

**TOPICAL
ANALYSIS**

Personal Laws & Women

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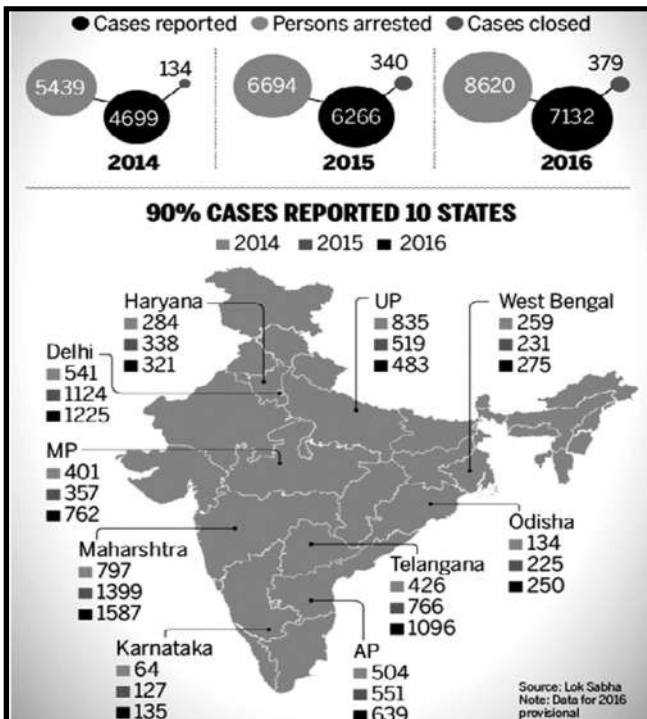
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COVER STORY

Personal Laws and Women

Context

In the recent judgment by Supreme Court on the issue of Triple Talaq, SC has termed this practice as unconstitutional, void and illegal. The SC said "triple talaq violates fundamental right of Muslim women as it irrevocably ends marriage.

They held that triple talaq "is not integral to religious practice and violates constitutional morality".

This is one case of violation of women rights due to personal law of individual's religion. Hereby, discussing this issue in brief alongwith the other issues related to personal laws and its impact on women and need for Uniform Civil Code in India.

Introduction

Woman and man have been given identical rights and prospects under the Indian constitution but the liberal nature of the constitution is compensated by a similar system of personal law that confines women's inheritance, protection, and maintenance rights. In India, different religions like Hindu, Muslim, Christian and Parsi etc are governed by their own personal law as Hindu law (Hindu law acts 1955-56), Muslim law (Muslim personal laws (Shariat) application act 1937), Christian law, Parsi law (Parsi marriage and divorce act 1936), respectively. Every religion follows its own personal laws in the family matters pertaining to marriage, adoption, inheritance and divorce and so on.

Uniform Civil Code has been demanded by various sections of society to remove legal glitches against females. However, this claim has been opposed by Hindu religious as well as Muslim and Christian religious frontrunners. In reality, nearly all personal laws, be it Hindu, Muslim, or Parsi, differentiate against women, especially in the areas of marriage, divorce, maintenance and inheritance.

What are Personal Laws?

Personal laws are a distinct set of laws that reflect different religious laws, customs and traditions of the community to which the law in question applies. In a larger perspective Personal law relates to family matters. These laws may be codified or uncodified and govern all family relationships such as marriage, divorce, maintenance, guardianship, adoption, custody of children, inheritance and succession. Till today, marriage is regulated by customs and traditions to a large extent.

The different personal laws in India are:

Hindu Law: Hindu Law is considered to be one of the most ancient systems of law known to the world. Hindu law is applicable to the personal and family matters of Hindus such as marriage, divorce, maintenance, adoption, minority and guardianship, rights of a member of joint family, alienation of family property, partition of joint family property and succession.

Legislation is the most important modern source of Hindu Law. Several enactments have been passed by the Parliament to regulate marriage, adoption, maintenance etc among Hindus. Hindu Marriage Act, 1955, The Hindu Succession Act 1956, the Hindu Minority and Guardianship Act, 1956 and the Hindu Adoption and Maintenance Act 1956 are examples of such legislations.

Muslim law: Muslim Law is applicable only to Muslims. A person who believes that there is only one God and that Mohammed is his Prophet is a Muslim. Muslims consist of two sects namely Sunnis (governed by Sunni Law) and Shia (governed by Shia Law). There are some differences between these laws but the sources of these laws are one and same, namely the Holy Quran, the Sunnat and the Ijma.

The Quran is the principal source of Muslim Law. Muslim personal law is founded on the divine revelations embodied in the Quran. The Holy Quran is the very word of God. Quran contains a detailed code of conduct for the Muslims. Quran is divided into 114 chapters and consists of about 6666 verses. About 200 verses of Quran are concerned with legal principles and about 80 verses are concerned with marriage, divorce and inheritance. Muslim law is governed according to the provisions of Muslim Personal laws (Shariat) Application Act, 1937. Muslim law deals with matters such as marriage, divorce, maintenance, guardianship, inheritance, will, gift etc.

Christian Law: Christian law, as a branch of personal law, is primarily applicable to the Christian community. In India the Christian law is governed by the provisions of Indian Christian Marriage Act, 1872. The Indian Divorce Act, 1869, and the Indian Christian Marriage Dissolution Act, 1936. Christian law deals with matters such as marriage, divorce, succession, adoption etc.

In India Christian marriages are governed by the *Indian Christian Marriage Act of 1872*. It extends to the whole of India except in the state of Travancore-Cochin, Manipur and Jammu and Kashmir. In the Malabar area the Indian Christian Marriage Act 1872 is applicable but the Christians of former Travancore area are governed by the customary law only and not governed by any statute

What are the Personal Laws applicable in our country?

- ▶ **Laws governing Hindus are:** (a) The Hindu Marriage Act, 1955; (b) The Hindu Adoptions and Maintenance Act, 1956; (c) The Hindu Minority and Guardianship Act, 1956; (d) The Hindu Succession Act, 1956.
- ▶ **Laws governing Muslims:** (a) The Kazis Act, 1880; (b) The Muslim Personal Law (Shariat) Application Act, 1937; (c) The Muslim Women (Protection of Rights on Divorce) Act, 1986.
- ▶ **Laws governing Christians:** (a) The Indian Christian Marriage Act, 1872; (b) The Divorce Act, 1869 (Prior to the amendment in 2001, this Act was called the Indian Divorce Act, 1869); (c) The Indian Succession Act, 1939.
- ▶ **Laws governing Parsis:** (a) The Parsis Marriage and Divorce Act, 1936; (b) The Indian Succession Act, 1939.
- ▶ **Secular/Universal Laws governing all citizens irrespective of the religion they follow:** (a) Special Marriage Act, 1954; (b) Guardians and Ward Act, 1860; (c) The Protection of Women against Domestic Violence Act, 2005; (d) Section 125 of Code of Criminal Procedure, 1973.

How personal laws affect women negatively?

Examples of how personal laws negatively affect women in some of the religions practiced in India are:

▶ **Marriage**

- **Hindu personal law:** The Hindu Marriage Act applies to all forms of Hinduism (for example, to a person who is a Virashaiva, a Lingayat or a

follower of the Brahmo, Prarthana or Arya Samaj) and also recognises offshoots of the Hindu religion as specified in Article 44 of the Indian Constitution. Notably, these include Jains and Buddhists. The Act also applies to anyone who is a permanent resident in the India who is not Muslim, Jew, Christian, or Parsi by religion.

Although the law prohibits bigamy, the practice continues among Hindu men. A Hindu woman who seeks divorce or demands maintenance on grounds that her husband has contracted a bigamous marriage must prove that he has married again. Since marriages under the Hindu Marriage Act are not automatically registered, it is hard to prove.

Hindu men are also allowed to practice bigamy under certain conditions in Goa, although Goa claims to be the only State to have a Uniform Civil Code in place. Section 6(a) of the Hindu Minority and Guardianship Act gives the father the status of the natural guardian in the case of a legitimate child. The need for equality of rights of natural guardianship between both parents is ignored.

- **Muslim Sharia Law:** Bigamy is punishable by law in all communities save the Muslims, who are governed by the Shariat law. The Muslim Personal Law (Shariat) Application Act 1937 was passed by the British government to ensure that the Muslims were insulated from common law and that only their personal law would be applicable to them.

Bigamous marriages are illegal among Christians, Parsis (Act II of 1936) and Hindus, Buddhists, Sikhs and Jains.

Apart from the famous Shah Bano (1986) and Sarla Mudgal (1995) cases, there have been several other pleas by Hindu wives whose husbands converted to Islam only in order to get married again without divorcing the first wife.

- **Parsi personal law:** If a Parsi woman marries someone who isn't a Parsi, their children are not accepted as part of the Parsi community. However, this does not apply to a Parsi man marrying outside the Parsi community. A non-Parsi woman who is married to or is the widow of a Parsi man cannot inherit on his death though their children can inherit.

► **Divorce & Maintenance**

- **Muslim:** After the Supreme Court judgment in the Shah Bano case (in which a 60-year-old mother of five from Indore filed a petition asking for alimony from her husband who had divorced her in 1978), the Muslim Women (Protection of Rights on Divorce) Act 1986 was enacted. But the misery of divorced Muslim women was not alleviated.

The practice of Talaq-e-Bidat (Triple Talaq) allows for a Muslim man to divorce his wife instantaneously by uttering the word talaq three times in one sitting, a Muslim woman must follow a legal procedure after obtaining her husband's consent to be able to get a divorce

The practice of Nikah Halala determines that a Muslim woman is not allowed to remarry the husband who has divorced her unless she first marries another man and consummates that marriage.

Supreme Court's Decision on Triple Talaq

Bharatiya Muslim Mahila Andolan (BMMA), in 2015 conducted a survey of 4,710 Muslim women in 10 states. Following below are the findings –

- ▶ More than 90 per cent wanted an end to polygamy and Triple Talaq.
- ▶ Of the 525 divorced women, 78 per cent had been given Triple Talaq; 76 of these women had had to go through the process of **Nikah-halala**.
- ▶ According to the survey husbands give *talaq* over WhatsApp or e-mail and denying any kind of financial assistance. Husbands usually say that they have paid the agreed *mahr* on the wedding night, which is money paid by the groom's family to the bride that becomes her property, and they believe that's good enough, so he does not need to pay more. The *mahr* can vary from 1,000 to 25,000 rupees (US15-\$390). But a survey conducted by the Bharatiya Muslim Mahila Andolan (BMMA, or Indian Muslim Women's Movement) showed that more than 40% of women got less than 1,000 rupees as *mahr* and 44% did not get any at all.

The judges has struck down talaq-e-biddat as it is violative of the provisions of Articles 14, 15, 21 and 25 of the Constitution. In other words, the court observed that instant triple talaq is illegal, void and unconstitutional.

The Supreme Court's decision to strike down triple talaq is the trigger to unify religion-based personal laws in the country until the government frames new legislation.

Individual women from different communities have been challenging the constitutional validity of the discriminatory aspects of the personal laws in courts. Their main concern is the threat of forced marriage, murderous attacks in cases of inter-caste, inter-class and inter-religious marriages and property disputes even while they have to deal with issues like adultery, bigamy, polygamy, divorce, custody of child/children, property and incest in their marital homes. Triple talaq is a fine victory and the first step but Indian women needs to achieve many milestones to set herself free.

- **Hindu:** Under the Hindu Marriage Act, 1955, divorce can be obtained on the grounds of adultery, cruelty, desertion for two years, conversion in religion, an unsound mind, suffering from venereal disease or leprosy or if the spouse has renounced the world and not been heard from for seven years. Also no resumption of co-habitation for one year after the decree of judicial separation, no restitution of conjugal rights for one year after decree for restitution of conjugal rights, or if the husband is guilty of rape, sodomy or bestiality.
- **Christian:** Christian women could not obtain divorce on the grounds of adultery committed by the husband; it had to be coupled with cruelty, bestiality and sodomy. On the other hand, Christian husbands could simply declare their wives as adulteresses and divorce them. These antiquated laws were enacted in the colonial period to serve the interests of the British bureaucrats who had their legally wedded wives in England and were cohabiting with a local. Due to pressure from Christian women, the government last year cleared a proposal to amend the antiquated Christian Divorce Act 1869.

▶ Inheritance

- **Hindu:** The Hindu Succession Act gives Hindu women an equal right to parental property (while providing separately for inheritance rights of matrilineal communities and joint families) in the absence of a will; but lawyers say that despite this, women sign away their right to their father's property at the time of marriage accepting dowry as a recompense for a share. Women are also reluctant to exercise their right for fear of causing a breakdown in the relations with their natal family.

The Hindu Succession Act makes provision for a Hindu Undivided Family to ensure that property remains with the male line of descent. A son gets a share equal to that of his father; a daughter gets only a share in her father's share. She cannot reside in the family home unless she is single or divorced, and cannot claim her share of property as long as the men of the family continue to live in it. A woman's right to agricultural property is also similarly restricted to "prevent fragmentation of landholdings." And a Hindu woman has no right to her matrimonial home, unless she can prove that it was purchased with her earnings.

The law is unequal in the way it treats men and women as it pertains to succession. Inheritance rights are loaded in favor of male heirs almost in all the religions. And with the stress on inheritance in the male line, Hindu personal law has concessions for the Hindu undivided family. Until the Hindu Code Bill was passed in 1956, Hindu law prohibited women from inheriting any property.

- **Muslims:** Similarly under Muslim Personal Law, women have subordinate rights of inheritance.

The Indian Succession Act of 1925, modified in 1997, is applicable to persons other than Hindus but not of Islamic faith - like Christians and Parsis. This Act does not recognise women's right to succession. Recently, the Supreme Court decided in favour of women's right to inheritance, to intestate and testamentary succession when a Christian woman challenged the Act in court.

Patriarchy, thus, is the basis of personal law, regardless of community. Inheritance laws have created less noise and debate than marriage and divorce laws, mainly because in this regard social inequity has cut across communities.

- **Parsis:** Parsi daughters who marry non-Parsi men lost their property rights and non-Parsi wives of Parsi husbands were entitled to only half of the husband's property as per the Parsi personal law.
- ▶ **Adoption:** Out of all the aspects of personal laws, those related to guardianship, custody of children and adoption are the most inextricably linked to religion and culture. With children and young people involved, it has serious implications.
 - **Muslim:** Islam, does not allow adoption as only blood relations are recognized by Islamic jurisprudence. It has been argued that if adoption is made legal, then the adopted child has all rights to succession that a biological child has. But if a biological child is born subsequently, to the same mother or through another wife of the father, then which child would have succession right is not clear.
 - **Hindus:** Hindus may adopt but due to stress on inheritance in the male line, male children get favored during adoption adding to a social problem. Hindus, Sikhs, Buddhists and Jains and any other person who is not a Muslim, Christian, Parsi or Jew is governed by the Hindu Adoption and Maintenance Act, 1956.

Like Muslims, personal law for Parsis, Christians and Jews too do not recognize complete adoption. So, if anyone from these communities has to adopt a child, he can do so only in "guardianship". This does not give the child equal status to that of a biological child.

The examples above highlight the issue with respect to personal laws and gender justice. These laws are highly regressive, unequal and a reflection of entrenched patriarchy in the evolution of personal laws and power structures. There are also gaps in personal laws that do not account for measures needed for empowerment of women and marginalized sections.

Therefore, the demand for implementation of Uniform Civil Code has increased.

Importance of Uniform Civil Code

- ▶ Uniform Civil Code will in the long run ensure equality. Also, UCC will help to promote Gender equality.
- ▶ It will lead to national integration and draw minorities into the mainstream.
- ▶ It will encourage communal harmony.

A Uniform Civil Code administers the same set of secular civil laws to govern different people belonging to different religions and regions. This supersedes the right of citizens to be governed under different personal laws based on their religion or ethnicity.

The need for a uniform civil code is inscribed in Article 44 (Article 35 in the draft constitution). Article 44, which deals with the Uniform Civil Code states: “The State shall endeavor to secure for the citizens, a uniform civil code throughout the territory of India”. The objective of this article is to effect an integration of India by bringing all communities on a common platform, which is at present governed by personal laws which do not form the essence of any religion.

This article is included in Part IV of the Constitution dealing with the directive principles of state policy. The legal nature of the Directive Principles is such that it cannot be enforced by any court and therefore these are non judicial rights. The Constitution further calls upon the State to apply these principles in making laws as these principles are fundamental in the governance of the country.

However, UCC has been a point of contention for several decades, having emerged as a political tool to fuel election campaigns rather than a truly acted upon development issue. A key issue that has emerged in the UCC is the submergence of equal rights for women under personal laws. Personal laws stem from highly patriarchal structures and women have historically not been engaged in their formation. While some effort has been made to bring greater uniformity and reforms in personal laws, the efforts remain in the form of patch work.

A common contention by those who opposed a UCC is their argument that a Uniform Civil Code only seeks to reform Muslim laws in India; however, in practice, such reform would extend to personal laws of all religions in order to form a Uniform Civil Code that applies equally to all citizens of India.

The UCC must emerge as more than just a compilation of the most gender-just provisions of personal laws. It must aspire for codification of laws that govern personal matters in an encompassing and just manner across all states in India.

ECONOMIC ISSUE

NITI Aayog Report on Ease of Doing Business

Context

Recognizing the importance of monitoring the business environment, the NITI Aayog, along with the IDFC Institute, a Mumbai-based think tank, launched an Enterprise Survey of manufacturing firms across Indian states and union territories. The idea was to assess the business regulations and enabling environment across India from the viewpoint of firms. It draws trends across states, sectors and types of firms. It proposes reforms to facilitate doing business and create an enabling ecosystem.

Hereby, providing the summary of the report, main focus will be on the steps needed for increasing ease of doing business in India.

Introduction

For far too long India paid insufficient attention to the centrality of the business environment for wealth creation, which is in turn critical to combating poverty. As a consequence, entrepreneurs, the engines of wealth creation, struggled to do business in the face of onerous policies and regulations that were designed to choke rather than enable business. The reforms of 1991 marked a clear change in direction as successive governments started paying attention to difficulties faced by businesses. Nonetheless, there remained far too many impediments.

The present government has made easing the business environment, especially for small and medium businesses, a clear area of focus. However, the big push by central and state governments to ease the regulatory environment failed to remove the perception of most business enterprises that little has changed on the ground.

It differs from the World Bank's Doing Business Surveys and the Department of Industrial Policy and Promotion's (DIPP) Ease of Doing Business Rankings in that it focuses on how organized manufacturing firms, rather than experts or implementing agencies, view the business environment in their respective states.

The present survey also covers all states and Union Territories (UTs), except Arunachal Pradesh, Mizoram, Andaman and Nicobar, and Lakshadweep. Therefore, its scope is much wider than the World Bank Doing Business Surveys which currently focus only on Delhi and Mumbai.

Obstacles in Doing Business in India

- ▶ **Less change at ground level:** Outcome of survey showed that for a majority of respondents, parameters such as setting up a business, land and construction, environment, labour, water and sanitation, taxes, and access to finance remained the same compared with a year ago; on legal matters, they reported that things had worsened.

