vikram and rover Pragyaan were carrying instruments to carry out observations on the surface.* These were supposed to pick up additional information about the terrain, and composition and mineralogy. *While the instruments on board the Orbiter are making “global” observations, those on the lander and rover would have provided much more local information.* The two diverse sets of data could have helped prepare a more composite picture of the Moon.

IF NEXT IPHONE HAS SATELLITE CONNECTIVITY, THIS IS THE TECH APPLE WILL USE

Since earlier this week, the Internet has been abuzz with news that the next-generation iPhone could have satellite connectivity, thus enabling it to make calls without a cellular network. Apple, as usual, has not confirmed any details about its 2021 iPhone which might get announced as early as this month. But even the thought of a mainstream smartphone that lets you make calls from a remote area or at the time of emergency is significant at many levels. But is the technology there yet? We explain.

How did this news come out?



It all started when top Apple analyst Ming-Chi Kuo said the iPhone 13 will support low-orbit satellite communication, a report corroborated by a Bloomberg report. The Bloomberg report said *the 'iPhone 13' will come with satellite communication capabilities, but limited to emergency calls and texts when the phone signal is not available.* In theory, this would mean that those with the new iPhone would be able to send messages and make calls using satellite networks. Kuo claimed Apple's next-generation iPhone 13 will feature a low-earth-orbit (LEO) satellite communication mode.

What does Low Earth Orbit (LEO) mean?

Low earth orbit (LEO) satellites operate 311 miles (roughly 500 kilometers) above the Earth's surface. There are hundreds of satellites that move around at this height. Because they are closer to the earth's surface, unlike traditional satellites that are stationed higher at roughly 36,000 km, *the time needed for data to be sent and returned is shorter.* This **lower latency** is why everyone from *OneWeb backed by Sunil Bharti Mittal to Elon Musk's Starlink* are banking on such satellites to beam down high-speed internet service to remote parts of the world.

What is a satellite phone?

The concept of a satellite phone is not new. In fact, the first satellite phone was launched by Motorola in 1989. A satellite phone, or satphone as it is commonly called, works by connecting to a telecommunications satellite in space. What makes a satellite phone different from current smartphones is that they are capable of receiving and making calls anywhere in the world, even in the remotest parts be it the Himalayas or an uninhabited island in the Pacific. Instead of depending on a GSM network, they are tied to a satellite company. Satellite phones are commonly available in the US market at different price points. Garmin inReach, for instance, has a built-in satellite receiver that lets you send and receive SMS via the Iridium network. Thuraya X5-Touch, meanwhile, is a ruggedised Android-powered smartphone with support for GSM/LTE networks as well. *One common thing about satellite phones is that they have an outer antenna system to catch signals. This means they don't look like a modern smartphone, where the antenna is placed along with the phone's metal frame.*

How will Apple add satellite communications to the iPhone 13?

What is being speculated is that the iPhone 13 will use a modified Qualcomm X60 baseband chip which going to be the X65 5G modem for the rest of the smartphone market. But even if Apple uses a custom modem from Qualcomm, the company has to have a tie-up with satellite Internet service providers like Inmarsat, Iridium, Thuraya, or Globalstar. *Kuo believes Apple will reportedly use Globalstar's satellite constellation, where the coverage is only limited to North and South America, Europe and northern Asia, Russia and Australia.*

... but Globalstar has a tie-up with Qualcomm

Globalstar has been working with Qualcomm for a while now and earlier this year the two companies announced the former's n53 band in Qualcomm's X65 modem. Simply put, Globalstar's n53 band has support for 5G NR, or New Radio. It is impossible for Apple to add an external antenna on top of the next iPhone. But what is a very likely possibility is that Apple switches to n53 for improving the iPhone 13's 5G support capability.



Will this work smoothly?

The point to be highlighted here is that satellite data speeds are super slow, plus the iPhone's lack of an external antenna could be a hindrance. Plus, satellite plans aren't cheap as they cost hundreds of dollars a year. Even if the iPhone 13 is a satellite phone, it would become a USP. The audience for a satellite phone is still completely niche.

Does Apple have ambitions to compete with Starlink?