- ▶ **Poor awareness about Single Window Clearance:** The awareness among enterprises about single window systems, instituted by states, is low. On average, only about 20% of start-ups, which are of recent origin, report using single window facilities introduced by state governments for setting up a business. Even among experts, only 41% have any knowledge of the existence of these facilities. Therefore, there is a clear need for creating greater awareness.
- ▶ **Obstacles in Labour intensive sectors:** Finding skilled workers, hiring contract labour, and terminating employees is a major or very severe obstacle. They also lose more days due to strikes and lockouts. These findings point to the centrality of labour law reforms to the expansion of labour-intensive sectors and job creation. Further, labour-intensive sectors also report significantly higher average time taken for environmental approvals, and more hours of power shortage in a month. Addressing these is likely to favourably impact the growth of labour-intensive sectors and hence job availability.
- ▶ **Issues in power-intensive enterprises:** Firms and industries that have intensive power-use experience longer wait times, on average, for getting electricity connections. They also face more power shortages, all of which impede their efficiency.
- ▶ **Issue related to variation among states:** Enterprises in high-growth states are significantly less likely to report major or very severe obstacles in land and construction related approvals, environmental approvals and water and sanitation availability as compared to enterprises located in low-growth states. Further, enterprises in high-growth states report taking less time on average for nearly all aspects of doing business. The specific areas where high-growth states do very well are in getting construction permits, labour renewals, and access to electricity and water connections.
- ▶ **Issue faced due to size of organization:** Firms with more than 100 employees took significantly longer to get necessary approvals than smaller firms with less than 10 employees. Large firms were also more likely to complain that regulatory obstacles were a major impediment to doing business. They are also more likely to report incurring higher costs for getting necessary approvals. The experiences and grievances of large firms indicate that it remains very hard for firms to scale up or grow in size. This could explain why firms in India are overwhelmingly small and remain small. For example, according to the latest Economic Census conducted during 2013 and 2014, a gigantic 98.6% of non-agricultural establishments had less than ten workers.

Recommendations

- ▶ According to the Survey, Enterprises are often unaware of the single window facilities for clearances and permissions that many states have created in recent years. Information dissemination so that enterprises are aware of ways to ease the compliance burden of regulation, such as access to single clearance windows, can yield substantial gains in productivity at relatively low costs.
- ▶ Reforming labour laws and achieving greater flexibility in their implementation can greatly help enhance the ease of doing business. The fact that enterprises in labour-intensive sectors experience greater difficulty than those in capital-intensive sectors points to the need for further reform in this area. In addition, more flexible labour laws will also allow enterprises to grow larger and reap economies of scale, generating productivity improvements, job creation, and higher growth.
- ▶ Facilitating power sector reforms will help ensure that power-intensive enterprises have access to steady and uninterrupted power without undue delays or regulatory

burdens. As India is increasingly achieving a state of surplus power capacities, states have the opportunity to use this to their advantage for lowering the electricity costs and making electricity available faster and more reliably through opening up the electricity distribution sector for competition and improving the regulatory capacity in their states.

- ▶ The new bankruptcy code is an important start in improving the exit process; a comparable effort must be made to stimulate entry of new enterprises, which are often deterred from entering at all by the regulatory burden and compliance costs, and therefore do not figure in the survey at all.
- ▶ The survey shows about half of the enterprises do not borrow from financial institutions, and about a third consider (lack of) access to finance as a major or very severe obstacle for business in the country. There is a large variation in the experiences of enterprises in different states regarding the access to finance. This suggests that enhancing the access to low-cost capital to businesses could be an important vehicle to improve business environment, especially in poorer states such as Bihar.

Conclusion

An enterprise-friendly regulatory environment will allow easy entry and exit of enterprises, enable them to reach an optimal size and scale, and boost job creation. There is a strong correlation between a higher level of economic activity and doing better on a range of doing business indicators. If India is to enter the “double digit” economic growth club, clearly it will need to continually streamline and improve the business environment.

ECONOMIC ISSUE

Institutional Arbitration in India: A Way to Improve 'Enforcement of Contracts'



Given the fact that India is undergoing demographic dividend, there is a need to create well paying jobs which not only provide employment but also add to economic growth. This warrants an ambient environment for business to not only survive but to thrive. However, one of the hindrances to creation of ambient environment is delay in enforcement of contracts. The issue has been highlighted in the Doing business Report. In this context, we would try to understand meaning and importance of 'enforcement of contracts' and ways to reduce delay.

What is the issue?

The World Bank's Ease of Doing Business ranking for 2017 reveals that India continues to fare badly on enforcement of contracts, with an average of 1,420 days taken for enforcement. The absence of effective means for enforcement of contracts is a serious fetter on the legal system and impedes economic growth and development.

What does enforcement of Contracts means?

The enforcing contracts indicator measures the time and cost for resolving a commercial dispute through a local first-instance court, and the quality of judicial processes index, evaluating whether each economy has adopted a series of good practices that promote quality and efficiency in the court system.

Why is enforcement of contracts important?

Efficient contract enforcement is essential to economic development and sustained growth.

- ▶ Economic and social progress cannot be achieved without respect for the rule of law and effective protection of rights, both of which require a well-functioning judiciary that resolves cases in a reasonable time and is predictable and accessible to the public.
- ▶ Economies with a more efficient judiciary, in which courts can effectively enforce contractual obligations, have more developed credit markets and a higher level of overall development.
- ▶ Effective courts reduce the risks faced by firms and increase their willingness to invest.

- ▶ Overall, enhancing the efficiency of the judicial system can improve the business climate, foster innovation, attract foreign direct investment and secure tax revenues.

Doing business report on Enforcement of contracts

Doing Business 2017 acknowledged 18 reforms that made it easier to enforce contracts. Worldwide, revisions of alternative dispute resolution legislation and civil procedure rules are the most common reform feature in 2015/16. However, none of the low-income economies made reforms in this area. Low-income and middle-income economies, predominantly in Sub-Saharan Africa and East Asia, focused their reform efforts on strengthening judicial infrastructures.

According to the report India has strengthened its institutions by introducing dedicated venues to resolve commercial disputes through Insolvency and Bankruptcy code legislation. The presence of specialized commercial courts like National company law tribunal can make a significant difference in the effectiveness of a judiciary. Specialized courts can reduce the number of cases pending before the ordinary courts and also tend to promote consistency in the application of the law, increasing predictability for court users.

How India could improve its performance on 'Enforcement of Contracts'?

India's poor record in enforcement of contracts is not surprising given the notoriously high pendency of cases and endemic delays in Indian courts. Therefore, there is a need to provide viable alternatives to litigation. Arbitration is often the first alternative amongst these – it holds the promise of flexibility, speed and cost-effectiveness. However, arbitration in India is often far removed from these ideals.

What are the different forms of arbitration and what are the challenges therein?

The most popular form of arbitration (between 90-95%) is ad hoc arbitration wherein parties regulate the arbitration proceedings themselves. In contrast, institutional arbitration involves the regulation of arbitration proceedings by an institution, which applies its rules of procedure. In return for some loss of autonomy, parties expect to benefit from the expertise of the arbitral institution, access to a panel of arbitrators usually maintained by the institution, and good quality infrastructure.

In India, ad hoc arbitration is riddled with problems of delayed proceedings, unprofessional arbitrators and poor quality of awards. These issues make ad hoc arbitration vulnerable to excessive court intervention at all stages of the arbitration proceedings.

The state of institutional arbitration in India is no better. Despite the existence of several arbitral institutions, institutional arbitration in India remains in a nascent state. Most arbitral institutions provide little besides rudimentary physical infrastructure for arbitration hearings. Many arbitral institutions have outdated rules of procedure, inadequately trained staff, and poorly staffed panels of arbitrators. Therefore, parties are reluctant to approach these arbitral institutions. Additionally, misconceptions persist regarding institutional arbitration, particularly its supposed inflexibility and high costs. This, coupled with a lack of awareness about the advantages of institutional arbitration and the existence of certain institutions, leads to parties avoiding institutional arbitration or preferring foreign arbitral institutions over Indian ones.

In contrast, institutional arbitration has become the norm for commercial dispute resolution, particularly for high-value disputes involving international parties, in most advanced jurisdictions. The existence of competent arbitral institutions, such as the Singapore International Arbitration Centre and the Hong Kong International Arbitration Centre has enabled the sustained growth of institutional arbitration. These arbitral institutions have gained the trust of parties through their modern rules, the organized structure of proceedings, excellent administrative support and infrastructure.

Almost all these International institutions benefit from government support to different degrees and have gradually developed through healthy competition. Considering its success in other jurisdictions, the time is right to encourage and promote institutional arbitration in India.

The creation of the Mumbai Centre for International Arbitration and the Maharashtra arbitration policy are bold steps in this direction. The government of India, in line with its goal to make India a hub for institutional arbitration, had in January constituted a high-level committee with the mandate of suggesting measures to promote institutional arbitration in India.

The committee's report identifies several critical areas for improvement and reform, such as:

- ▶ The need for minimum standards for arbitral institutions,
- ▶ The accreditation of arbitrators, and
- ▶ Creation of a specialist arbitration bar and bench.

The committee has also identified specific amendments to India's arbitration legislation aimed at promoting India's prospects as a preferred arbitration destination.

Conclusion

These above mentioned suggestions for reform, if implemented effectively, can go a long way in strengthening arbitration practice in India. Secondly, to increase awareness arbitral institutions must themselves take the lead by increasing awareness about their services and benefits. In addition, they must adopt best practices from around the world which will encourage parties to use their services over foreign arbitral institutions. The government must assist by creating state-of-the-art physical infrastructure for the conduct of arbitration.

SOCIAL ISSUE

Laws Related to Stalking in India



Incidents of stalking of women have been on the rise across the country in the past couple of years. From 4,699 cases in 2014, they rose to 7,132 in 2016 - as per the data available with the Union home ministry.

While there has been a rise in number of such cases being registered with the police, the conviction rate has remained abysmally low. Thus, hereby discussing the basic definition, laws and regulations related to it in India.

What is Stalking?

According to the Section 354D of the Indian Penal Code, any man who—

- ▶ follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- ▶ monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- ▶ it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- ▶ it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- ▶ in the particular circumstances such conduct was reasonable and justified.

The types of stalkers that have been described are:

- ▶ classic erotomaniac stalker who usually targets public figures,
- ▶ the non-domestic stalker who comes to know the victim through social contact or a casual meeting in a public place, and
- ▶ the domestic stalker who stalks after a real relationship with the victim has fallen apart.

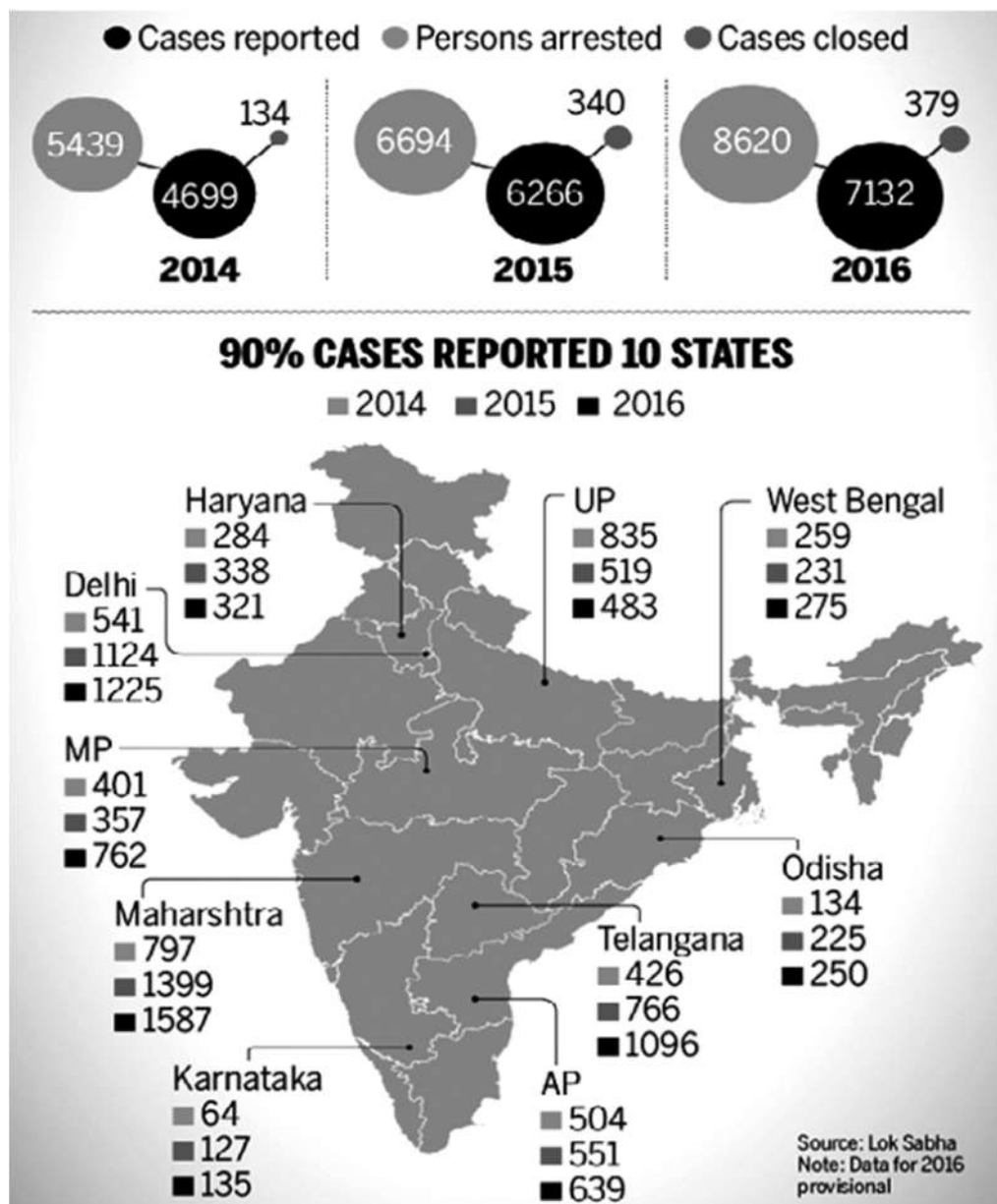
What is Cyber Stalking?

Cyber stalking is when a person is followed and pursued online. Their privacy is invaded, their every move watched. It is a form of harassment, and can disrupt the life of the victim and leave them feeling very afraid and threatened.

Cyber stalking usually occurs with women, who are stalked by men, or children who are stalked by adult predators or paedophiles. A cyber stalker does not have to leave his home to find, or harass his targets, and has no fear of physical violence since he believes he cannot be physically touched in cyberspace. He may be on the other side of the earth or a neighbour or even a relative and a stalker could be of either sex.

Data related to stalking in India

- ▶ As per the data, 7,132 cases of stalking were registered in 2016, 6,266 cases in 2015 and 4,699 cases in 2014.
- ▶ As many as 8,620 people were arrested for cases related to stalking and 481 convicted for the same in 2016.
- ▶ In 2015, a total of 6,694 people were arrested and 473 were convicted, while in 2014, as many as 5,439 people were arrested and 262 were convicted for stalking-related crimes.
- ▶ According to the data, abduction and attempt to abduction cases have also seen a rise in the past few years. In 2014, there were about 57,000 such cases, while in 2015, their number stood at 64,000.



Methods adopted by stalkers

With the advances of technology in the recent years, stalkers have utilized more complex methods to stalk their victims. Perpetrators often use technology such as GPS, phones, cameras, computers, etc. to facilitate both direct and indirect contact with victims. However, stalkers still also utilize traditional methods such as following victims or their loved ones.

Some examples of stalking include any combination of these behaviors:

- ▶ Receiving numerous unwanted calls, texts, or emails.
- ▶ Repeated indirect contact with the victims' loved ones in order to portray a message or threat.
- ▶ Finding notes of messages on your door or windshield (not necessarily threatening notes).
- ▶ "Coincidental" run-ins with the same individual on multiple occasions.
- ▶ Being followed or watched, either physically or electronically.
- ▶ Finding the same person outside your work, class or home when you leave or arrive.

Impact of stalking

Stalking can impact its victims differently depending on the characteristics, current circumstances, past experiences and their knowledge of the stalker. The effect that the stalking has on the victim can also be influenced by the way in which others respond to hearing about the situation and how the situation is handled by the authorities.

- ▶ **Mental health effects of stalking**
 - Stalking can affect the mental health of its victims in a number of ways.
 - These symptoms include confusion, denial, doubt and concerns. Victims usually wonder if they are overreacting to the situation.
 - They ask themselves if they are being unreasonable. This doubt can cause serious emotional issues. Victims tend to get frustrated and suffer from embarrassment, self-blame and guilt.
 - They can become apprehensive and feel fear and even terror when they're alone.
 - They may feel like themselves, their friends, family and pets are in danger.
 - These mental health issues can make victims feel isolated and even helpless to stop from being harassed. They can end up getting depressed and feel anxiety, which leads to panic attacks and agoraphobia.
 - These symptoms can lead the victims to develop difficulties when they try to concentrate or remember things.
 - They can even develop difficulty getting to sleep and have nightmares. They may suffer from anger, irritability and thoughts of homicide. All these emotions may cause them to feel numb.
- ▶ **Effects of Stalking on Social Life**
 - The effects of stalking can be felt in the victim's social life.
 - Victims may feel insecure and be unable to trust others enough to form friendships and other relationships. This can stunt their social growth and leave them feeling totally isolated.

- ▣ They might stop doing regular things.
- ▶ **Effects on finances**
 - ▣ Loss of wages due to sick leave, leaving job or changing career.
 - ▣ Costs incurred through legal fees.
 - ▣ Expense of increasing home and personal security.
 - ▣ Cost involved in repairing property damage.
 - ▣ Seeking psychological counselling and medical treatment.
 - ▣ Cost involved in breaking leases on rented properties.
 - ▣ Expense of relocation.

Laws related to stalking

Punishment for Stalking under IPC:

- ▶ Under the Section 354D, stalking can attract punishment of “Imprisonment not less than one year but which may extend to three years, and shall also be liable to fine”.

Punishment under Indian Information technology Act 2008

- ▶ The Indian Information technology Act 2008 (amended) does not directly address stalking. But the problem is dealt more as an “intrusion on to the privacy of individual” than as regular cyber offences which are discussed in the IT Act 2008. Hence the most used provision for regulating cyber stalking in India is section 72 of the Indian Information technology Act (Amended), 2008 which runs as follows;
 - ▣ *Section 72: Breach of confidentiality and privacy: Save as otherwise provided in this Act or any other law for the time being in force, any person who, in pursuant of any of the powers conferred under this Act, rules or regulations made there under, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.*
 - ▣ And also section 72A of the Information Technology Act, 2000 (amended in 2008), which runs as follows: *Section 72A: Punishment for Disclosure of information in breach of lawful contract (Inserted vide ITAA-2008): Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person shall be punished with imprisonment for a term which may extend to three years, or with a fine which may extend to five lakh rupees, or with both.*
- ▶ In practice, these provisions can be read with section 441 of the Indian Penal Code, which deals with offences related to Criminal trespass and runs as follows: Whoever enters into or upon property in the possession of another with intent to

commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with an intent to commit an offence, is said to commit criminal trespass.

- ▶ If the cyber stalking is done only to annoy the victim and is not resulted to serious offences like severe defamation, sexual crimes, identity theft or even grave crimes like terrorism, it is treated as a bailable offence.

Challenge in curbing stalking

In 90 per cent of the cases, the accused is known to the victim. Once a complaint reaches the authorities, they conduct the probe following the law, but face problems when the complainant declines to pursue legal action against the accused. Often, victims and their families want police to just threaten the offender without taking legal action. This does not bring huge impact.

GOVERNANCE ISSUE

JAM and its Significance



JAM is an acronym which stands for Jan Dhan Yojna, ADHAAR and Mobile number. It is seen as the biggest reform regarding direct subsidy transfer in terms of cash. The JAM trinity was proposed in the Economic Survey of 2014-15.

On the third anniversary of the Pradhan Mantri Jan Dhan Yojana, PMJDY, Finance Minister has said Jan Dhan, Aadhaar and Mobile (JAM) trinity has ushered in a social revolution which will eventually bring all Indians into a common financial, economic and digital space, similar to the way GST has created a unified market.

Hereby, discussing the JAM and its significance, challenges and solutions to make it more universal.

Introduction

JAM is an abbreviation for Jan Dhan Yojana, Aadhaar and Mobile number. It was coined by Chief Economic Advisor, Arvind Subramanian, and was first used for Economic Survey on 28th Feb 2015.

It is the initiative by Government of India to link Jan Dhan accounts, Mobile numbers and Aadhaar cards of Indians to directly transfer subsidies to intended beneficiaries and eliminate intermediaries and leakages.

- ▶ **Jan Dhan Yojana:** Pradhan Mantri Jan-Dhan Yojana is India's National Mission for Financial Inclusion to ensure access to financial services, namely Banking Savings & Deposit Accounts, Remittance, Credit, Insurance, and Pension in an affordable manner.
- ▶ **Aadhaar:** The Unique Identification Authority of India is a central government agency of India. Its objective is to collect the biometric and demographic data of residents, store them in a centralised database, and issue a 12-digit unique identity number called Aadhaar to each resident.

Components of JAM

Economic Survey divides JAM into three components

- ▶ **Government → Beneficiary: the challenge of identification**
 - First-mile deals with identification of beneficiary. This layer has issue of ghost and duplicate names due to administrative and political discretion and use of pre-Aadhaar database.
 - To identify beneficiaries, the government needed databases of eligible individuals. In this direction, the step of creating Aadhaar card of all the individuals was initiated. Aadhaar can help in better identification of the beneficiaries.
 - Further it is easier to implement the JAM for universal scheme than targeted one as identification will be easier. Identification of household-individual

connection is important to note here as some schemes target at household level like JDY and some at individual level like Aadhaar.

- ▶ **Government → Bank: the challenge of payment**
 - Middle-mile deals with the challenges of payment where government transfer benefits to the banks.
 - After identifying beneficiaries, the government had to transfer money to them. For that every beneficiary needs a bank account and the government needs their account numbers. But lack of bank accounts and its information with government put hindrances in the middle-layer connectivity.
 - This constraint was significantly eased by the Pradhan Mantri Jan Dhan Yojana opening zero balance accounts.
- ▶ **Bank → Beneficiary: the last-mile challenge of getting money into people's hands**
 - To get the money into people's hands, greater use of mobile payments technology is to be done.
 - Last-mile layer faces issues of lesser Bank penetration, mostly in rural areas. It deals with actual transfer of money from Bank to Beneficiary accounts. It also deals with issues of exclusion of genuine beneficiaries. Mobile can inform about benefits and also allow easier fund transfer.
 - Mobiles can not only transfer money quickly and securely, but also improve the quality and convenience of service delivery.

Facts

- ▶ **DBT:** Currently, the government makes direct transfer of Rs 74,000 crore to the financial accounts of 35 crore beneficiaries annually, at more than Rs 6,000 crore per month.
- ▶ **Aadhaar numbers:** About 52.4 crore unique Aadhaar numbers are linked to 73.62 crore accounts in India.
- ▶ **Jan Dhan Accounts:** Total PMJDY accounts opened increased from 12.55 crore in January 2015 to 29.52 crore as of August 16, 2017.

Number of rural accounts opened under PMJDY has grown from 7.54 crore to 17.64 crore and the average balance per account increased from Rs 837 to Rs 2,231 as of August 16.

Total balance in beneficiary accounts rose to Rs 65,844.68 crore while zero balance accounts declined from 76.81 per cent in September 2014 to 21.41 per cent in August 2017.

As on August 7, total enrolment was 3.46 crore under the PMJJBY and 10.96 crore under PMSBY with 40 per cent of the policy holders being women in both the schemes.

Benefits of JAM

It offers substantial benefits for government, the economy and especially the poor.

- ▶ **For the economy:**
 - This will bring efficiency in payments system and ensure that merchants/consumers can leverage their credit history to access instant, low-cost micro-credit through digital means and create necessary linkages between payments transaction history and credit information.
 - It will also generate huge infrastructure available at lower cost.
- ▶ **For poor:**
 - The scheme would bring all Indians into the mainstream and would end the social as well as economic exclusion.

- ❑ The poor will have access to financial services.
- ❑ The poor people are able to make payments electronically. Every month now, about 7 crore successful payments are made by the poor using their Aadhaar identification.
- ▶ **For government:**
 - ❑ The government finances will be improved because of the reduced subsidy burden and weeding out of leakages from the system.
 - ❑ The government will be strengthened because it can transfer resources to citizens faster and more reliably and with less leakage.
 - ❑ It will help government to identify various beneficiaries of various schemes and directly send them cash.
- ▶ **Miscellaneous:**
 - ❑ The entire system is inherently leak proof as it will also reduce the number of government departments linked in the distribution process thereby curtailing the opportunities for leakage.
 - ❑ Various studies show that value of fiscal savings due to lower leakages were larger than the cost of implementing the programmes. Over the long-term, this will not only give high returns to public investment (as a tax) but will also lead to lower burden on the taxpayer.
 - ❑ Therefore it will have multiple benefits for the economy: like lower subsidies and fiscal deficit will also mean a better credit standing for India.
 - ❑ JAM will lead to Unique Identification of beneficiaries thus eliminating fake beneficiaries.
 - ❑ JAM trinity is creating an atmosphere for enabling DBT and will also help in direct delivery of various government schemes like scholarship for students, Janani Suraksha Yojana, old age pension etc.
 - ❑ JAM Trinity can effectively cut the leakages by enabling better delivery of direct benefit transfer (DBT).
 - ❑ JAM will also lead to financial inclusion of people living in villages and in backward areas.
 - ❑ With increasing number of mobile operators applying for payment banks the mobile money platforms offer tremendous opportunities to direct Aadhaar based transfers.
 - ❑ Post Office networks provide connectivity to geographically isolated areas. It can seamlessly fit into the Aadhaar linked benefits-transfer architecture by applying for an IFSC code which will allow post offices to start seeding Aadhaar linked accounts.
- ▶ **For women empowerment:**
 - ❑ **Financial inclusion:** JAM has been successful in bringing women into the process of financial inclusion. Helping them to be a part of financial activities.
 - ❑ **Availing government schemes:** Women in rural areas don't have their own identity. They are fully dependent on male member of family. But now having Aadhar, bank account they can avail government schemes like PAHAL, MUDRA etc.
 - ❑ **Entrepreneurship:** Creating an understanding of entrepreneurship in the women by providing them financial independency. This makes them economically independent.

- ❑ **Rights of women:** With the help of mobile number , information about women rights, issues, schemes, etc can directly be given to the women.

Challenges

- ▶ **Jan Dhan accounts:**
 - ❑ Even though crores of accounts have been opened yet a large proportion of population around 45% hasn't been covered.
 - ❑ Jan Dhan Yojana may be a way for hawala and money launderers to route their money through poor people's accounts making them pawns.
 - ❑ Misuse of Jan Dhan account may even result in powerful people using cash subsidy provided to poor.
 - ❑ Distant location of ATMs will be another deterrent for people to withdraw cash subsidy.
 - ❑ The bank correspondents are the integral part of the Jan Dhan scheme. They should be properly remunerated. There has been suggestion of increasing their payment to 5000/- which is yet to be implemented.
- ▶ **Banking facility:**
 - ❑ Banking facility is not available in far flung areas which has to be addressed. For this the grant of payment bank licences is a good step from RBI.
 - ❑ Economic unviability of banking financial transactions.
- ▶ **Education:**
 - ❑ People have to be educated so that they can better manage their accounts and also safeguard themselves from various fraudulent activities.
- ▶ **Inadequate account opening and less banks Penetration:**
 - ❑ Still many landless farmers and households with no ration cards are left behind.
- ▶ **Aadhar:**
 - ❑ There have been concerns regarding the privacy issues associated with Aadhar numbers.
 - ❑ There have been apprehensions regarding privacy invasion due to biometric requirements for Aadhar. Non availability of Aadhar to still a large population will be a hindrance.
- ▶ **Mobile:**
 - ❑ Mobile penetration in India is high but there is need to improve the bandwidth for faster transaction.
 - ❑ Banking transaction needs to be made secure in order to allay inhibition of the people.
 - ❑ Though mobile coverage is significant but still lack of network in remote regions has to be addressed.
 - ❑ Issues of mobile connectivity with increasing cases of call drops and data connectivity as pointed out by TRAI.
- ▶ **Others:**
 - ❑ Lack of awareness about the scheme itself.

- JAM trinity's real challenge is with non-cash benefits such as subsidies on food, kerosene, LPG etc. Converting these subsidies into cash equivalent and paying it directly into the bank account is a challenging issue. Quantification of cash equivalent must be carried out in a realistic way.
 - Spreading financial literacy with involvement of civil society, opening more branches and improving bank infrastructure are major challenges.
 - The method of setting income criteria to identify the potential beneficiaries and then transferring the cash equivalent through the JAM trinity is very cumbersome.
- **Unfavorable social attitudes:**
- For example: The nutritional requirements of the pregnant women and children are catered through programmes like Janani Suraksha Yojana and Integrated Child Development Services (ICDS).
 - But if we switch to cash transfers away from PDS in a patriarchal society which does not consider the nutrition of women and children especially girls important then the move may prove counterproductive.
 - It is highly likely that money may not be used for the intended purpose. It will multiply the problems given the fact that India already stands at very low ranking in terms of maternal mortality rates and under five mortality.

JAM Preparedness Index:

Economic Survey has formulated JAM-Preparedness Indices for Urban and Rural areas in each state. It uses Aadhaar penetration, basic bank account penetration and Banking Correspondents (BC) density as indicators for the indices.

Solutions

- At present success of the welfare scheme is directly proportional to degree of abuse by middleman and higher income group. But the success of JAM trinity depends on penetration of **Information and Communication Technology**.
- Setting up of service quality benchmarks for Digital Financial Transactions and their constant monitoring is essential to build trust in this new system.
- People have to be better educated so that they can better manage their accounts and also safeguard themselves from various fraudulent activities.
- Telecommunication companies are reluctant to invest in remote areas because of low profit. Government can give active support for infrastructure development there.
- Strict monitoring of subsidy route. Any suspicious activity should be thoroughly investigated by Vigilance agencies.
- Banking corresponding agents can be used to educate farmers not to fall into trap of moneylenders.
- There is need for infrastructure like cellular towers, cheap mobile plans, electricity etc.
- Government should see to it that various schemes like Smart city, Skill India, Digital India and Make in India integrated with JAM and DBT so that less leakage and productive results are achieved at a faster pace.

Conclusion

Various Government schemes have been initiated under JAM as Pradhan Mantri Suraksha Bima Yojna; Pratyaksh Hanstantarit Labh (PAHAL) Yojna; Atal Pension Yojana; Pradhan Mantri Jivan Jyoti Bima Yojna, etc.

Introduction of DBT in LPG and MGNREGA have proved that use of JAM can considerably reduce leakages, reduce idle funds, lower corruption and improve ease of doing business with the government. Despite huge improvements in financial inclusion due to Jan Dhan, JAM Preparedness indicators suggest that there is still long way to go.

Centre can invest in last-mile financial inclusion via further improving BC networks and promoting the spread of the mobile money.

If the JAM trinity can be seamlessly linked, and all subsidies are routed through bank account, the real progress in terms of direct income support to the poor may finally be possible.

SOCIAL ISSUE

Alternative Schooling System in India



Acquiring knowledge, pursuing self-discovery, enlightenment... education has been defined in a number of ways. However, the present system of education depicts stress, the pressures of studying multiple subjects and rote-learning.

Hereby, analyzing the concept of 'Alternative schooling' and its importance.

Introduction

One of the biggest problems of mainstream education in India is over-emphasis on evaluation, which leads to unhealthy performance pressure. This causes many people to search for alternatives.

Kids are consumed by an education system that fails to acknowledge their diversity. The standardised testing regimes relate to what Einstein claimed is “judging a fish by its ability to climb a tree”. Teachers push kids to pass exams, instead of understanding what makes kids unique in their own right. The irony of standardised testing is that the teachers fail to identify the genius that resides in every child”.

Thus the need for Alternative System of Schooling is coming up.

‘Alternative schooling’ is an umbrella term used for schools that typically step away from the conventional methods of teaching.

Idea of Rabindranath Tagore on Education

Rabindranath Tagore started the institution in 1901. As a child, Tagore hated going to school. He found it suffocating and oppressive. The school appeared like a prison, for he could never do what he felt like doing. So while other children listened to the teacher, Tagore’s mind would wander away.

On growing up, he wanted to set up a school where the child was happy, where he could be free and creative, where she was able to explore her own thoughts and desires.

Teachers had to be imaginative, understand the child, and help the child develop her curiosity. According to Tagore, the existing schools killed the natural desire of the child to be creative, her sense of wonder. Tagore was of the view that creative learning could be encouraged only within a natural environment. So he set up Shantiniketan. He saw it as an abode of peace (santiniketan), where living in harmony with nature, children could cultivate their natural creativity. He emphasised the need to teach science and technology at Santiniketan, along with art, music and dance.

Examples of Alternative Schools in India

In India, from the early 20th century, some educational theorists discussed and implemented radically different forms of education. Rabindranath Tagore’s Visva-

Bharati University, Sri Aurobindo's Sri Aurobindo International Centre of Education and Mahatma Gandhi's ideal of "basic education" are prime examples.

In recent years, many new alternative schools have been formed.

For example:

The Peepal Grove School in **Andhra Pradesh** focuses on learning based on Discovery. In the process of discovery, the student will learn how to apply their mind, students and teachers learn how to live together and learn from each other.

Aarambh in **Delhi** is a Waldorf school based on Rudolf Steiner's philosophy. The school's mantra is "Receive the children in reverence, educate them in love, and send them forth in freedom." Each child is treated as a unique being, lovingly taught through play based and experiential learning with the belief that one day s/he will bloom into a well balanced, creative and humane individual.

Arivu School in **Karnataka** is an innovative school based in Mysore. At Arivu learning is activity based, collaborative and relevant to everyday life. Education is not limited to classroom and knowledge is not limited to books.

Basic characteristics of Alternative School System

Many Alternative Schools have been reflective endeavours that have attempted to deepen and broaden the understanding of 'quality of education' for all, regardless of different socio-economic backgrounds. Most of these centres have over two decades of hard work behind them, and some institutions go back to pre-Independence times. The key aspects that characterize most of these centres can be summarized as:

- ▶ **Non competitive learning environment:** Learning is based on cooperation, helping each other and working with each other. Children are allowed to learn at their own pace, avoiding stress and there is an emphasis given to understanding.
- ▶ **Contextually adapted curriculum:** The curriculum is flexible and responsive to the needs and contexts of the learners. The knowledge children bring from the local cultures, are a part of and often the starting point for the curriculum.
- ▶ **Non-comparative assessment:** Assessment in these schools is continuous and non judgemental. Assessment provides teachers with the necessary input to know where the learner is, and to adapt and extend the teaching accordingly. Assessment is done in a variety of ways and not only in the form of marks and ranks that compare learners with each other and judge them.
- ▶ **Inclusiveness:** Selection for admission is neither based simply on scholastic achievement nor on ability to pay (the full) fee. Some Alternative Schools, catering for the weaker sections of society, give free education to their students or provide subsidies for those who cannot afford the regular fees. In a number of the Alternative Schools as many as 60 percent of the children are supported in this way.
- ▶ **Multilingual environment:** Classrooms in many Alternative Schools have a flexible approach in the use of language. This helps children from migrant populations and children from homes which use non-standard dialects to settle and adjust better to the school.

In essence, these schools have fewer students when compared to other usual school, work around interactive teaching and greater individual attention, encourage learning beyond the academic, invite introspection and emphasise on qualitative rather than quantitative education. Most of them don't go by tests and exams to assess their students.

The teacher remains aware of the level of work a student is capable of, and instead of a prepping them for annual exams at the end of each grade, they make sure their children study consistently all year around. So these schools promote learning that's more holistic when compared to the learning that any 'normal' private schools push for.

Steps needed for set up of Alternative System

- ▶ There are six requirements (related to building, number of classrooms, access, drinking water, kitchen, toilets, and playground) under 'Norms and Standards for a School' under RTE Act. Alternative Schools may not be able to fulfill each of the above requirements to the letter. Depending on the location and context of the concerned Alternative Schools, it would be appropriate if there were a relaxation of some of the rules related to infrastructure requirements, without compromising on the essential safety and convenience of the children.
- ▶ The RTE Act requires schools to ensure that their teachers have the necessary qualifications for teaching at the primary and upper primary level. In operational terms this would most likely mean the possession of a D.Ed. or a B.Ed. (or equivalent) certificate from a recognized teacher-training institute. From the perspective of Alternative Schools, there is currently an urgent need for systemic reforms and capacity building of teacher educators as well as of most of the institutions offering courses of teacher education.
- ▶ There scope for flexibility in curriculum and pedagogy. There needs to be recognition that in order to ensure children are receiving education of a sufficiently good standard, one does not need to use standardized texts or syllabus. The standards can be maintained and results ensured even by using other curricula that are better adapted to the particular situation/setting/target group of students. To insist upon a one-size-fits-all would result in a standardization of knowledge, which would compromise on a relevant, meaningful and locally adapted curriculum. It would restrict educators from going beyond and/or adapting the specified curriculum to teach in a relevant and creative manner. Thus we would strongly recommend continued room for a diversity of approaches to curriculum and pedagogy.
- ▶ Establishing a **National Council for Alternative Schooling**: In order to retain the space for meaningful education in a range of alternative schools, while maintaining probity and quality, a National-level 'Council for Alternative Schooling' should be set up to represent the concerns and interests of these schools.

Such a Council could potentially work out a set of criteria and develop an accreditation process that takes into consideration the kind of work that happens in alternative schools, and at the same time clearly eliminates any misuse of this label by schools that intend to function as 'teaching shops'. These criteria may be developed in consultation with representatives of several such schools. Already there is a network of such schools from the South of India which have been meeting for the last 17 years annually. A detailed list can be drawn up of such initiatives in India by a team if necessary.

In addition these centres could be supported by the Council for the following purposes:

- ▶ To serve as model schools for other government/private schools.
- ▶ To contribute to the education system by developing materials.
- ▶ To evolve/develop and share better pedagogical methods.

- ▶ To provide/support in-service teacher education.
- ▶ To contribute to evolving flexible teacher training programmes.
- ▶ To act as Educational Resource Centres.

Conclusion

Alternative education is an upcoming and demanding education and learning approach all over the world and India. The term alternative education itself a new paradigm of education that can challenge the traditional education and academic structure. The main aim is to cultivate and motivate inborn abilities and tastes of the kids. The predefined syllabus of normal schools may squeeze the time and knowledge of the students in a stipulated framework. Alternative education help to grow students in their own way with the help of nature and society.

These schools and learning centres have also had an inclusive character, i.e. they have taken in children (not necessarily from socio-economically backward background) with special needs (learning disabilities, mental retardation, physical disabilities) and who have been streamed out from formal schools because their abilities, interests and emotional needs were at a variance with the 'standard' expectations of most schools.

Though the numbers of parents wishing to admit their children to alternative schools are gradually on the rise, the number is stills very less in comparison to the mainstream schools. To make it reach to the masses, we must have State-funded schools that follow this system.

ECONOMIC ISSUE

How Shell Companies are used in Black Money?


Context

After decision to demonetise Rs.500 and Rs.1000 rupee notes, various authorities noticed a surge in shell companies depositing cash in banks, possibly in an attempt to hide the real owner of the wealth. In response, in July 2017, the authorities ordered nearly 2 lakh shell companies to be shut down while Securities and Exchange Board of India (SEBI) imposed trading restrictions on 162 listed entities as shell companies.

In this context, we shall try to understand meaning of Shell Company, ways in which these companies operate and launder black money into white money and government stance towards these companies.

What are shell companies?