There have been reports earlier that the Tim Cook-led company may be interested in satellites. Back in 2019, Bloomberg's Mark Gurman reported that Apple had hired a "top secret team" working on internet satellites. We haven't seen an outcome of that team yet nor has Apple ever admitted to any such product. If Apple is seriously looking at this space, the company might not compete with Musk's Starlink. Instead, Apple would want to use the low-earth-orbit (LEO) satellite communication mode to improve maps, better connectivity within its devices, and possibly a way to add network capabilities on future products, including the rumoured AR/VR headset and the Apple Car.

WHAT CHANGES IN APP STORE POLICY MEAN FOR DEVELOPERS AND IOS USERS

Apple on Wednesday announced a major change to its App Store policies, which will allow 'reader apps' to include a link to their own website to let users manage their accounts and even pay directly for subscriptions. This comes at a time when Apple is facing class actions suits for its mandatory cut on developer earnings.

Why is this change significant, and how does it impact Apple, developers and users?

Apple said it was making the change as part of the conclusion of an investigation by the Japan Fair Trade Commission (JFTC). *Under Apple's agreement with the JFTC, developers of 'reader apps' would be allowed to include in-app links to their websites for users to set up or manage an account.* Apple says while the agreement was with the JFTC, it was implementing the policy globally. In a statement, *Apple has clarified that 'reader apps' includes all apps that provide previously purchased content or content subscriptions for digital magazines, newspapers, books, audio, music, and video. This means apps such as Netflix, Spotify, etc will be covered as well.* Apart from being able to include an in-app link for users to purchase a paid account, developers can also avoid the 15-30% developer commission that Apple charges them.

So how does this impact developers of 'reader' apps?

When this policy comes into effect in early 2022, developers will have the ability to skip payments via the App Store and thus can avoid paying Apple a cut for all transactions. Apple is however underlining how in-app purchases are still safer. "While in-app purchases through the App Store commerce system remain the safest and most trusted payment methods for users, Apple will also help developers of reader apps protect users when they link them to an external website to make purchases," it said. Also, *while a Spotify can now let users set up their premium account from the iOS app itself without having to rely on Apple's payment system, for gaming apps with options for in-app purchases, nothing really changes.* In-app purchases in all other kinds of apps will still need to rely on Apple's payment systems and hence be subject to the cut.



How have media companies reacted?

Spotify's CEO and founder Daniel Ek tweeted: "This is a step in the right direction, but it doesn't solve the problem. App developers want clear, fair rules that apply to all apps. Our goal is to restore competition once and for all, not one arbitrary, self-serving step at a time. We will continue to push for a real solution." *Spotify has held that Apple's 30% commission is unfair given the company's own Apple Music app is not burdened by such a commission.* Tim Sweeney, the founder of Epic Games which is suing both Apple and Google over their payment practices, has called it a "special deal" for these reader apps. *Epic Games' popular game Fortnite was pulled from the App Store when the company implemented changes to add its own payment systems bypassing Apple's in-app purchase system.* Sweeney wrote, "In Apple's carefully-worded statement on safety, it's hard to discern the rationale that this is safe while Fortnite accepting direct payments remains unsafe..."

How have regulators dealt with Apple charging app developers?

Apple (as well as Google) has been under scrutiny from governments and regulators across the world on their policies around app developers and payments. In India too, app developers have called the 30% commission unfair. Paytm's Vijay Shekhar Sharma has called it a lagaan (tax). *In a victory for app developers, South Korea this week passed a Bill that allows developers to select which payment systems they prefer for in-app purchases. This will effectively allow them to bypass the cut imposed by both Apple and Google.* According to CNBC, an Apple spokesperson said the Bill "put users who purchase digital goods from other sources at risk of fraud, undermine their privacy protections, make it difficult to manage their purchases and features like 'Ask to Buy' and Parental Controls will become less effective". In India, *the Competition Commission of India is probing an antitrust case filed against Apple by a non-profit based in Rajasthan over the 30% commission.*

APP STORE CHALLENGE

On August 31, the South Korean Parliament passed an amendment to the country's Telecommunications Business Act that has been dubbed the "anti-Google" law. The law prevents dominant app store operators — effectively Alphabet's Google and Apple — from forcing South Korean app developers to use their in-store payment systems. This effectively prevents Apple and Google from charging commissions on payments made in their app stores. The law also empowers the South Korean government to intervene in payment disputes within app stores, and to haul up app store operators for delaying the publishing of apps or deleting them.