Theoretically, shell companies are companies without active business operations or significant assets. They can be set up for both legitimate and illegitimate purposes. Illegitimate purposes for registering a shell company include hiding particulars of ownership from the law enforcement, laundering unaccounted money and avoiding tax. With the shell company as a front, all transactions are shown on paper as legitimate business transactions, thereby turning black money into white. In this process, the business person also avoids paying tax on the laundered money. India, however, does not have a concrete definition of shell companies. Shell companies are not defined in any law or act. However, not all shell companies are illegal. Some companies could have been started to promote start-ups by raising funds.

How Shell Companies turn White money into Black?

Info-graphic below explains how a shell company change White money into Black through a hypothetical example.

At the heart of this business (as explained in info-graphic above), and what ensured its survival and growth, is the reality that the Indian economy has a kind of dual personality, split as it is, into the 'white' and the 'black' economy, with cash transactions (though not always of an illicit nature) dominating the latter. But these economies don't exist separately from each other. They drive each other, and feed off each other, and money flows from one into the other, depending on the economic cycle and entrepreneurs 'animal spirit'.

In give figure below, cash payments by infrastructure company are necessary to pay off everyone from a local politician or bureaucrat opposing a project. But being a company which prepares formal accounts that are audited and will be pored over by

investors, it has to account for that money, even if it involves such minor amounts. The cheque that the infra company wrote was recorded in its books as a commission payment.

White to Black & Back Again

1 A large infrastructure company, in need of cash for various transactions, writes a cheque to shell company A, and accounts for it as payment of commission. A returns the money as cash (after taking a small cut). This way, the infrastructure company has obtained cash for various illicit payoffs, but has managed to account for it in its books (making it tax deductible). In this process, white money is converted to black.



2 A shows the 'income' from the infra company as contractual income instead of commission, to avoid service tax.

3 To avoid income tax on these earnings, A shows payments are made to another shell company towards fulfillment of contracts.



4 The money is routed to a further clutch of companies - C, D, E and F, who account for it as share capital. All these money flows are notional – no actual money flows to these firms.



8 The shell company operator acts as an intermediary or a broker between two different players. One wants to convert white to black, and the other wants to do the opposite.



7 The buyer can bring in the black money into the company – and convert it into white – by organising small cash payments through various banks, and into the account of the company.

6 By doing this, the buyer has gained control of a company, whose assets are 'clean' by paying only a fraction of the cost in white. It's similar to buying land by paying part of the value in black and part in white.



5 These four companies can now be 'sold' off to others who want to convert black money to white. Anyone who wants to do this, buys the shares of the company at a huge discount to book value (i.e. paying say, ₹1 for a share worth ₹50). Depending on your requirements and how much you want to launder, there are shell companies of different sizes available.

Government stance on Shell companies, especially post demonetisation

There are about 15 lakh registered companies in India; and only 6 lakh companies file their Annual Return. This means that large number of these companies may be indulging in financial irregularities.

In the initial analysis, it has been found that 'Shell Companies' are characterized by nominal paid-up capital, high reserves & surplus on account of receipt of high share premium, investment in unlisted companies, no dividend income, high cash in hand, private companies as majority shareholders, low turnover & operating income, nominal expenses, nominal statutory payments & stock in trade, minimum fixed asset.

In a small sample analysis of such companies, it has been found that Rs.1,238crore cash has been deposited in these entities during November-December period. Serious Fraud Investigation Office (SFIO) has filed criminal prosecution for cheating National Exchequer after investigation of entry operators running a group of 49 Shell Companies and other proprietorship concerns. It has been found that 559 beneficiaries have laundered money to the extent of Rs.3900 Crore with the help of 54 Professionals who have been identified. These information has been shared with SIT, Income Tax Department, Enforcement Directorate, SEBI and The Institute of Chartered Accountants of India (ICAI). Income Tax Department has reopened completed assessment in these cases and Enforcement Directorate has initiated action under Prevention of Money Laundering Act (PMLA), 2002. ICAI has also initiated disciplinary proceedings against its member CAs. Winding up process has been initiated in respect of 49 Shell Companies.

In order to create a credible deterrence a "*Whole of Government Approach*" will be adopted through coordinated efforts and by leveraging technology. It has also been decided that appropriate red flag indicators would be used for identifying shell companies, and a data base of such companies and their Directors would be built by pulling in information from various agencies. The data base will also capture Aadhar number of individual Directors in the companies.

Harsh punitive actions will be taken against the deviant shell companies which will include freezing of Bank Accounts, striking off the names of dormant companies, invocation of Benami Transactions (Prohibition) Amendment Act, 2016.

A Task Force with members from various regulatory Ministries and Enforcement Agencies has been set-up under the Co-chairmanship of the Revenue Secretary and Corporate Affairs Secretary to monitor the actions taken against deviant shell companies by various agencies.

The concerned regulatory Ministry will ensure that disciplinary actions are initiated against the professionals indulging in malpractices and abetting the entry operators of the shell companies.

Conclusion

In order to make Indian a regional power, Government need to invest in the critical areas of the economy like infrastructure, so that productive capacity of the economy increases, similarly investment is required in strategic areas like Defence. Such large investments are not possible until government realizes higher tax revenue, but glitches exist in realizing such revenue due to existence of black economy. Black economy thrives because of existence of shell companies which are a channel to launder black economy. Hence, in order to reduce the size of black economy it is important to take credible action against shell companies. New initiative of "*Whole of the government approach*" is an initiative in right direction in this regard.

ECONOMIC ISSUE

Call Drops Issue



Call drop occurs after voice call is interrupted or disconnected before it is completed after being successfully established.

The Telecom Regulatory Authority of India (TRAI) has issued stringent guidelines with a penalty of up to Rs. 10 lakh on companies if they fail to meet the benchmark for three consecutive quarters.

However, if an operator fails to meet the call drop benchmark in consecutive quarters, the penalty amount will be increased 1.5 times and in the third consecutive month it will be doubled.

Hereby discussing the issue of call drops and government initiatives to meet it.

Introduction

India is adding millions of new mobile users each quarter and the country's active subscriber base of 869 million is fast closing in on to a billion. Telecom operators, however, have been unable to adequately ramp up infrastructure and technology to keep pace. Despite the apparent ubiquity of telecom towers atop buildings in Indian cities, poor voice quality, blind spots and abrupt termination of calls have become a bane in India's telecom industry.

There is no standard definition of a dropped call. In telecommunications, it refers to the telephone calls which, due to technical reasons, were cut off before the speaking parties had finished their conversation and before one of them had hung up (dropped calls). In India, call drops are a performance indicator for the country's telecom networks.

In telecommunications, the dropped-call rate (DCR) is the fraction of the telephone calls which, due to technical reasons, were cut off before the speaking parties had finished their conversation and before one of them had hung up (dropped calls). This fraction is usually measured as a percentage of all calls.

Reasons for call drops

- ▶ **Unprecedented growth in subscribers:**
 - ❑ Mobile phones work using radio waves in the frequency range of 300 MHz and 3,000 MHz. But the entire range is not available for use. The lower the number, the better the quality of transmission.
 - ❑ India now has more than 961 million mobile subscribers, second highest in the world.
 - ❑ The capacity to sustain this huge number in terms of spectrum and bandwidth allocation has not been augmented.
 - ❑ This result in congestion of the network and hence drop in calls.

- ▶ **Too many operators:**
 - If we compare the telecom market of India, there are too many operators and the price of the services is most competitive in the world. Limited frequency has to be distributed within them.
- ▶ **Overloaded cell towers:**
 - Numbers of subscribers are growing day by day and most of them are on smartphones.
 - The network capacity is simply not being ramped up at the same pace resulting in overloaded networks.
- ▶ **Cost associated in installing and maintaining tower/BTS:**
 - Since government is not providing any space for installing tower, telecoms has to arrange for place for installation and has to give hefty charges for that to private authority.
- ▶ **Cityscape changes:**
 - There have been instances where a new multi-storeyed building comes up and the adjacent building's subscribers lose cell reception.
 - Such instances are very common with rapidly changing cityscapes and call for routine network data analysis from service providers.
- ▶ **Towering problems:**
 - We have more than 50,000 towers but need another 1, 00,000 to be able to provide better signals.
 - Unfortunately the public outcry against installation of towers in the populated areas has resulted in a difficulty for the service providers to install more towers.
 - Lesser number of towers than are required for efficient transmission over longer distances. This is because the telecom companies are reluctant to share towers and there is no uniform procedure to get permissions for installation of towers which is to be given by the municipal body of that area.
- ▶ **Switching between towers:**
 - This situation occurs when a person is traveling or moving around while talking. If a call handover takes place from one BTS to another, especially in case of overloaded networks, there are chances of dropped calls.
- ▶ **Technical Failures:**
 - This is beyond anyone's control and operators generally monitor downtimes through well-equipped network operation centres.
- ▶ **Insufficient spectrum:**
 - Generally there are three frequencies in India for GSM, on which the mobile signal travels, i.e. 900, 1800 and 2100 MHz. 900 and 1800 for 2G and 2100 for 3G.
 - There is also one technical constrain, lower the frequency, better will be transmission. In India lower frequency is kept for military purpose, not for civil.

- ▶ **Lack of regulation by TRAI:**
 - TRAI has not define call drop definition clearly, this one loophole which is being exploited by TELCOs.
- ▶ There is a difficulty in getting permissions to set up boosters on buildings which is to be taken on a case by case basis.

Impacts of call drops

- ▶ **Financial impact:**
 - If the tariff plan of the company is measured in seconds, neither customer loses nor company gains. However, if the call is measured in minutes or has features such as certain number of free calls; it hurts the customer financially.
 - Also if the service providers offer 'free minutes' or 'free calls', consumers may not be able to take full advantage of them if call drops frequently. This leaves a consumers feeling cheated by the service providers.
- ▶ **Psychological impact:**
 - A call drop may leave a subscriber high and dry in midst of an important call particular in case of an emergency leading to mental trauma.

Solutions

- ▶ **Indoor coverage:**
 - Indoor coverage has always been a problem, especially with higher frequencies. Just like foreign operators, Indian telecoms can consider offering free signal boosters.
- ▶ **Compensation for dropped calls:**
 - Compensation by the way of a free minute won't really serve the purpose as for a caller it would be important to get a point across. Some of the **businesses users are switching to the landline to avoid ruining a conversation.**
- ▶ **Use Analytics:**
 - Customers must not have to undergo hardships to solve call drop issues. Through the use of sophisticated analytics, operators must be in a position to assess the health of their networks, measure the quantum of call drops and address them accordingly.
- ▶ **E-Clearance for new cell towers:**
 - The Government, in association with TRAI or DoT could set up a new single-channel website with appropriate revenue sharing model (state, local bodies) for faster clearance of new cell towers. This can also help reduce corruption at lower levels.
- ▶ **Technologies** like Wi-Fi offloading must be rolled out in a faster manner.
- ▶ **Optimize the networks and improve planning approaches:**
 - Improved planning means usage of modern approaches like GIS for network planning. In addition to finding the location for newer towers (where citizens can also collaborate), telecoms can use 3D map data to study changing cityscapes and realign the network.
 - **Allay Radiation Fears:**
 - With radiation scare causing major concerns, just like Airtel CEO reached out to customers, other telecoms can take the same route.

- Ideally telecoms can take a collaborative route and use print, digital media to spread awareness. This will naturally result in citizens coming forward and proposing locations for newer towers as it involves monetary benefits.

Various demands by the telecom companies to improve the quality of services

- ▶ Need of additional spectrum.
- ▶ Harmonisation of airwaves to improve capacity.
- ▶ Allowed to install towers on government buildings.
- ▶ Alignment of State policies with the Telecom Department's advisory of mobile tower installation.

Initiatives taken

The government is boosting telecom connectivity across the country, including optical fibre rollout in village panchayats, the North-East and even in Left wing extremism-affected areas.

- ▶ In a bid to tackle the call drop menace, the government has launched an **Integrated Voice Response System (IVRS)** system at multiple locations including Delhi and Mumbai. Objective is to obtain direct feedback from subscribers on call quality. The feedback will be shared with operators so they can take corrective steps in the problem areas and address the issue of call drops.
- ▶ The **Telecom Regulatory Authority of India (TRAI)** has introduced '**MyCall**' app, which allows customers to report about call drops, poor voice quality and other such issues with telecom service, directly to the authority.
- ▶ Currently, telcos are fined Rs 50,000 for failing to contain call drops at 2 percent per quarter. With the adoption of this new procedure, the companies are expected to be subjected to heavier fine. The Telecom Regulatory Authority of India (TRAI) has issued stringent guidelines with a penalty of up to Rs.10 lakh on companies if they fail to meet the benchmark for three consecutive quarters.

According to the amendments to the Quality of Service (QoS) regulations, the methodology for assessment of drop call rate (DCR) will be on a percentile basis instead of the existing methodology of the average of call drop of all towers. Under the revised rule, not more than 2 per cent of the calls handled by networks should drop. Similarly, during busy hours of the day, not more than 3 per cent of call drops should be registered on 90 per cent of mobile towers in a telecom circle, the regulator said. TRAI also fixed the benchmark for radio link timeout (RLT) technology as operators have configured RLT value on the higher side in some areas to camouflage call drops.

RLT is used for continuation of a call in case a subscriber is moving or is in the base network area for short period. It is the time used for connecting the call of a subscriber from one mobile tower to another.

Conclusion

The shortage of spectrum and towers, both are equally contentious issues. The government on its part can increase the available spectrum or allow trading of spectrum to reduce congestion. Regarding towers, the telecom companies need to take permission from the local bodies to expand tower infrastructure. In this context, the central government can ask the states to frame uniform rules and procedures to be followed in matters related to permission of land for towers.

Further, the government must mandate the companies to make the call drop related data publically available. The companies should also come ahead with offers like 'money back on call drop'.

GOVERNANCE ISSUE

Right to Privacy



In a landmark decision, the Supreme Court has unanimously declared that individual privacy is a "guaranteed fundamental right".

The Judgment said that "The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution."

Hereby, discussing the judgment and its implications on Aadhar and Article 377.

What is Privacy?

Privacy means "right to be left alone" i.e. the right of a person to be free from any unwarranted publicity, the right to live without any unwarranted interference by the public in matters with which the public is not necessarily concerned.

Privacy is a fundamental right. "Privacy ensures the fulfillment of dignity and is a core value which the protection of life and liberty is intended to achieve.

What did judgment interpret regarding Privacy?

- ▶ Privacy is the constitutional core of human dignity.
- ▶ Privacy has both a normative and descriptive function. At a normative level privacy sub-serves those eternal values upon which the guarantees of life, liberty and freedom are founded. At a descriptive level, privacy postulates a bundle of entitlements and interests which lie at the foundation of ordered liberty.
- ▶ Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation.
- ▶ Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognizes the ability of the individual to control vital aspects of his or her life.
- ▶ Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognizes the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being.
- ▶ Privacy has both positive and negative content. The negative content restrains the state from committing an intrusion upon the life and personal liberty of a citizen. Its positive content imposes an obligation on the state to take all necessary measures to protect the privacy of the individual.

Is Privacy an Absolute Right?

Like other rights which form part of the fundamental freedoms protected by Part III, including the right to life and personal liberty under Article 21, privacy is not an absolute right. A law which encroaches upon privacy will have to withstand the touchstone of permissible restrictions on fundamental rights. In the context of Article 21 an invasion of privacy must be justified on the basis of a law which stipulates a procedure which is fair, just and reasonable. The law must also be valid with reference to the encroachment on life and personal liberty under Article 21.

An invasion of life or personal liberty must meet the three-fold requirement of (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate state aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them.

Why the Judgment is important?

The verdict by a nine-judge Constitution bench could now test the validity of Aadhaar, the controversial biometric identification project the government has been pushing but critics have opposed as intrusive.

The judgment may also have a bearing on broader civil rights as well as a law criminalizing homosexuality. A ban imposed on the consumption of beef in many states and alcohol in some could also come up for review.

What did the SC say regarding Data Protection and Policy related to it?

Informational privacy is a facet of the right to privacy.

The dangers to privacy in an age of information can originate not only from the state but from non-state actors as well. Union Government should examine and put into place a robust regime for data protection. The creation of such a regime requires a careful and sensitive balance between individual interests and legitimate concerns of the state.

The legitimate aims of the state would include for instance protecting national security, preventing and investigating crime, encouraging innovation and the spread of knowledge, and preventing the dissipation of social welfare benefits. These are matters of policy to be considered by the Union government while designing a carefully structured regime for the protection of the data.

The Union government has informed the Court that it has constituted a Committee chaired by Hon'ble Shri Justice B N Srikrishna, former Judge of this Court, for that purpose, the matter shall be dealt with appropriately by the Union government having due regard to what has been set out in this judgment.

How does this judgment impact on Article 377?

The Delhi High Court, inter alia, observed that the right to live with dignity and the right of privacy both are recognized as dimensions of Article 21 of the Constitution of India. The view of the High Court, however did not find favour with the Supreme Court and it was observed that only a miniscule fraction of the country's population constitutes lesbians, gays, bi-sexuals or transgenders and thus, there cannot be any basis for declaring the Section ultra virus of provisions of Articles 14, 15 and 21 of the Constitution. The matter did not rest at this, as the issue of privacy and dignity discussed by the High Court was also observed upon. The sexual orientation even within the four walls of the house thus became an aspect of debate.

Justice Chandrachud holds the constitutional basis of the verdict of the division bench in the *Koushal case* as flawed and unsustainable. The privacy judgment notes that even if "a miniscule fraction of the country's population constitutes lesbians, gays,

bisexuals or transgenders, it is not a sustainable basis to deny the right to privacy. The purpose of elevating certain rights to the stature of guaranteed fundamental rights is to insulate their exercise from the disdain of majorities, whether legislative or popular. The guarantee of constitutional rights does not depend upon their exercise being favourably regarded by majoritarian opinion.”

Further he stated that discrete and insular minorities face grave dangers of discrimination for the simple reason that their views, beliefs or way of life does not accord with the ‘mainstream’. Yet in a democratic Constitution founded on the rule of law, their rights are as sacred as those conferred on other citizens to protect their freedoms and liberties. Sexual orientation is an essential attribute of privacy. Discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual.

How does this judgment impact on Aadhaar and its legality?

The biggest immediate impact of the privacy judgment on Aadhaar is that it will end the legal gridlock over the fundamental nature of a ‘right to privacy’ and hopefully move along the court hearings on the validity of the government’s identification scheme.

The Court has reiterated an earlier view from the two-judge bench decision of the SC that while the State may gain access to private information of individuals for legitimate state aims, this power cannot be delegated to private persons. The State has to ensure that collected private information cannot fall in the hands of other private persons. This raises serious questions about Aadhaar or other initiatives of the government, where data collection has been delegated to private entities.

SC defines privacy to include three aspects: “repose, sanctuary and intimate decision”. Repose is essentially freedom from unwanted stimuli, sanctuary is protection against intrusive observation and intimate decision is respecting personal life choices.

It is possible that this judgment will be used in future legal cases to try to amend the more contentious provisions of the Aadhaar Act or influence future data protection legislation that in turn will make the Aadhaar system more secure.

Conclusion

The implications of this judgment on beef ban, the Aadhaar controversy and the Naz Foundation case, are recognised impliedly or expressly in the judgment.

Once the ‘right to privacy’ tyre hits the road and is used in more legal cases down the road, its eventual effect and potential restrictions will become clear. This broadly, however, applies to crucial upcoming cases on everything from marital rape to criminal defamation.

INTERNATIONAL ISSUE

How Syria Continues to Gas its People



In a chemical gas attack in Syria, banned toxin Sarin caused deaths of more than 87 people in rebel-held Khan Sheikhoun town in April, 2017. UN war crimes investigators have said they have evidence that Syrian government forces were behind a chemical attack. Earlier, Syrian government promised to get rid of its stockpile of chemical weapons nearly four decades ago but the gas attacks are still common in Syria. There is an urgency for the International community to unite behind the need to hold those responsible for this atrocity to account.

Hereby discussing the issue in brief.

Introduction

Syria has witnessed dozens of chlorine attacks and one major Sarin attack since 2013, causing more than 200 deaths and hundreds of injuries. International inspectors claim that there have been more than 100 reported incidents of chemical weapons being used in the past two years alone.

In the recent gas attack in Khan Sheikhoun town in Syria more 87 people died, at least 83 people, a third of them children, were killed and nearly 300 wounded in the attack.

UN war crimes investigators said they have evidence that Syrian government forces were behind a chemical attack that killed scores of people in April.

All available evidences lead the Commission to conclude that there are reasonable grounds to believe Syrian forces dropped an aerial bomb dispersing Sarin in Khan Sheikhoun.

OPCW report

In a report released by the Organisation for the Prohibition of Chemical Weapons (OPCW), the OPCW Fact-Finding Mission (FFM) confirmed that people were exposed to Sarin, a chemical weapon, on 4 April 2017 in the Khan Shaykhun area, Idlib Province in the Syrian Arab Republic.

Principal methods for collecting and evaluating the credibility of information included: research into incidents and existing reports; assessment and corroboration of background information; conduct of interviews with relevant medical care providers, alleged casualties and other individuals linked to the reported incident; the review of documentation and records provided by interviewees; the assessment of the symptoms of victims as reported by interviewees; and the collection of bio-medical specimens and environmental samples for analysis.

This shows that the removal of the final consignment of chemicals in June 2014 to different destruction destinations which marked a milestone in the OPCW's Syria operations was unsuccessful.

Diplomats and weapon inspectors suspect that President Bashar al-Assad's regime appears to cooperate with international inspectors but secretly maintained a new chemical weapons capability. They claim that Syria gave them incomplete or misleading information, and turned to using chlorine bombs when its supplies of other chemicals dwindled.

Role of OPCW

The Organisation for the Prohibition of Chemical Weapons is a treaty-based international organisation that operates according to a strict confidentiality regime, which governs the operations of the Organisation, protects the integrity of its investigations, ensures the security of its technical experts, and determines what information can be made public.

The OPCW is responsible for the implementation of the Chemical Weapons Convention, which comprehensively prohibits the use, development, production, stockpiling and transfer of chemical weapons.

To this end, OPCW proposed policies for the implementation of the CWC to the Member States and delivers programmes for them. These programmes have four broad aims:

- ▶ To ensure a credible and transparent regime for verifying the destruction of chemical weapons and to prevent their re-emergence, while protecting legitimate national security and proprietary interests;
- ▶ To provide protection and assistance against chemical weapons;
- ▶ To encourage international cooperation in peaceful uses of chemistry; and
- ▶ To bring about universal membership of the OPCW by facilitating international cooperation and national capacity building.

Non-cooperation of Syrian government

Syrian tactics have included withholding visas, submitting large volumes of documents multiple times to bog down the process, last-minute restrictions on site inspections and coercing certain witnesses to change their stories during interviews, etc.

The second problem was a switch of tactics by Assad's forces. While the United Nations and OPCW focused on ridding Syria of the stockpile it admitted having, Assad's forces began using new, crude chlorine bombs instead.

Although less poisonous than nerve gas and widely available, chlorine's use as a weapon is banned under the Chemical Weapons Convention that Syria signed when it joined the OPCW, an intergovernmental agency that works with the United Nations to implement the convention. If inhaled, chlorine gas turns into hydrochloric acid in the lungs and can kill by burning lungs and drowning victims in the resulting body fluids.

Lacunaes in OPCW working

OPCW was constrained by its founding treaty, the 1997 Chemical Weapons Convention. The OPCW has no obligation to act when one of its members violates the convention. Determining blame for the use of chemical weapons is the task of a separate United Nations-OPCW mission in Syria, the Joint Investigative Mechanism, established in 2015.

In 2016, when an inquiry by the United Nations and OPCW found that Syrian government forces were responsible for three chlorine gas attacks, the United States sought to impose sanctions on those responsible through the executive council, but then dropped the proposal. A text drafted by Spain condemned the attacks but removed any reference to sanctions. It was supported by a majority, including Germany, France, the United States and Britain, but opposed by Russia, China, Iran and Sudan.

The United States has since placed sanctions on hundreds of Syrian officials who were linked to the chemical weapons programme. President Donald Trump ordered a missile strike on a Syrian air base, but division on the OPCW governing body and at the United Nations has prevented collective action against the continuing attacks.

Western governments accused Moscow of trying to undermine investigations by the United Nations and OPCW in order to protect Assad; Syria says the inspection missions are being used by Western countries to force regime change.

Thus the political deadlock in OPCW is creating more issues than solving it.

Conclusion

The international agency OPCW overseeing the removal and destruction of Syria's chemical weapons, raised serious questions about the completeness and accuracy of Syria's disclosures about its Chemical Weapons. They have claimed some gaps, uncertainties, discrepancies about the Syrian government.

As of now there is no counter-measure to stop Syria and the international community just proved to be powerless. UN war crimes department has no power as long as the Security Council does nothing.

On the other side, the extent of Syria's reluctance to abandon chemical weapons has not been made public because it may damage international inspectors' relationship with Assad's administration and its backer, Russia, which is giving military support to Assad.

ECONOMIC ISSUE

Corporate Governance: Role of SEBI



Corporate Governance deals with how a corporate is governed. It is all about promoting corporate fairness, transparency and accountability.

Many Market participants want the capital markets regulator, the Securities and Exchange Board of India (SEBI), to intervene in matters to protect the interest of investors, especially in retail segment.

This issue has become the topic of discussion due to the recent exit of Vishal Sikka from the Infosys.

Hereby discussing the concept of Corporate Governance, its need and proposed model for that.

Introduction

Infosys has become the latest major corporate to attract regulatory attention for alleged corporate governance lapses being played out in public after Tatas, United Spirits and Ricoh India, among others.

Corporate governance is the system of rules, practices and processes by which a company is directed and controlled. Corporate governance essentially involves balancing the interest of a company's many stakeholders, such as shareholders, management, customers, suppliers, financiers, government and the community.

Corporate governance provides the framework for attaining a company's objectives; it encompasses practically every sphere of management, from action plans and internal controls to performance measurement and corporate disclosure.

Some of the **objectives** of Corporate Governance are:

- ▶ Attaining disclosure and transparency in the way corporate is governed.
- ▶ Fixing accountability of controllers and managers towards other stakeholders.
- ▶ Fixing corporate responsibility; integrity and probity in financial reports, etc.

The Companies Act 2013 and Rules contain essential features of corporate governance which are to be compulsorily adopted by companies/specified classes of companies.

Why Corporate Governance reforms are needed?

- ▶ A corporation includes various stakeholders' viz. investors, shareholders, customers, employees, vendor partners, government and society. Its objective should not be confined to maximizing the shareholder value but should be

responsible to all stakeholders. Its governance should be fair and transparent to its stakeholders in all its transactions.

- ▶ Thus, corporate governance becomes imperative in today's globalized world where corporations need to access global pools of capital, need to attract and retain the best human capital from various parts of the world, need to partner with vendors on mega collaborations and need to live in harmony with the community.
- ▶ On the other hand, the Liberalization and related developments such as deregulation, privatization and extensive financial liberalization render the Corporate Governance very crucial. All the fruits of capital market reforms can be lost to corporate frauds, malpractices, etc. Thus, Independent and effective corporate governance reforms are necessary to maintain the market credibility confidence.

Benefits of following of Business Ethics and maintenance of Corporate Governance

Corporate Governance is needed to create a corporate culture of Transparency, accountability and disclosure. It refers to compliance with all the moral & ethical values, legal framework and voluntarily adopted practices.

- ▶ Improved governance structures and processes help ensure quality decision making.
- ▶ Investors consider corporate Governance as important as financial performance when evaluating companies for investment.
- ▶ Good corporate governance systems attract investment from global investors, which subsequently leads to greater efficiencies in the financial sector.
- ▶ Companies that are transparent, and have sound system provide full disclosure of accounting and auditing procedures, allow transparency in all business transactions, provide environment where corruption will certainly fade out.
- ▶ The credit worthiness of a company can be trusted on the basis of corporate governance practiced in the company.
- ▶ Improved management accountability and operational transparency fulfill investors' expectations and confidence on management and corporations, and return, increase the value of corporations.
- ▶ Effective Corporate Governance ensures efficient risk mitigation system in place.

Thus following of corporate governance is must for the growth of the organization.

Recent step taken by SEBI

- ▶ Market regulator SEBI had set up a committee under the Chairmanship of Uday Kotak, Executive Vice Chairman and Managing Director of Kotak Mahindra Bank to help improve the standards of corporate governance of listed companies in India.
- ▶ Besides Kotak, the panel comprises of 20 members including representatives of Corporate India, stock exchanges, professional bodies, investor groups, chambers of commerce, law firms, academicians and research professionals.
 - The Kotak-led Panel had been tasked to make recommendations for "ensuring independence in spirit of independent directors and their active participation in functioning of the company".

- Recommendations on improving safeguards and disclosures pertaining to Related Party Transactions.
- The Panel has been tasked to go into issues in accounting and auditing practices by listed companies.
- The other areas include improving effectiveness of Board Evaluation practices; addressing issues faced by investors on voting and participation in general meetings; and disclosure and transparency related issues.

Here are five major themes that the governance panel is working on.

- ▶ **Role of promoters:** The SEBI panel is working to ensure that promoter-driven companies are subject to the same level of transparency as companies with higher public shareholding. In many instances, the holding company is not listed and the promoters themselves may have a governance framework, and decisions taken through such a framework would have implications for all listed companies under the same management, as was observed in the case of Tata Sons.

In such a scenario the decisions taken by promoters are not subject to the same level of transparency and governance norms as listed companies are. The SEBI panel is working to ensure that investors of listed operating companies are assured that a holding company is just the dominant shareholder and one individual isn't running the whole group of companies.

- ▶ **'Independence' of independent directors:** The debate started with former chairman of Tata Sons Cyrus Mistry's complaint that many independent directors on Tata group companies were not truly independent. This has prompted the regulator to write to the ministry of corporate affairs that removal of independent directors should also require a special resolution. It is also the appointment of independent directors that is subject of debate and resignation without citing a reason.

The SEBI panel is mulling to have rules around these gaps.

- ▶ **Disclosure and transparency:** Lack of transparency is one of the major concerns in listed companies. Annual reports are often not released on company and exchange websites. The SEBI panel is trying to change this by ensuring that annual reports are on websites a day after they are released to shareholders of the company.

The panel is also working on improving the quality of financial disclosures including those related to party transactions and during initial public offers. The SEBI panel is considering whether auditing can be made a regular task.

- ▶ **Evaluation of directors:** Performance evaluation of directors was a voluntary concept introduced by SEBI in 2004 until the Listing Regulations and the Companies Act made it mandatory. The SEBI panel may make recommendations on how directors' role and performance will be evaluated.
- ▶ **Role of auditors:** The SEBI panel is mulling on having norms to examine the role of auditors. An auditor could be barred from the listed space if the audit fails to give a true picture. In addition, splitting the post of chief managing director is another focus area of the SEBI.

Suggestions from Market participants

- ▶ According to the market participants a supervisory board should be constituted that would lay down the framework for the functioning of the board of directors. The supervisory board, comprising eminent personalities, will monitor performance as well as the value system for the company and this alone will create wealth for the company and keep it on the tracks.

- ▶ The Board of Directors, in turn, oversees the functioning of the executive management.
- ▶ Multinationals like Google and Microsoft are governed in this manner.

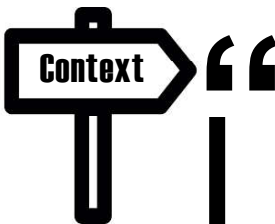
Conclusion

Corporate governance has been high on the agenda of the government. A number of measures have been taken in the last four years. It is time for India to look at global good governance practices and imbibe them to improve governance. In the UK, 40 large asset management companies have come together voluntarily to launch a project called the diversity project. This project is about whether we have diversity in the board and whether we have diversity in senior management.

It is time for corporate India to start looking at these measures.

GEOGRAPHIC ISSUE

Urban Flooding: Manmade Disaster



A flood is an overflow of water that submerges land that is usually dry. Floods occur in rivers when the flow rate exceeds the capacity of the river channel, particularly at bends or meanders in the waterway.

Flooding in urban areas can be caused by flash floods, or coastal floods, or river floods, but there is also a specific flood type that is called urban flooding. Urban flooding is mainly because of the lack of drainage in an urban area.

The urban area is paved with roads, etc and the discharge of heavy rain can't be absorbed into the ground due to drainage constraints leads to flooding of streets, underpasses, low lying areas and storm drains.

Introduction

There has been an increasing trend of urban flood disasters in India over the past several years whereby major cities in India have been severely affected. The notables of them are Hyderabad in 2000, Ahmedabad in 2001, Delhi in 2002 and 2003, Chennai in 2004, Mumbai in 2005, Surat in 2006, Kolkata in 2007, Jamshedpur in 2008, Delhi in 2009, Guwahati and Delhi in 2010, and Chennai in 2015 and Mumbai in 2017.

Lack of drainage upgrade works, the encroachment and filling in the floodplain on the waterways, obstruction by the sewer pipes and manholes and relevant structures, deposits of building materials and solid wastes with subsequent blockage of the system, and also flow restrictions from under-capacity road crossings (bridge and culverts) are few of the reasons which are causing urban floods in India frequently.

FLOOD is in itself abbreviates - Finally Loss Occurred after Opportunities Denied.

Reasons of urban flooding

- ▶ **Lack of flood control measures:**
 - Lack of planning and encroachment has resulted in significant narrowing of the waterways and filling in of the floodplain by illegal developments, which has subsequently caused flooding to other properties that have not previously been flooded.
 - Funds are used to address immediate civic pressures rather than plan for long-term infrastructure creation.

- Nearly all Indian towns and cities are water-scarce in dry seasons and prone to severe flooding during monsoons. This is a serious indictment of the poor state of India's water management.
 - Not a single Indian city has a drainage system that can promptly evacuate intense monsoon rainfalls that occur over short time periods. Even these inadequate systems are never properly maintained.
- ▶ **Urbanization: *Unplanned urbanisation is the key cause of urban flooding.***
 - Land use changes, Surface sealing due to urbanization (which increases run-off), Occupation of flood plains and obstruction of flood flows.
 - Urban planners is giving the short shrift to a fundamental principle of hydrology: natural water bodies soak up excess rainfall and use it to replenish groundwater; inter-related drainage systems created by these ponds, streams, lakes and channels then release the excess water into larger water bodies — oceans and big rivers. Our cities are increasingly getting shorn of such 'sponges'.
- ▶ **Poor Water and Sewerage Management:**
 - Old drainage and sewerage system has not been overhauled nor is it adequate now.
 - The indiscriminate disposal of solid waste into urban water drains and channels is a major impediment to water flow during the monsoon season.
 - The illegal filling of urban water bodies in cities like Calcutta, Delhi, and Hyderabad etc is a rampant. Thousands of illegal colonies have emerged in city and planning has been thrown to the winds resulting in constriction of natural drainage inviting urban floods.
- ▶ **Population pressure:**
 - Because of large amount of people, more materials are needed, like wood, land, food, etc. This aggravates overgrazing, over cultivation and soil erosion which increases the risk of flooding.
- ▶ **Deforestation:**
 - Large areas of forests near the rivers/catchment of cities are used to make rooms for settlements, roads and farmlands and is being cleared due to which soil is quickly lost to drains. This raises the drain bed causing overflow and in turn urban flooding.
- ▶ **Global Climate change due to urbanization**
 - The **urban heat island effect** has resulted in an increase in rainfall over urban areas.
 - Increases in heat within urban centers increases the length of growing seasons, and decreases the occurrence of weak tornadoes. The UHI decreases air quality by increasing the production of pollutants such as ozone, and decreases water quality as warmer waters flow into area streams and put stress on their ecosystems.

Consequences:

The flooding affects every section of people, systems in a city. Urban floods are a great disturbance of daily life in the city.

- ▶ **Effect on Human Beings:**
 - Every year floods in India cause more than 50 lac people affected dead and become homeless.

- The people of all ages who stranded in flooding suffer a great Psychological impact disturbing their whole life and the society as whole.
- ▶ **Public Inconveniences:**
 - The flooding causes impairment of transport and communication system due to which all people of all section get stranded e.g. school children, college students, office goers, vegetable, milk venders etc.
 - The basic and essential commodities also do not reach to the common person. This result either starvation to poor persons or high priced to the common persons.
 - Flooding results in the damages of roads, collapse of bridges causing traffic congestion which affect day-to-day life and other transportation system.
- ▶ **Economic effects:**
 - Damage to Public buildings, Public utility works, housing and house –hold assets.
 - Loss of earning in industry & trade, Loss of earning to petty shopkeepers and workers, Loss of employment to daily earners, Loss of revenue due to Road, Railway Transportation Interruption, High prices for essential commodities.
 - Perishable articles add to economical loss.
 - The flooding cause a great economic loss to the state, individual and to the society.
 - Prices of essential commodities shoot up.
- ▶ **Diseases:**
 - Flooding usually brings infectious diseases, e.g. military fever, pneumonic plagues, dermatopathia, dysentery, common cold, Dengue, break bone fever, etc.
 - Chances of food poisoning also become more where electric supply interrupted in food-storage area due to flooding.
 - Overcrowded and flooded government hospitals are face the risk of spreading infections, exposing citizens to a public health crisis.
- ▶ **Livestock:**
 - The livestock is the most affected living being due to urban floods.
 - It is difficult to care for them particularly when human being itself is in trouble.
- ▶ **Environmental effects:**
 - Damage to surroundings, forests, ridges, wild-life, zoo, urban community-trees, water bodies, shrubs, grass, fruits/vegetables in godowns, etc result in imbalance of eco-system of the city.

Solutions:

- ▶ **Infrastructural improvements:**
 - The existing drainage path should be well demarcated. There should be no encroachments on the natural drainage channels of the city.

- A large number of bridges, flyovers and metro projects are being constructed with their supporting columns located in the existing drainage channels. This can be avoided using proper engineering designs, such as cantilever construction.
- Storage or holding ponds should also be provided at judiciously selected locations to store water during heavy rainfall so that it does not cause downstream flooding. Once the rain subsides, the water can be released gradually.
- ▶ **Construction of roads:**
 - Whenever a road is resurfaced, the existing layer should be scraped first and then the new layer be laid. This will ensure that the plinth level and the road level remain where they were prior to the resurfacing.
 - Various cities, across the world, have constructed porous pavements. These allow the water to gradually infiltrate into the underlying soil thereby maintaining the pre-development sub-soil water conditions.
- ▶ **Community participation: *Given that monsoon flooding is inescapable, citizens and communities need to prepare.***
 - People should spread awareness and be ready to respond to a flood as a community.
 - Schools have a greater role to play - as children need to be sensitized not only about floods but other disasters as well.
 - Affected people should immediately evacuate to an identified evacuation centre. Or if such a centre does not exist, they should go to their neighbours staying in higher levels. They should take their important things such as documents and valuables in a water-proof bag, which they should have packed beforehand.
 - People should also cooperate with municipal authorities.
- ▶ **Green roofs/rooftop gardens:**
 - Green roofs (roofs that are covered with vegetation), by their very nature, absorb rainwater and help to mitigate flooding.
 - The benefits, for the building owner are, it's a stormwater management tool; for the community, it reduces stormwater runoff; and for the environment, it prevents combined sewer overflow, neutralizes the acid rain effect and removes nitrogen pollution from the rainwater.
- ▶ **At the city level:**
 - The authorities should ensure that the building by-laws are followed both in spirit and practice at the ground level.
 - Proactive actions from municipal governments are essential to address the negative impacts of urban floods. Without strict adherence to land-use planning and construction laws, it is impossible for any city to manage its growing pressures and adequately plan its infrastructure.
 - It is imperative that civic bodies produce flood risk maps and restrict development in the areas.
 - Introduction of insurance cover for householder losses will provide financial protection and, crucially, require city administrations to provide professional management.