What have Google and Apple been doing?

Google's Play Store and Apple's App Store strictly regulate how apps in their environment charge money from their users. *Till recently, app publishers had been allowed to deploy only Google's and Apple's proprietary payment systems to collect money from app store users for digital purchases, which include the apps themselves, or 'in-app purchases' such as additional content or services. Google and Apple charged a 30% commission on all such purchases.* As many app developers started to push back against what they said was a steep commission, *Google announced in March this year that it was cutting the commission to 15%. However, it later announced that the change was being postponed to March 2022. In November 2020, Apple cut its commission to 15% for developers with*



less than \$1 million in annual sales on its platform. On September 2, in response to a fair trade probe in Japan, Apple changed its policy to allow some app developers like Netflix and Spotify to add links that will send their users outside the app to make payments, effectively bypassing its commission. Recently, in response to a U.S. lawsuit, *Apple agreed to let app developers email users about other options of payment.* On the apps front, *Google has a more relaxed approach than Apple, which does not allow users of its iPhones to download apps from any other source than the App Store.* Phones with Google's Android can '*sideload*' apps; that is, download and install apps from websites or other sources. *Android phones also support downloads from multiple app stores.*

What makes the South Korean law important?

It is the first legal restriction on Google and Apple's control over how money changes hands within their app stores. This could become a template for the many countries that have been looking at ways to control the clout of these online behemoths that take a cut from the digital sales of everyone from the gaming industry to publishers. The European Union has a draft Digital Markets Act in the pipeline that would force large internet "*gatekeeper companies*" that act as platforms for others to conduct transactions to change their business practices and level the playing field for smaller companies. *In the U.S., Senators have introduced a Bill similar to the South Korean one that would force Apple and Google to allow app makers to deploy different payment systems. There is more trouble brewing in the U.S. as a federal judge is set to rule on the case by Epic, the makers of the 'Fortnite' videogame, against Apple's in-app payment practices. Epic has sued Google in a separate case but on the same grounds.* Adding to Google's woes is another case filed by 36 U.S. States. In another indication that the trend is spreading globally, Reuters is reporting that Apple faces a legal challenge to its in-app payment system in India. The case is reportedly being reviewed by the Competition Commission of India.

How have Apple and Google responded?

Both companies point to the cost of maintaining the app store environment to justify the commissions. Responding to The Verge, an American technology news website, on the South Korean law, Apple said opening up the payment system will expose users to fraud and security breaches. *Google argues these charges are a major reason why it is able to keep its Android mobile phone operating system free, and hence lower the cost of phones running on it.* "Just as it costs developers money to build an app, it costs us money to build and maintain an operating system and app store," a Google spokesperson told The Verge. "We'll reflect on how to comply with this law while maintaining a model that supports a high-quality operating system and app store."

GREEN HYDROGEN, A NEW ALLY FOR A ZERO CARBON FUTURE (PRITAM SINGH - A RETIRED OFFICER FROM AN R&D INSTITUTION IN DEHRADUN. HE DELIVERS SCIENTIFIC LECTURES IN COLLEGES AND UNIVERSITIES ON VEHICULAR POLLUTION)

Scientists and technocrats have for years been engaged in the quest of discovering alternative fuels to *fossil fuels which are responsible for the production of over 830 million tons per annum of carbon dioxide*, in turn catalysing *human-induced global heating*. The latest studies by a battery of scientists representing about 195 countries have signalled the crucial issue of climate vulnerability, especially for the Asian countries. The forthcoming *26th UN Climate Change Conference of the Parties (COP26) in Glasgow* from November 1-12, 2021 is to re-examine the

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coordinated action plans to mitigate greenhouse gases and climate adaptation measures. In order to achieve the goal of an alternative source of energy, governments are placing large bets in the hope of adopting a multi-faceted practical approach to utilise 'Green hydrogen' as a driving source to power our industries and light our homes with the 'zero emission' of carbon dioxide.