- ▶ **Role of Science and Technology:**
 - Science and technology can play a significant role for improved monitoring, modelling/ forecasting and decision-support systems. One method for improving the preparedness for urban flooding is by setting up a vulnerability-based geospatial framework to generate and analyse different scenarios.
 - It helps in identifying and planning for the most effective appropriate actions in a dynamic way to incorporate day-to-day changes that take place in urban areas, having the potential to alter the prevailing vulnerability profile.
- ▶ **Separating rainwater from the sewage system:**
 - To improve water management and protect the sewage system from damage, cities are beginning to revamp their underground pipe and drainage systems – by separating rainwater from the sewage system.
 - The separation enables the wastewater treatment plant to function properly, without it being overburdened by large quantities of stormwater.
- ▶ **Rainwater harvesting:**
 - Flood waters in urban areas should be stored for use during non-monsoon seasons, both in terms of groundwater and surface storage.
- ▶ **Capacity Development and Flood Response:**
 - The central government and the state governments are required to take steps for capacity development for taking effective and sustainable preventive, preparatory and mitigative measures in pre-floods stage and effective and prompt response during and post - floods stages.

NDMA guidelines on management of urban flooding:

- ▶ The National Disaster Management Authority (NDMA) has issued guidelines on management of urban flooding in 2010.
- ▶ Key guideline was to create a *National Hydro-meteorological Network*.
- ▶ For providing early warning, the Central Water Commission (CWC) should maximize the real-time hydro-meteorological network to cover all the urban centres in dealing with urban flooding. The requirement should consider all cities/towns which are particularly located on river banks, upstream and downstream of major and medium dams and island cities. Based on that assessment, CWC will initiate the process to prepare a plan and implementation strategy.

Conclusion

Unless natural sponges are revived and restored, India's cities will remain vulnerable to manmade flooding, especially as climate change makes rainfall patterns increasingly more erratic. It is high time that Indian politicians should stop blaming urban flooding on climate change and start planning for secure urban futures. The government must also look for sound hydrological solutions to address the shortcomings in the city's water storage and drainage system, and revisit present policy priorities. There can be no smart city without intelligent planning.

SOCIAL ISSUE

Debate on the Issue of Marital Rape


Context

An NGO, RTI Foundation, has filed a plea seeking to strike down the exception under Section 375 (rape) of the IPC which does not include sexual intercourse between a man and his wife if she is over 15 years of age as rape. The petitioners have claimed that such an exception would be against the interest of married women as it violates of Article 14 (equality under law) and 21 (right to life) of the Constitution.

Hereby providing a debate on the issue of Marital Rape.

What is Marital Rape?

Marital Rape refers to unwanted intercourse by a man with his wife obtained by **force, threat of force, or physical violence**, or when she is unable to give consent.

The UN Population Fund states that more than 2/3rd of married women in India, aged between 15 to 49 have been beaten, raped or forced to provide sex.

What is the writ petition about?

In the writ petitions filed before the Delhi High Court, the substantive challenge has been laid to **Exception 2 to Section 375** as well as Section 376B of the IPC on the ground that it excludes marital rape as a criminal offence.

Section 375 of the Indian Penal Code, which defines rape, has an exception clause: "Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape." But the main clauses in the section define rape as penetration without a woman's consent and will.

It is contended that this exception is unconstitutional and violates the right of married women under Articles 14, 15, 19 and 21 of the Constitution of India.

In one of these petitions, challenge has been laid to statutory provisions of Section 198B of the Code of Civil Procedure read with Section 376 the IPC on the ground that differential procedure as well as the differential punishment is prescribed which is arbitrary and unconstitutional.

Exception 2 to Section 375 says that sexual intercourse or sexual acts by a man with his own wife, the wife not being under 15 years of age, is not rape. Section 376B says that whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

The lead petition in the case has been filed by RIT Foundation and The All India Democratic Women's Association (AIDWA) and a marital rape victim joined as intervener.

The Union government represented its view on Marital Rape and said marital rape in India cannot be criminalized through its affidavit submission to the Delhi high court.

Arguments against criminalizing of Marital Rape

- ▶ Marital rape is not defined in any statute/ laws. While rape is defined under Section 375 of IPC, defining marital rape would call for a broad based consensus of the society. What may appear to be marital rape to an individual wife, it may not appear so to others. As to what constitutes marital rape and what would constitute marital non-rape needs to be defined precisely before a view on its criminalization is taken.
- ▶ It has to be ensured adequately that marital rape does not become a phenomenon which may destabilize the institution of marriage apart from being an easy tool for harassing the husbands. The Supreme Court and various High Courts have already observed the rising misuse of section 498A of IPC.
- ▶ If all sexual acts by a man with his own wife will qualify to be a marital rape, judgment as to whether it is a marital rape or not will singularly rest with the wife. The question is what evidences the Courts will rely upon in such circumstances as there can be no lasting evidence in case of sexual acts between a man and his own wife.
- ▶ Law Commission in its 172 Report titled Review of Rape Laws and the Department Related Parliamentary Standing Committee on Home Affairs in its 167th Report examined the matter and did not recommend the criminalization of marital rape.
- ▶ Even though the Justice JS Verma Committee in its Report titled "Amendments to Criminal Law" recommended that the exception to marital rape be removed, it also pointed out that it is also important that the legal prohibition on marital rape is accompanied by changes in the attitude of prosecutors, police officers and those in society generally. Thus merely deleting the exception 2 of Section 375 may not stop marital rape. Moral and social awareness plays a vital role in stopping such an act.
- ▶ Other countries, mostly western, have criminalized marital rape does not necessarily mean India should also follow them blindly. This country has its own unique problems due to various factors like literacy, lack of financial empowerment of the majority of females, mindset of the society, vast diversity, poverty, etc. and these should be considered carefully before criminalizing marital rape.
- ▶ Criminal law is in the Concurrent List and implemented by the States. There is a vast diversity in the cultures of these states. It is necessary to implead the State Governments in the matter to know the opinion of these states to avoid any complications at a later stage.

Arguments in favour of criminalizing of Marital Rape

- ▶ The absence of a law to safeguard the same is a human right violation and unjust towards women.
- ▶ Marital rape is also considered as the violation of Fundamental Right guaranteed under Article 14 of the Indian constitution which guarantees the equal protection of laws to all persons.

- ▶ By depriving married women of an effective penal remedy against forced sexual intercourse, it violates their right to privacy and bodily integrity, aspects of the right to life and personal liberty under Article 21. The United Nations has also recommended India make it criminal for a man to rape his wife.
- ▶ On marital rape becoming an “easy tool for harassing husbands”, it is assumed that wives will use it to harass husbands, rather than to complain of rape. A RICE Institute analysis of the National Family Health Survey-III (2005-06) data claimed that 6,570 of one lakh women experienced marital rape against 157 who experienced rape by other men. Further, 40 per cent of the married women also complained of domestic, sexual and emotional abuse. So, many women are at risk and the assumption of misuse of rules may prove to be harmful for real victims.
- ▶ On Literacy, mindset of society, lack of financial empowerment, vast diversity, and poverty are not valid grounds. It cannot be concluded that married women in rich families do not face marital rape. Gender insensitivity does not distinguish between rich or poor in India.
- ▶ Marriage is not a license to sex, women must have the decision making power in personal issues and their ownership is not transferred to husband once they are married – Women also have right to individual liberty and right to dignified life.
- ▶ There are objections such as a it may act as perceived threat to the integrity of the marital union and the possibility of misuse of the penal provisions. It is not really true that the private or domestic domain has always been outside the purview of law. The law against domestic violence already covers both physical and sexual abuse as grounds for the legal system to intervene. It is difficult to argue that a complaint of marital rape will ruin a marriage, while a complaint of domestic violence against a spouse will not.

What are views on Criminalising Marital Rape by different Experts?

- ▶ **The Pam Rajput committee**, that recently submitted its report to the Women and Child Development (WCD) ministry, has recommended that as a pro-woman measure, marital rape should be consider an offence irrespective of the age of the wife and the relationship between the perpetrator and survivor. The high-level Pam Rajput committee traces the history of this exemption to the old English law, which assumes that by virtue of being married, a woman relinquishes all rights over her sexuality. It goes on to state that the English law today holds consent to be specific to each occasion of intercourse and that India too should recognise the act of rape, regardless of the nature of the relationship between the victim and the perpetrator.
- ▶ The **UN Committee on Elimination of Discrimination against Women** has recommended to India that marital rape be criminalized.
- ▶ **Justice J.S. Verma committee** recommended sweeping changes in the law relating to offences against women, called for marital rape to be made an offence. The exemption given to marital rape, as **Justice Verma** noted, “stems from a long out-dated notion of marriage which regarded wives as no more than the property of their husbands”. According to the report, Marriage or any other intimate relationship between a man and a woman is “not a valid” defence against sexual crimes like rape. Relationship between the accused and the complainant is not relevant to the enquiry into whether the complainant consented to the sexual activity and the fact that the accused and the victim are married or in another intimate relationship may not be regarded as a mitigating factor justifying lower sentences for rape.

Conclusion

Dr. B.R. Ambedkar said, “**Rights are protected not by law but by the social and moral conscience of society. If fundamental rights are opposed by the community, no Law, no Parliament, no judiciary, can guarantee them in the real sense of the word**”. There is need of so much ground work in society.

It has long been time to jettison the notion of implied consent in marriage. The law must uphold the bodily autonomy of all women, irrespective of their marital status.

But, only by passing amendments to criminalize marital rape will not help. Without change in the mindset of the society, patriarchal mentality no legislation can bring reforms (as we see in case of Dowry prohibition act).

If passed, care must be taken not to misuse the legislation of criminalization of marital rape as a tool to harass the honest law abiding men, as we are witnessing in Dowry cases.

INTERNATIONAL ISSUE

Rebooting India Nepal Ties



India Nepal ties have been through ups and downs with the changing political scenario in Nepal in the past. Nepal's constitutional crisis and India's interventionism has backfired in the past few years. In this background, the newly elected PM Deuba visited India and signed 8 MoUs to strengthen bilateral ties recently. The present article analyzes the India Nepal relations in the recent past and developments in the current visit.

Introduction

The close bonds of kinship and cooperation between India and Nepal are defined by geography and enriched by common culture and history. Our age-old fraternal relations have been nurtured by successive Governments and leaders in both India and Nepal into a dynamic and enriching partnership.

But with global geopolitics on the boil, and the India China relationship in free fall, India should secure her own neighborhood, and that can only be through letting national politics and governance of the smaller neighbors (Nepal) evolve without interference.

Issues in India Nepal Relations

During the 11 years when India supported the radical political agenda in Nepal, India gradually lost the trust and respect of the many people it worked with, starting with King Gyanendra and supporters of the traditional political forces and lately, the Madhesi leaders. The post-earthquake economic blockade also saw the non-Maoist left groups distancing from India.

The issues in the recent past:

- ▶ In Nepal at least 150 people have died in the floods and a large area, especially in the Tarai, which is the granary of the country, is under water. Therefore, Nepalese Parliament has asked PM Deuba to remind India that it's unilateral construction of about 15 embankments — some of them less than 12 km away from the border — has caused the devastation. Nepalese sentiment is that India must be held accountable for the destruction.
- ▶ Nepal had asked India to honor its commitment and execute past agreements, including finalizing the Detailed Project Report (DPR) of the 6,000 MW Pancheshwar hydropower projects that was signed some 20 years ago.
- ▶ The issue of Lipulekh on the Nepal-China-India tri-junction, which China and India had jointly agreed to develop as a bilateral trade route two years ago.
- ▶ Politically and strategically China and Nepal do not concede any more that India has the “first right” over Nepal's water resources, and, Nepal's inclination can be towards China, not just India.

- ▶ In the background of the Doklam standoff. China wanted Nepal to have a neutral stance on the matter. Beijing has also unleashed propaganda, which claims to expose Indian activities that undermine Nepal's sovereignty.

There are many other matters pending between Nepal and India such as regarding the impact of demonetisation and the application of Goods and Services Tax on Nepal's economy and citizenry. Similarly, the Nepali rupee is pegged to the Indian rupee. The rights of migrant Indian labour in Nepal and Nepali labour in India is a topic that rarely comes up. There are border disputes pending between the two countries — at Susta, Kalapani and the 'tri-junction' of Lipulekh — but Nepal has been hesitant in discussing these matters.

Nepal has since long planned to sell electricity to India once it has a hydropower surplus, and the completion of the much-delayed Dhalkebar-Muzaffarpur transmission line. But along comes an Indian government directive that it will not allow import of electricity other than from power companies with more than 51% Indian equity.

The arbitrary blockages and go-slow at Indian Customs at border points, the selective use of quarantine for the export of Nepali agricultural produce, the increasing high-handedness of the Sashastra Seema Bal (India's frontier force in this sector) in dealing with Nepalis crossing over — these are only some of the other challenges on the bilateral plane.

Developments in the recent past

- ▶ **Bridge over Mechi River**
 - River Union Cabinet approved MoU between India and Nepal for laying down arrangement for construction of a new Bridge over Mechi River at Indo-Nepal border. The estimated cost of construction of the bridge is Rs. 158.65 crore, which would be funded by Government of India through ADB loan. The new bridge is part of up-gradation of the Kakarvitta (Nepal) to Panitanki Bypass (India) on NH 327B covering a length of 1500 meters including a 6 lane approach road of 825 meters. Mechi Bridge is the ending point of Asian Highway 02 in India leading to Nepal and provides critical connectivity to Nepal.
 - The construction of the bridge will improve regional connectivity and has potential to strengthen cross border trade between both the countries and cementing ties by strengthening industrial, social and cultural exchanges.
 - National Highway and Infrastructure Development Corporation (NHIDCL) under Ministry of Road Transport & Highways has been designated as the implementing agency for this project. DPR for this project has been prepared and alignment of bridge has been finalized in consultation with Government of Nepal.
- ▶ **Drug Demand Reduction and Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances**
 - The Union Cabinet has given its approval for signing of a MoU (MoU) between India and Nepal on Drug Demand Reduction and Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances and precursor chemicals and related matters. The MoU lists out the areas of cooperation on drug matters between the two countries. It also indicates the mechanism of information exchange and the competent authorities in the two countries who are responsible for the implementation of the MoU and exchange of any information. Cooperation on drug matters is expected to curb the illicit traffic of narcotic drugs, psychotropic substances and precursor chemicals in the two countries.

Current Visit and the Developments

The eight MoUs signed between India and Nepal are:

Four MoUs signed by Nepalese Finance Secretary and Indian External Affairs Secretary.

- ▶ Modalities for utilization of India's housing grant component to support reconstruction of 50,000 houses.
- ▶ Implementation of the grant component of India's post-earthquake reconstruction package in the education sector in Nepal.
- ▶ Implementation of the grant component of India's post-earthquake reconstruction package in the cultural heritage sector in Nepal.
- ▶ Implementation of the grant component of India's post-earthquake reconstruction package in the health sector in Nepal.

Other MoUs signed are:

- ▶ Implementation arrangement on cost sharing, schedules and safeguard issues for construction of Mechi Bridge under ADB's SASEC Road Connectivity Programme (Tranche 2), funded by India.
- ▶ Drug demand reduction and prevention of illicit trafficking in narcotic drugs, psychotropic substances and precursor chemical and related matters.
- ▶ Agreement on cooperation in the field of standardisation and conformity assessment.
- ▶ An MoU was signed between the Institute of Chartered Accountants of India and the Institute of Chartered Accountants of Nepal.

Way Forward - India lauded the achievements of Nepal

India should look forward to expanding its economic and development cooperation with Nepal, as per Nepal's national priorities. Enhanced connectivity between the two countries will boost economic growth and renewed focus should be given to projects like Terai Roads, Rail links, integrated check posts, as well as Raxaul-Amlekhgunj oil pipeline. India should partner to create physical infrastructure and establish social institutions in Nepal.

There is immense potential for bilateral cooperation in hydro-power sector and both countries should work for expeditious implementation of Pancheshwar project signed in 1996. India need to expand cooperation in water resource sector for the benefit of people of our two nations.

India must carry along all neighbor countries with it and the endeavour of 'Sabka Saath, Sabka Vikas' applies to both to within India and outside India. India should achieve Inclusive Development of India with all other neighboring countries.

INTERNATIONAL ISSUE

Political Turmoil in Maldives



President Abdulla Yameen ordered troops to barricade Parliament on the 52nd anniversary celebrations of the Maldives independence.

The troops shoved MPs belonging to the unified opposition, including the Maldivian Democratic Party (MDP) and prevented them from entering.

The unified Maldivian opposition pressed for a no-confidence vote against the speaker on July 24.

The political turmoil in Maldives has impact on both India and China in the extension of the game for regional influence over Indian Ocean being played out by both.

Hereby, discussing the impact of political turmoil on both the nations.

Introduction

The Maldives consists of 1,192 coral islands strewn across the equator over an area of 90,000 sq kms. While the archipelago's stunning physical features i.e. its emerald green waters and pristine beaches attract tourists, it is its geographic location that contributes to its strategic significance and draws the attention of the big powers. The Maldives sits along major sea lanes, including the East-West shipping route through which much of Middle East oil headed for East Asia is transported. The archipelago is located just 340 km from the Indian coast.

Recent Political crisis

The unified Opposition had given notice for a no-confidence vote on July 24, 2017 and hoped to impeach the Speaker Abdulla Maseeh, as several MPs belonging to the ruling party crossed the floor and joined it. The Opposition now claims the support of 45 MPs in a Parliament (Majlis) of 85 MPs.

Impeaching the Speaker won't dislodge Abdulla Yameen (Present President of Maldives), because the Maldives follows a presidential form of government, but will weaken him considerably ahead of presidential polls slated for 2018.

This was the result of the order of the President Abdulla Yameen to the troops to barricade Parliament on the 52nd anniversary celebrations of the Maldives. For the second day, troops shoved MPs belonging to the unified opposition, including the Maldivian Democratic Party (MDP) and prevented them from entering.

Background:

- Gayoom, who is half-brother to the current president Abdulla Yameen, was very much part of the government when Yameen defeated Nasheed in a controversial run-off election in 2013 – which took place after Nasheed was overthrown in a coup in 2012 – but has since fallen out with Yameen.

- ▶ Until last year, Gayoom's daughter Dunya was foreign minister of the Maldives.
- ▶ The falling out between Gayoom and Yameen came to a head in March 2017 when Gayoom joined the unified coalition launched by Nasheed.
- ▶ Yameen arrested Gayoom's son Faris and threw him into jail.

Faris Gayoom's arrest was the trigger that has led to this current crisis. It led to several top Western diplomats expressing concern at the growing authoritarianism in the coral islands. The political crisis may create instability in the region which in turn can have impact on both China and India.

Importance of Maldives for India

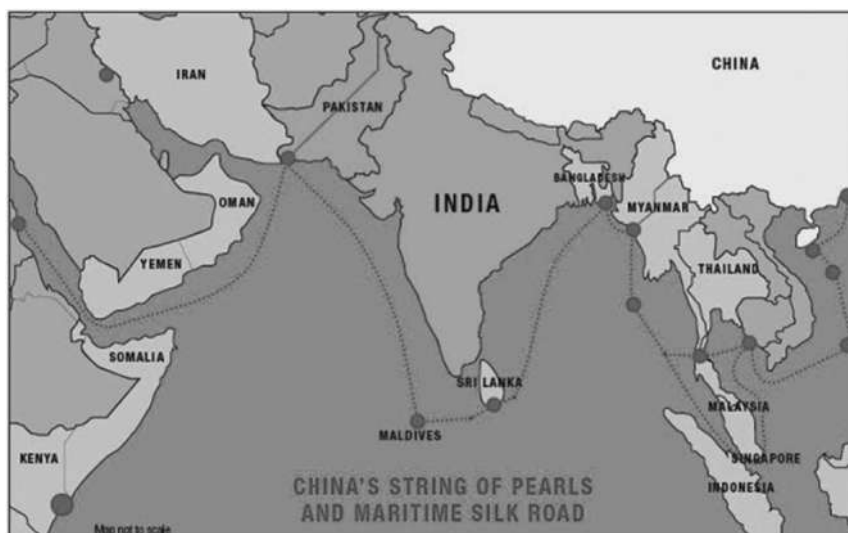
- ▶ **Strategic location:** Significance of Maldives for India and other powers is because of its crucial strategic location in the Indian Ocean along the major sea lanes of communications (SLOCs). A **significant portion of world trade** takes place through the Indian Ocean. All the energy supplies coming from Gulf nations pass through it.
- ▶ **'Neighbourhood first' policy:** At present India is largely engaged in its neighbourhood to restore its hegemony in Asia, most especially in South Asian region. It's recent 'neighbourhood first' policy and renovated 'Act East' policy are indicative of India's intention in this regard.
- ▶ **Support for permanent member of an expanded UN Security Council:** Maldives has pledged its support to India as a permanent member of an expanded UN Security Council.

Influence of China on Maldives

Maldives lies on Strategic Sea Line of Communication between Africa and Middle East to South East Asia and China. Sea Lines of Communication (abbreviated as SLOC) is a term describing the primary maritime routes between ports, used for trade, logistics and naval forces.

China is largely reliant on imported fuel and, more than 80% of its oil imports sail through the Indian Ocean or Strait of Malacca. In terms of Export, China export to West Asia and Europe goes through Indian Ocean.

So Maldives become important for China to secure it's trade route for import of petroleum and export of finished goods. As shown in the figure trade route of Crude Oil from West Asia to China goes through Indian Ocean and particularly from Maldives. In order to secure this trade route China was looking to establish a Navy base in Maldives.



A base in Maldives is seen as part of 'Strings of Pearls' policy of China to surround India with Military bases including one at Gwadar in Pakistan. Maldives is also part of China's Silk Road project. A Chinese navy base in Maldives becomes a direct threat to India's National Interests. So it is important to maintain highest level of Bilateral Relation with Maldives to ensure that China does not establish its navy base in the neighbourhood of India.

Steps taken by China to increase influence in Maldives

- ▶ **Infrastructure and developmental projects:** China is assisting Maldives in some infrastructure and developmental projects, including a bridge between the island in which the airport is located, Hulhumale, and the Capital island, Male, which is about 10 minutes by a passenger ferry.
- ▶ **Silk Road project:** Maldives is also part of *China's Silk Road project*, a move that has not gone down well in New Delhi.
- ▶ **Tourist sector:** China accounts for about one-third of tourist arrivals and is also actively investing in infrastructure construction in the tourist sector in the Maldives. Analysts point out that this engagement could culminate in a Chinese naval presence in Maldives.
- ▶ **Indian Ocean Region:** China's assertive domination and rising influence in Indian Ocean Region is well-known. Being an island nation state, Maldives is the prime destination in Chinese engagement in IOR.
- ▶ **GMR issue:** Male had terminated the agreement it entered into with GMR in 2010 for the modernization of the International Airport. The project was subsequently given to a Chinese company.

India's concern:

- ▶ **China Factor:**
 - President Yameen has tried to keep India happy with his "**India First**" policy. But he evicted GMR, the Indian company building an airport in Male, and got in a Chinese contractor.
 - He is also allowing Beijing to build a port at Gaadhoo island, which sits at the entrance to the so-called One and a Half Degree Channel, a major international shipping passage.
 - India fears that the growing warmth between Maldives' and Beijing will culminate in a Chinese naval presence in the archipelago. Indian analysts argue that China is eyeing a base at one of the atolls.
- ▶ **Radicalisation:**
 - The brutal killing of a liberal blogger in Maldives has brought to the fore the risk from increasing radicalisation in India's neighbourhood. "Growing numbers of radicalized Maldivians should be alarming to neighboring countries as they are often affiliated to other organizations or outfits that carry out terrorist attacks in the region".
 - Presently more than 200 Maldivians are believed to have joined the war in Syria and many of them are expected to eventually return.
 - There were radicalized Maldivians involved in the Mumbai terror attacks of 2008 and a group of armed Maldivians were arrested in Waziristan and Peshawar in 2009.
 - There were earlier reports that Maldivian youth are being lured by madrassas in Pakistan through scholarships.

- ▶ **Saudi-Maldives Nexus:**
 - Yameen had allotted 16 islands to the Chinese that straddle key navigation sea-lanes, and was in talks with Saudi Arabia to give it an atoll.
 - This move was an uncomfortable one as any Saudi-Maldives collaboration leads to suspicion that Islamic forces may see a visible reinforcement or there may be a renewed radicalisation within the Maldives.
 - India looks worried lest the Maldives-Saudi nexus abets the breeding of terrorists. It might seem far-fetched, but with the IS shutting down, it's cadres are likely to return to their respective countries to activate their sleeping cadres.
- ▶ **External Forces:**
 - The political flux in Maldives will also encourage other external forces, like China and Pakistan, to strengthen their hold in the country.
- ▶ **Maldives based jihadi groups:**
 - Maldives is not much far from India's southern coast, and due to this, it may serve as an ideal launch pad for terrorists.
 - Some of the isolated islands of Maldives can be used as store houses for weapons and explosives.

Should India Intervene?

- ▶ India being the largest and oldest democracy in the world has always respected the sovereignty and integrity of other countries. Besides the policy of non interference India has always helped other countries in securing their independence and ideas of democracy.
- ▶ Since the coup of Maumoon Abdul Gayoom to President Nasheed taking refuge in India embassy, India has always intervened at the request of Maldivian authorities.
- ▶ Currently unlike other countries like UK, US who have criticized the present political turmoil, India has restrained from any official statements.
- ▶ Maldives is an important country for India given its geo strategic position in the Indian Ocean. It is an important country for India to ensure maritime security given the fact it is located astride India's sea lanes.
- ▶ Considering the above factors India has to take a cautious approach. Some political analysts argue that India's silence in the present crisis is driven by the fact that any official criticism may tilt Maldives towards Chinese.
- ▶ However, this approach might keep the Maldivian government at India's side but may raise anti India sentiment among the public.
- ▶ So the Indian government should closely watch the developments in Maldives and accordingly take a stand.

INTERNATIONAL ISSUE

Rohingya Issue and India



In the early hours of August 25, around 150 men armed with machetes, bombs and other weapons launched coordinated attacks on 24 police camps and an army base in Myanmar's Rakhine state. The night left 71 dead. It also announced to the world the coming of age of the Arakan Rohingya Salvation Army, a terror outfit led by Ata Ullah.

Who are Rohingya?

The Rohingya people are Muslim Indo-Aryan peoples from the Rakhine State, Myanmar. According to the Rohingyas and some scholars, they are indigenous to Rakhine State, while other historians claim that the group represents a mixture of pre-colonial and colonial immigrations. The official stance of the Myanmar government, however, has been that the Rohingyas are mainly illegal immigrants who migrated into Arakan following Burmese independence in 1948 or after the Bangladesh liberation war in 1971.

Complex issues related to it

There is a dispute over the term "Rohingya" which has been extremely divisive in Myanmar for decades. While the Muslims in Rakhine, their activists, politicians and representatives like to be known as "Rohingya," the Myanmar government insists the term "Muslims in Rakhine state" is more accurate. Some radical opponents of Islam even call them "Bengalis" to indicate that the Rohingya are illegal migrants from the neighboring Bangladesh.

The disagreement over the term "Rohingya," like many other issues in the state, is part of the political discourse because nationality and civil rights have been ethnically defined in the Southeast Asian country since the colonial era.

The controversial 1982 citizenship law, which is an extension of the post-independence 1948 legislation, aims to push back foreign influences, especially those of Indians and Chinese, and therefore recognizes citizenship retroactively.

The law that gave national citizenship to only those Burmese who could prove having ancestors residing in the country before British colonial rule, was the strongest case of institutionalised discrimination against the Rohingyas. They found themselves classified as 'associate' citizens.

The rules laid out for 'associate' citizens deprived the Rohingyas of holding any government office and several other citizenship rights. Further clauses of discrimination restricted their movements and even marriages and birth rates within the community were closely monitored and inhibited.

With the change in citizenship rules, frequent cases of armed struggles erupted that aimed at destroying Muslim villages and mosques, followed by mass outflow of Rohingyas into neighbouring countries, especially Bangladesh and India.

Issues faced by Rohingyas

Rohingyas and other Muslims living outside displacement camps also face similarly severe restrictions on their freedom of movement, limiting their access to livelihoods, healthcare, food and education. In Central Rakhine State, Rohingyas are not allowed in the main towns and, in most cases, are able to travel to other Muslim villages often only by waterway.

In northern Rakhine State, Rohingya movement was subject to a complex system of travel authorisations, and restrictions that were strictly enforced by state security forces, including the military and the Border Guard Police (BGP).

Hundreds of people have been killed at the hands of the military, many more hundreds have disappeared, scores of women sexually assaulted, villages razed to the ground, and tens of thousands have fled the country. A large number of those escaping the brutal violence end up in the well-oiled trafficking networks of the region who smuggle them out for huge amounts of money. Some die en route, some make it to the borders of neighbouring countries only to be turned away: hordes, including little children, often get stranded at sea.

Myanmar, however, denies that its military has committed any wrong. A government-appointed inquiry committee recently concluded that “there were no cases of genocide and religious persecution in the region”.

What is the Stand of Government regarding Rohingyas immigration?

The Rohingya Muslims fled to India after violence in the western Rakhine State of Myanmar. Around 14,000 Rohingyas living in the country are registered with the United Nations High Commissioner for Refugees, while about 40,000 are said to be staying illegally.

Union Minister of State for Home Affairs has given the Statement that Rohingyas are illegal immigrants and stand to be deported. The Centre has instructed all state governments to start the process of their deportation.

Why deportation of Rohingyas are needed?

Burmese, Bangladeshi and Indian intelligence agencies have found that Pakistan's terror groups are hiring Rohingyas from Bangladesh's refugee camps, training and arming them.

In this backdrop, it is not just wise but urgent for India to deport 40,000 Rohingya Muslim refugees whom it has identified as illegal immigrants. There is a clear and present social, economic and security danger. And if India does not set down the rules of the game right now, it will be difficult to argue against and stop influx later.

India is among nations worst affected by Islamic terrorism. It has its serious demographic challenges. Thousands of Rohingya refugees, most of them settled in Jammu and Kashmir where already Islamist separatism is raging, are a people ripe for terror hiring and indoctrination. Rohingya groups have been engaged in armed militancy since the 1940s with the aim of seceding from Myanmar and creating an Islamist state.

The Falah-e-Insaniyat, the so-called charitable arm of the core jihadi group has been claiming relief activities for fleeing Rohingyas. It's leaders have been active in refugee camps in Indonesia in Langsaah and Louk Samawa.

Hafeez Saeed, the undisputed terrorist prima donna in Pakistan, has been actively involved in supporting the Rohingya cause with workshops and related activities among refugees in Karachi in particular. This connection is enough to cause India to pause, even though the ARSA itself has shown on extremist religious tendencies at all.

What is the response of NHRC in this regard?

The National Human Rights Commission issued a notice to the Union Ministry of Home Affairs over the planned deportation of about 40,000 Rohingya immigrants from Myanmar, asking for a detailed report within four weeks.

The NHRC observed that the refugees are no doubt foreign nationals but they are human beings. Before taking a big step, the Government of India has to look into every aspect of the situation, keeping in focus the fact that the members of the Rohingya community, who have crossed into India and are residing here for long, have a fear of persecution once they are pushed back to their native country.

NHRC highlighted the Supreme Court's decisions that say the Right to Life and Personal Liberty under Article 21 of the Constitution apply to all, irrespective of their citizenship. It observed that its intervention in the matter was appropriate given the potential implication on the human rights of the Rohingyas.

The NHRC said that though India was not a signatory to the 1951 Convention on Refugees and the 1967 Protocol, it was a signatory to many United Nations and world conventions on human rights.

Recommendations of the 'Advisory Commission on Rakhine State'

The Commission is headed by former UN secretary-general Kofi Annan, and formed at the request of State Counsellor Aung San SuuKyi, submitted its report.

The report says: "While Myanmar has every right to defend its own territory, a highly militarised response is unlikely to bring peace to the area. What is needed is a calibrated approach — one that combines political, developmental, security and human rights responses to ensure that violence does not escalate... If the legitimate grievances of local populations are ignored, they will become more vulnerable to recruitment by extremists."

The commission has recommended that the government clean up its 1982 citizenship laws that exclude the 1 million Rohingya population, and meanwhile, not discriminate against non-citizens; invest more in the socio-economic and education development of Rakhine state; allow Rohingya interned in camps to go back to their villages; and give them freedom of movement so they can access economic opportunities.

It points to the underdevelopment of the province where the other ethnic group, the Rakhine Buddhists, also feels discriminated against by the majority Burman Buddhists; the "statelessness" of the Rohingyas; their segregation, lack of voting rights, restrictions on their movement, and denial of economic opportunities to them.

It also points to radicalisation on both sides of the ethnic divide, and the emergence of the armed militant group ArakanRohingya Salvation Army, which wants an independent Rohingya state, as well as the RakhineArakkan Army (AA).

Both the main political party in Rakhine and the Myanmar military opposed the commission. SuuKyi has accepted the report but its implementation is up in the air.

Conclusion

The response of nation towards the crisis vary. During the recent prime ministerial visit, the joint statement while calling for peace and communal harmony, expressed concern at both civilian and security forces casualties, indicating a very even-handed response.

China, on the other hand, has condemned the terrorist attacks, and has not hesitated to offer mediation between Myanmar and Bangladesh.

China and Russia had earlier blocked the UN Security Council statement expressing concern at the humanitarian crisis.

Recent statements by Myanmar's officials indicate that they would be again seeking support from these countries, as well as Turkey.

To handle the issue of terrorism and instability in Bangladesh due to migrants, India should provide humanitarian assistance and follow the humanitarian principles while working on safety of the nation.

INTERNATIONAL ISSUE

US Afghan Policy



US President Donald Trump put forward a long-awaited strategy for resolving the nearly 16-year-old conflict in Afghanistan, but declined to specify either the number of troops that would be committed, or the conditions to judge the success of their mission. US said that there will be planned and deepened American involvement in a military mission in Afghanistan because hasty withdrawal would create a vacuum for terrorists, including ISIS and Al Qaeda.

Introduction

Afghanistan is a crucial front in the global struggle against the al-Qaeda terrorist network and Islamic radicalism. The U.S.-led coalition was unable to transform an overwhelming military victory in 2001 into a stable postwar political situation because of several factors, including Afghanistan's fractious politics and shattered economic, state, and civil society infrastructures; a minimalist American approach to committing military forces and foreign aid; Pakistan's failure to crack down decisively on Taliban forces that have taken refuge in Pashtun tribal areas along the Pakistan-Afghanistan border; and the Afghan government's failure to expand its authority and deliver services to rural Afghans.

The US has currently 9000 troops stationed in Afghanistan in its longest war in history that began in 2001. Now the recent strategy shift by US sought to send around 5000 more US troops to the South Asian nation to tackle the critical situation in war torn Afghanistan.

An estimated 8,400 American troops are assigned to an approximately 13,000-strong international force that is training and advising the Afghan military. About 2,000 American troops are tasked with carrying out counterterrorism missions along with Afghan forces against groups like the Islamic State's Afghan affiliate, the Islamic State in Khorasan.

With respect to this recently, US President Donald Trump has outlined a New Afghanistan War Strategy. United States Donald Trump's decision to deepen the country's military engagement in war-torn Afghanistan signals a significant shift in the position it has held for years.

US Strategy for Afghanistan

Earlier President Mr. Trump had campaigned to end American involvement in foreign conflicts and was particularly critical of the Afghan war but the announcement of the decision to send more troops to the country reflects a realization that the U.S. does not have many options in dealing with its longest military conflict.

This reminds of the dangerous security situation in Afghanistan. Sixteen years since US ordered the American invasion of Afghanistan and toppled the Taliban regime,

the insurgents are on the ascendent again. More than half the country's territory, mostly in rural, mountainous areas, is now controlled by the Taliban, while the Islamic State has set up base in eastern Afghanistan.

In recent years, both the Taliban and the IS have carried out a number of terror attacks in the country, including at highly fortified military locations, raising questions about the very survival of the government in Kabul.

This is a critical point for US, who wants to avoid the kind of vacuum left behind by the Soviet withdrawal in the late 1980s that plunged Afghanistan into a protracted civil war and the Taliban eventually took over the vacuum.

Unlike previous decisions, which set a timetable for the withdrawal of troops, now US is ready for an open-ended engagement. President Trump said that the focus of the American mission should narrow down to fighting terrorists, not rebuilding Afghanistan "in our own image".

Key takeaways of US-Afghan Policy

- ▶ **Troop Levels:** The President is giving the Pentagon authority to ramp up troop levels in Afghanistan by several thousand, but Trump declared the US military would not talk specifically about troop levels there.

The additional troops would serve in two roles: counterterrorism missions and training the Afghan forces.

- ▶ **More military autonomy:** The Obama administration placed restrictions on US offensive operations in Afghanistan after the Afghan forces took the lead on fighting the Taliban, a move that frequently frustrated commanders in the field. However, Trump stated that he would give military commanders the authority to act in real time and expand the authorities for US armed forces to target terrorists and criminal networks in Afghanistan.

- ▶ **Political talks:** The end-goal of Trump's plan in Afghanistan was to bring the Taliban to the negotiating table to find a political solution to the Afghan war. The goal was the same as that of President Barack Obama, but Trump argued his plan has a key difference from that of his predecessor: no timelines on the withdrawal of US troops.

- ▶ **Changing Pakistan:** Pakistan's role in providing a safe haven for the Haqqani network has frequently been a thorn in the side of the US military.

Trump threatened to cut off US aid to Pakistan to persuade them to help fight terrorism in Afghanistan.

The United States would put significant new pressure on Pakistan to crack down on the terrorist sanctuaries that line its border with Afghanistan. US strategy could open a turbulent new chapter in relations with Pakistan, which has veered since the Sept. 11, 2001, attacks from being an ally in the fight against terrorism to a haven in which Osama bin Laden hid out until he was killed in 2011.

- ▶ **Role of India:** Trump acknowledges India's importance and its significant role in stabilizing Afghanistan, but wants it to do more.

India has played an important role in Afghanistan's reconstruction in post Taliban era spending around \$2 Billion since 2002 on development projects including its parliament building and committed another \$1 Billion last year. The Indian aid basically has been in infrastructure development, health services and military equipments like bullet proof jackets and convoy vehicles. But breaking the tradition of not giving lethal military equipments in aid, it gave Afghanistan four attack helicopters last year and is also training its soldiers.

India has welcomed US strategy, as the U.S.'s objective in building a stable Afghanistan and ending Pakistan's sponsorship of terrorism are exactly in line with India's own goals for the region.

India is clearly on the US radar because of the fact that powerful US Senate Armed Services Committee has strongly advocated for a strong Indian role in Afghanistan. The committee believes that the US needs to recommit to the fight in Afghanistan and that India, as a major defence partner of the US and a contributor to regional security, has a critical role to play in this effort.

With the Trump administration's pro-India bent, India may emerge as an instrumental player in Afghanistan with US policy change. If it happens, it will be a humiliating setback for Pakistan which sees India's increasing influence in Afghanistan against its interests. Another thing working against Pakistan is the fact that it doesn't hold good relations with Afghanistan's ruling establishment and is fast losing its credibility in US as well.