Energy-rich source

Hydrogen is the most abundant element on the planet, but rarely in its pure form which is how we need it. It has an energy density almost three times that of diesel. This phenomenon makes it a rich source of energy, but the challenge is to compress or liquify the LH2 (liquid hydrogen); it *needs to be kept at a stable minus 253° C (far below the temperature of minus 163° C at which Liquefied Natural Gas (LNG) is stored;* entailing its 'prior to use exorbitant cost'. *The production techniques of this 'Energy-Carrier' vary depending upon its applications — designated with different colours such as black hydrogen, brown hydrogen, blue hydrogen, green hydrogen, etc. Black hydrogen is produced by use of fossil fuel, whereas pink hydrogen is produced through electrolysis, but using energy from nuclear power sources. 'Green hydrogen', the emerging novel concept, is a zero-carbon fuel made by electrolysis using renewable power from wind and solar to split water into hydrogen and oxygen.* This 'Green hydrogen' can be utilised for the generation of power from natural sources — wind or solar systems — and will be a major step forward in achieving the target of 'net zero' emission. Presently, *less than 0.1% or say ~75 million tons/year of hydrogen capable of generating ~284GW of power, is produced.*

The obstacle of cost

The 'production cost' of 'Green hydrogen' has been considered to be a prime obstacle. According to studies by the International Renewable Energy Agency (IREA), *the production cost of this 'green source of energy' is expected to be around \$1.5 per kilogram (for nations having perpetual sunshine and vast unused land), by the year 2030; by adopting various conservative measures.* The global population is growing at a rate of 1.1%, adding about 83 million human heads every year on the planet. As a result, the International Energy Agency (IEA) forecasts the additional power demand to be to the tune of 25%-30% by the year 2040. Thus, *power generation by 'net-zero' emission will be the best solution to achieve the target of expert guidelines on global warming to remain under 1.5° C. This will also be a leap forward in minimising our dependence on conventional fossil fuel; in 2018, 8.7 million people died prematurely as result of air pollution from fossil fuels.*

A power hungry India

India is the world's fourth largest energy consuming country (behind China, the United States and the European Union), according to the IEA's forecast, and will overtake the European Union to become the world's third energy consumer by the year 2030. Realising the impending threats to economies, the Summit will see several innovative proposals from all over the world in order to reduce dependence on use of fossil fuels. The scale of interest for 'plucking the low hanging fruit' can be gauged by the fact that even oil-producing nations such as Saudi Arabia where the day temperature soars to over 50° C in summer, is prioritising plans to manufacture this source of energy by utilising 'idle-land-banks' for solar and wind energy generation. It is working to establish a mega \$5 billion 'Green hydrogen' manufacturing unit covering a land-size as large as that of Belgium, in the northern-western part of the country. India is also gradually unveiling its



plans. *The Indian Railways have announced the country's first experiment of a hydrogen-fuel cell technology-based train by retrofitting an existing diesel engine; this will run under Northern Railway on the 89 km stretch between Sonapat and Jind.* The project will not only ensure diesel savings to the tune of several lakhs annually but will also prevent the emission of 0.72 kilo tons of particulate matter and 11.12 kilo tons of carbon per annum. It is high time to catch up with the rest of the world by going in for clean energy, decarbonising the economy and adopting 'Green hydrogen' as an environment-friendly and safe fuel for the next generations.

28% OF 1,38,000 ASSESSED SPECIES FACE EXTINCTION

Some 28% of the 1,38,374 species assessed by the International Union for the Conservation of Nature (IUCN) for its survival watchlist are now at high risk of vanishing forever, the global conservation body said on Saturday. *Habitat loss, overexploitation and illegal trade have hammered global wildlife populations for decades, and climate change is now kicking in as a direct threat as well,* the IUCN reported. *Komodo dragons, the largest living lizards, which are found only in the World Heritage-listed Komodo National Park and neighbouring Flores, were listed as "endangered".* Some *37% of the 1,200 shark and ray species assessed by experts are directly threatened by extinction, a third more than only seven years ago,* it warned on Saturday. The IUCN on Saturday officially launched its "green status" — the first global standard for assessing species recovery and measuring conservation impacts. "It makes the invisible work of conservation visible," Molly Grace, a professor at the University of Oxford and Green Status co-chair, said.

MU VARIANT OF COVID-19: REASON FOR INTEREST, BUT NOT YET A CONCERN IN INDIA

On August 30, the World Health Organization (WHO) added a new variant of SARS-CoV-2, the coronavirus that causes Covid-19, to its list of 'Variants of Interest' (VOI). The lineage B.1.621 variant, named 'Mu' after the twelfth letter of the Greek alphabet, was first detected in the South American country of Colombia in January 2021.

What is a Variant of Interest (and one of 'Concern')?

All viruses mutate or undergo certain changes over time, helping them to spread easily, escape our vaccines, medicines and survive. There are several SARS-CoV-2 variants circulating globally. *Mu is the fifth 'VOI' to be monitored by the WHO.* The other four VOIs, named according to the simplified scheme of nomenclature announced by the WHO on May 31 this year, are:

- * Eta (lineage B.1.525, documented in multiple countries from December 2020);
- * Iota (lineage B.1.526, first documented in the United States in November 2020);
- * Kappa (lineage B.1.617.1, first documented in India in October 2020); and
- * Lambda (lineage C.37, the so-called Peru variant, which was first documented in that country in December 2020).

WHO places a SARS-CoV-2 variant in the VOI list if it is seen to have certain "genetic changes that are predicted or known to affect virus characteristics such as transmissibility, disease severity, immune escape, diagnostic or therapeutic escape". To be added to the VOI list, a variant must also be



“identified to cause significant community transmission or multiple Covid-19 clusters in multiple countries”, and suggest “an emerging risk to global public health”. More dangerous mutants are categorised as ‘Variants of Concern’ (VOC). According to the WHO, a VOI can become a VOC if it is demonstrated to be associated with an increase in transmissibility or virulence, or with a “decrease in effectiveness of public health and social measures or available diagnostics, vaccines, and therapeutics”. Currently, four variants of the coronavirus are designated as variants of concern. They are:

* Alpha (lineage B.1.1.7, the so-called ‘UK variant’), which was first detected in the United Kingdom in September 2020, and is now present in at least 193 countries around the world;

* Beta (lineage B.1.351, the so-called ‘South Africa variant’), the first samples of which were detected in South Africa in May 2020, and which has so far been reported from 141 countries;

* Gamma (lineage P.1, the so-called ‘Brazil variant’), which was first detected in Brazil in November 2020, and which has been reported in 91 countries;

* Delta (lineage B.1.617.2), the variant that was first reported in India in October 2020 and is now present in at least 170 countries. The highly transmissible Delta variant is now the dominant strain of the virus in India, and was responsible for the devastating second wave of Covid-19 in April-May this year.

So, what is the Mu variant of Covid-19?

According to the WHO’s Covid-19 weekly epidemiological update published on August 31, the Mu variant (which includes the descendant Pango lineage B.1.621.1; known as 21H in Nextstrain nomenclature) has “a constellation of mutations that indicate potential properties of immune escape”. The WHO bulletin said that since being first identified in Colombia, a few cases and some larger outbreaks of the Mu variant have been reported from other countries in South America and in Europe. As of Thursday (September 9), a total 5,599 sequences, including both B.1.621 and B.1.621.1, had been submitted by 47 countries to GISAID, the global research database on viruses. The bulk of the submissions were from the United States (2,435) and Colombia (1,041), followed by Spain, Mexico, Chile, Ecuador, and Canada. *The variant has not been detected in India so far. It is also not present in Africa, Australia, and most of Asia. Globally, the cumulative prevalence of Mu is less than 0.5 per cent, according to outbreak.info, using GISAID data.*

Mu variant of Covid-19: What we know about its transmissibility

A paper published last month in ‘Infection, Genetics and Evolution’ noted that the Mu variant has several substitutions affecting the spike protein and amino acid changes. The mutations — E484K, N501Y, P681H, D614G — seen in the Mu variant have been reported in other VOIs and VOCs. These mutations are known to help the virus escape the body’s immune defences and increase transmissibility. According to the European Centre for Disease Prevention and Control, the Mu variant also has other spike mutations of interest (R346K) which need further study.

So can existing vaccines not work against Mu?

There are very few studies on this. In a letter to the editor published in July in the Journal of Medical Virology, a group of researchers from Italy wrote that the Pfizer/BioNTech vaccine was



able to neutralise the Mu variant, but its effectiveness was less compared to other variants. But this was a very small lab study, and more extensive research is needed. The WHO bulletin last month said “Preliminary data presented to the [WHO’s] Virus Evolution Working Group show a reduction in neutralization capacity of convalescent and vaccinee sera similar to that seen for the Beta variant”, but cautioned that “this needs to be confirmed by further studies”.



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