Also, the current strategy shift is done in the backdrop of pro India and anti Pakistan developments in the US. Recently President Donald Trump called Prime Minister Modi to wish India on its Independence Day while he didn't extend the courtesy to Pakistan.

Earlier, US first termed Syed Salahuddin a global terrorist in June and then declared his ISI supported organization Hizbul Mujahdeen a terrorist outfit. Besides Pakistani propaganda calls them freedom fighters and has termed the US action completely unjustified.

Before it, the US pressure had forced Pakistan to house arrest Hafiz Saeed in January this year. And to compound Pakistan's problems, its latest Country Report on Terrorism has called Pakistan a haven for India-centric terrorists.

Also, the US has made a part of its military assistance to Pakistan conditional to its handling of Afghan terror groups including the Haqqani Faction and it withheld the amount for this year and the last year, over \$600 million, as Pakistan could not convince the US of its action against the Haqqani Faction.

Conclusion

In substance, Mr. Trump's strategy is not all that different from Mr. Obama's, relying on a mix of conventional military force and diplomatic pressure on Pakistan. There is no major change in the mix of American forces operating in Afghanistan, and that the priorities would remain training Afghan forces and conducting counterterrorism operations.

However, consolidating a stable Afghanistan that is free from Taliban influence and ideology will be expensive and will require a patient, long-term, integrated political, military, and economic strategy.

GOVERNANCE ISSUE

Data Protection Law in India Needed



Today there is an unprecedented amount of personal data available with Government and Private Sector Players. People are increasingly making their personal information available publically. Digital India, Aadhaar and Demonetization drives have added to the already growing pool of personal data with various public and private players to pursue their activities.

Hereby analyzing the need for data protection in India and steps initiated by government.

Introduction

IoT devices, though convenient, have increasingly been a cause of concern when it comes to their role in violation of individual privacy and security of private data.

When an individual download the applications, the wide range of permissions Android apps require as a condition of use.

This may not be a typical security risk, but is certainly a major privacy risk because it lets the app access hardware and data on your phone, which it may or may not necessarily require.

Apart from that for instance, Google has stored petabytes of information about billions of people and their online browsing habits. Similarly, Facebook and Amazon have collected information about social networks. In addition to using this data to improve products or services that these corporations offer, the stored data is available also to highest bidders and governments of nations where these companies are based.

One major problem with collecting and storing such vast amounts of data overseas is the ability of owners of such data stores to violate the privacy of people. Foreign governments or rogue multinationals could clandestinely access these vast pools of personal data in order to affect policies of a nation. Such knowledge could prove toxic and detrimental in the hands of unscrupulous elements or hostile foreign governments.

Further Manufacturers or hackers could actually use a connected device to virtually invade a person's home. German researchers accomplished this by intercepting unencrypted data from a smart meter device to determine what television show someone was watching at that moment. These all above stated examples highlight the issue of data privacy and protection.

Existing Provisions

India already has some data protection and privacy provisions in the Information Technology Act 2000, amended in 2008 and the subsequent IT rules defined in

2011. But the IT Act 2000/8 doesn't define sensitive personal information directly and only provides guidance for reasonable security practice and due diligence - the actual implementation standards have not been explicitly prescribed.

The current data protection regime is under section 43A of the IT Act 2000/8, and the regulations made thereunder. These regulations are weak, do not specify any governmental agency, and do not lay out penalties for violations.

The government acknowledged that there was no proper regulatory framework to deal with privacy concerns of citizens arising out of "over-the-top" popular messaging services such as Whatsapp, Facebook and Skype. Consequently, the Department of Telecommunications is exploring creating a "regulatory framework" through legislation to address data protection and citizens' privacy concerns. The government of India has recently informed the Supreme Court of India that it expects to put in place a comprehensive data protection framework by October.

Draft of Data Protection and Governance Act

The draft of Data Protection and Governance Act by the Union IT and electronics ministry has been proposed to put all digital data captured through handheld, desktop or systems manually or through biometric and point of sale (PoS) devices, card swiping machines among others under the ambit of the proposed Act.

According to the Draft, the personal data in the ownership of the minister or the ministers for defence/home affairs kept for the purpose of safeguarding the security of the state, and personal data consisting of information that the person is keeping the data required by law to make available to the public or authorised authorities will not come under its purview.

There are also provisions for penalty/imprisonments for leakage of personal data. Knowingly or unknowingly if somebody leaks personal data or data owned by other will be punishable with imprisonment up to three years with fine which may extend up to Rs 2 lakh or with both, as per the draft. There are various provisions for retention/stealing/sharing/encryption of data.

NIC's centre for data governance will undertake research to develop indigenous technologies, electronic tools, digital platforms, procedures and processes for data governance and protection.

NIC will build a data governance platform with the budgetary support of the government to facilitate the creation of Indian digital assets.

A central data governance authority will be set up at the national level which will register and coordinate with state data governance authorities. These state authorities will work with district data governance authorities. For each organisation (managing digital data), there will be a data governance authority as well. The minimum size of digital data and other criteria of registering data governance authorities will be officially notified by the government, as per the draft.

A data governance authority will define ownerships, roles responsibilities of people managing data assets, define processes for compliance, ensuring quality, master data management, data masking, data security, data sharing and archiving activities among others.

Basic Principles for Data Protection

Processing of personal data should be fair and transparent. Providers of personal information should be made aware of risks, rules, safeguards and rights in relation to the processing of personal data and how to exercise their rights in relation to the processing of personal data and how to exercise their rights in relation to such

processing. Particularly, the specific purposes for which personal data is processed should be explicit and legitimate and determined at the time of the collection of the personal data.

Basic principles guiding processing of Personal data are as follows:-

- ▶ Personal data should be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
- ▶ Collection of Personal Data should be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- ▶ Personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes
- ▶ Personal data should be processed in a manner that ensures appropriate security of such data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
- ▶ Data protection rules should be applicable to all entities and persons handling personal data – both private and public sector bodies.
- ▶ The privacy policy should contain the policy for handling with such data, body corporate's policies and procedures, type of personal data that is being collected, the purpose and usage of such information and details about its disclosure and reasonable practices put in place.

Conclusion

With increased digitisation across the country, there is a need for firm safeguards to secure the surge in digital data besides provisions for handling the data protection.

The committee headed by Justice B N Srikrishna, former Judge, Supreme Court, will deliberate on a data protection framework for the country. The committee with 10 experts will also identify key data protection issues in India and recommend methods of addressing them.

The draft will act as the guideline for the committee which will submit the report by October.

ECONOMIC ISSUE

Why Indian Railway is Accident Prone?

Context

On August 19, thirteen coaches of the Haridwar-bound Puri-Haridwar Utkal Express went off the tracks near the Khatauli railway station in Muzaffarnagar, Uttar Pradesh, claiming at least 21 lives and injuring more than 90. This was followed by the derailment of 10 coaches of the Kaifiyat Express in Auraiya district of Uttar Pradesh four days later, after it collided with a dumper, injuring around 100 passengers. This was followed by the collision of a train with a lorry at an unmanned level crossing in Tamil Nadu's Villupuram region on the same day.

Safety has been one of the biggest concerns in the Indian Railways system. Accidents has declined from 135 in 2014-15 to 104 in 2016-17, the derailments went up from 63 to 78 during the same period the number still remains above 100.

In light of recent train accidents, we are discussing why Indian Railways is accident prone.

Introduction

Rail accidents occur when trains travelling on the same tracks collide or when trains derail because of technical faults in the rolling stock, the rails or the security systems, or because of landslides, avalanches or objects obstructing the rails (possibly caused by deliberate actions, such as terrorist attacks).

Usually, these types of accidents cannot be avoided as the train driver or security personnel do not have enough time to react, unless they are travelling under special protection because of an exceptional situation. Such accidents cause direct and indirect damage to people and the environment. They are relatively rare, however, and can be avoided by taking strict preventive and protective measures.

Reasons:

The problem of railway accidents is not of safety standards but the execution of standards. The different reasons are discussed below:

► Derailments:

- ▣ Derailments are mainly caused by **rail fractures**.
- ▣ Most of the coaches of the trains are also old. Some of them, which are made at the Integral Coach Factory (ICF), Chenne. These coaches are known to **pile up or capsiz** on collisions and derailments.

- Of the total track length of 1, 14,907 km in the country, 4,500 km should be renewed annually. However, in 2015-16, of the 5,000 km of track length due for renewal currently, only 2,700 km of track length was targeted to be renewed.
- ▶ **Accidents due to failure of railway staff:**
 - More than half of the accidents are due to lapses on the part of railway staff. Such lapses include carelessness in working, poor maintenance work, adoption of short-cuts and non-observance of laid down safety rules and procedures.
- ▶ **Unmanned level crossings:**
 - Currently there are 14,440 UMLCs in the railway network. In 2014-15, about 40% of the accidents occurred at UMLCs, and in 2015-16, about 28%. Between 2010 and 2013, the ministry fell short of meeting the targets to eliminate UMLCs
 - The Standing Committee on Railways had recommended that audio-visual warnings should be implemented at level crossings to warn road users about approaching trains. These may include the Approaching Train Warning Systems and the Train Actuated Warning Systems.
 - In the Union Budget 2017-18, elimination of all unmanned level crossings on broad gauge lines by 2020 has been proposed.
- ▶ **Accidents due to loco-pilots:**
 - Accidents also occur due to signalling errors for which loco-pilots (train operators) are responsible.
 - With rail traffic increasing, loco-pilots encounter a signal at every kilometre and have to constantly be on high alert.
 - Currently no technological support is available to the loco-pilots and they have to keep a vigilant watch on the signal and control the train accordingly.
 - Loco-pilots are also overworked as they have to work beyond their stipulated hours of duty. This work stress and fatigue puts the life of thousands of commuters at risk and affects the safety of train operations.
- ▶ **Fire:**
 - Most trains in India still lack effective systems to detect smoke and fire. In some trains, the fire alarm systems have been installed in air-conditioned coaches, while other compartments have been neglected.
 - In open compartments, it is more difficult to detect smoke. The Tamil Nadu Express fire took place in the train's non-AC coaches.
- ▶ **Increased traffic:**
 - The report stated that while passenger and freight traffic has increased by 1,344 % and 1,642 % respectively from 1950 to 2016, the Railways' route kilometres have increased by only 23%.
- ▶ **Underinvestment in Railways:**
 - Various committees such as the High Level Safety Review Committee in 2012 (chaired by Anil Kakodkar) and the Standing Committee on Railways have looked at the aspect of safety in the Indian Railways and made certain recommendations. According to the Kakodkar Committee, the total financial implication of the safety measures over the five-year period (2012-17) was likely be around Rs 1 lakh crore.

- In the Union Budget 2017-18, the creation of a Rashtriya Rail Sanraksha Kosh was proposed for passenger safety. It will have a corpus of Rs 1 lakh crore over a period of five years (Rs 20,000 crore per year).

Solutions:

- ▶ **Upgradation of railway tracks:**
 - The frequency of mishaps tied to broken rails and other track defects is an unmistakable symptom of a highly stressed-out track network that needs more than just track renewals. It actually demands need-based upgradations of track standards too.
 - Substantial investments in the renewal and rehabilitation of India's fatigued track system and aged bridge structures on a national scale needed.
- ▶ **Loco-pilots:**
 - Loco-pilots and other related running staff should be provided with sound working conditions, better medical facilities and other amenities to improve their performance.
- ▶ **Signals:**
 - With regard to signals, the location of signals can be uniformly displayed and be linked with visibility, braking distance and speed.
 - An auxiliary warning system that gives advanced warning about "signal at danger" to the engineer of the train may be commissioned.
- ▶ **Address human error:**
 - The harsh punishments that the railway administration might invoke to deal with human failures associated with rail disasters could help in controlling mishaps to some extent.
 - Establishing regulations, signalling systems, training personnel that minimise technical and human failures and malicious attacks.
- ▶ **New tracks:**
 - There is an urgent need to modernize the key revenue generating assets of the railways such as tracks and bridges. There should be modernization of 19,000 kilometers of existing tracks.
 - Increasing the use of tie-tamping and ballast cleaning machines for track maintenance
- ▶ **Manned railway crossings:**
 - The government should provide "easy options" such as "improved fencing, flyovers and overpass bridges" so that people don't just rush across the railway tracks.
 - The Standing Committee on Railways had recommended that audio-visual warnings should be implemented at level crossings to warn road users about approaching trains. These may include the Approaching Train Warning Systems and the Train Actuated Warning Systems. In the **Union Budget 2017-18**, elimination of all unmanned level crossings on broad gauge lines by 2020 has been proposed.
- ▶ Government needs to bring major reforms such as, the creation of a statutory safety authority, speedy replacement of ageing coaches with modern LHB design, and revamped management that keeps its focus on core train operations.

- ▶ Upgrading track structures, digital ultrasonic testing, electrically monitoring track geometry and crash-proofing the coaches are some of the preventive measures yet to be taken.
- ▶ The Linke Hoffman Busch (LHB) coaches made of stainless steel with high shock absorption capabilities must be inducted earliest as recommended by the Anil Kakodkar committee.
- ▶ A time-bound filling up of vacancies in Critical Safety Categories and Manpower Planning Issues must be initiated to bridge the man-power gap in railways.

Measures taken by the Government

- ▶ **Insurance scheme:**
 - Indian Railways has launched an insurance scheme for passengers travelling on e- ticket. Person booking a train ticket through the IRCTC website will be eligible for the travel insurance and it is optional. To avail the facility, train passengers have to pay 92 paise premium. The facility will be available only for confirmed and RAC ticket passengers.
- ▶ **Tri-NETRA:**
 - The Indian Railways has initiated process to launch the *Terrain Imaging for Diesel Drivers- Infrared Enhanced Optical and Radar Assisted* (Tri-NETRA) system to avoid train accidents.
 - The system will be installed on locomotives for enhancing the vision of Locomotive Pilots in inclement weather.
- ▶ **Rashtriya Rail Sanraksha Kosh:**
 - The Union Finance Ministry has agreed to contribute partially to a new dedicated railway safety fund named as Rashtriya Rail Sanraksha Kosh in the upcoming Union Budget 2017-18.
 - The proposed safety fund will be utilised for track improvement, bridge rehabilitation, rolling stock replacement, human resource development, improved inspection system and safety work at level crossing, among other things.
- ▶ **Train Collision Avoidance System (TCAS):**
 - It is a radio communication based system aims at providing capability of preventing train accidents caused due to Signal Passing at Danger (SPAD) or non observance of speed restrictions by train drivers.
- ▶ **Train Protection and Warning System (TPWS):**
 - It is a Automatic Train Protection System to avoid train accidents on account of human error of SPAD or over-speeding.

Starting FY18, the government plans to spend Rs 1.19 lakh crore under the Rashtriya Rail Sanraksha Kosh (RRSK) over the next five years. This financial year, it would fund about 37 per cent of the annual budget — or nearly Rs 20,000 crore — for safety works proposed by the railway ministry.

Some of the major expenses would be yard remodelling and related works (Rs 3,085 crore), rolling stock (Rs 1,731 crore), level crossings (Rs 705 crore), overbridges and underbridges (Rs 4,512 crore), and track renewals (Rs 9,961 crore).

The central government has also recently approved setting up a regulator, the Rail Development Authority (RDA), to will decide on tariff, ensure fair play and a level playing field for stakeholder investment in the railways, augmenting efficiency and performance standards, and dissemination of information.

All these steps may help in improving the railway infrastructure.

ECONOMIC ISSUE

Value Creation Mechanism for Urban Infrastructure

Context

Indian cities continue to need heavy amounts of capital for financing urban infrastructure, an estimate by McKinsey Global Institute pegs it at \$1.2 trillion over the next 20 years. One innovative and increasingly accepted way to fund urban infrastructure is through Land Value Capture finance (LVC).

Hereby discussing the concept of Value Capture Finance and its significance.

Introduction

Currently, the different sources of revenue that municipal corporations have access to include: (i) tax revenue (property tax, tax on electricity, toll tax, entertainment tax), (ii) non-tax revenue (user charges, building permission fees, sale and hire charges), (iii) grants-in-aid (from state and central governments), and (iv) debt (loans borrowed from financial institutions and banks, and municipal bonds).

While cities are now required to raise more financing for urban projects, they do not have the required fiscal and technical capacity.

In order to help cities improve their finances, the government has introduced the concept of Value Capture Financing.

Value Capture as practiced widely in the world is based on the principle that private land and buildings benefit from public investments in infrastructure and policy decisions of Governments (eg. change of land use or FSI).

Appropriate VCF tools can be deployed to capture a part of the increment in value of land and buildings. In turn, these can be used to fund projects being set up for the public by the Central/State Governments and ULBs. This generates a virtuous cycle in which value is created, realized and captured, and used again for project investment.

The different instruments of VCF include: land value tax, fee for changing land use, betterment levy, development charges, transfer of development rights, and land pooling systems.

Value capture strategies

- ▶ **Land development and land auction:** The most direct value capture for governments is to build land banks through strategic acquisitions. Once a part is developed, the value of the remaining land rises and the government can capture the entire increment by selling it. However, given the political economy surrounding land transactions, this government-as realtor strategy is likely to encourage undesirable practices.

Hence rather than investing in developing the land assets and then selling them to private stakeholders importantly through auctions will help to realize revenue for the urban local bodies.

- ▶ **Tax Increment Financing:** TIF captures value through taxes levied on property value.

Under this approach, a 'TIF zone' is established in the vicinity of proposed infrastructure, where property values are expected to rise. Pre-investment, or base property values, in the zone are determined by the government, as is base tax revenue.

When property values rise in the TIF zone due to infrastructure investment, the increased tax revenue above the base rate is directed to re-paying loans used to finance the investment.

- ▶ **Impact Fee:** Impact fees are levied, apart from the development charges, on new constructions in an area where a large new public investment has been announced. Such investments could include major roads and highways, metro rail, industrial corridors, ports, airports, and any other public infrastructure facility. They are levied to recover at least a share of the investment made. The impact fee generally vary depending on the location, the land usage, and height. It is collected when the landowner applies for new construction permission.
- ▶ **Land Pooling Schemes:** Land Pooling Scheme (LPS) is a form of land procurement where all land parcels in an area are pooled, converted into a layout, infrastructure developed, and a share of the land, in proportion to original ownership, returned as reconstituted parcels.
- ▶ **Capital Gains Tax:** Capital gains tax is the commonest form of value capture. The tax is imposed when the property sold and accrues on the incremental value addition.
- ▶ **Land Value Tax:** It is an annual land-value tax on the increment of (built-up) land value. Apart from capturing any value increment, it helps stabilize property prices, discourage speculative investments and is considered as least distortionary and most efficient among all value capture methods.
- ▶ **Air rights:** Air rights are a form of value capture that involves the establishment of development rights above, or in some cases below, a transportation facility that generates an increment in land value. These further developments are expected to lead to increases in land value. One of them e.g. selling rights to build a station with shopping spaces on top of a metro exit to a private actor, as this will increase land value and be beneficial for both the public and private party.

Advantage and Disadvantage by Using few Value Capture Mechanism

- ▶ **Betterment tax**

Advantages	Disadvantages
▶ Shifts the burden of infrastructure finance from the general public to the properties that directly receive the benefit, while avoiding the short-term time horizon of purely private infrastructure provision.	▶ Betterment tax is most effective in robust markets, and well-established tax administration system.
▶ Equitable, easily understood and efficient levy because it seeks to recover the added value on private land assets accrued with the transport investment.	▶ Land registries for residential properties are often incomplete.

<ul style="list-style-type: none"> ▶ Create incentives for higher density urban development, because private beneficiaries are forced by the tax to avoid land speculation. This is particularly important in markets where we have high land demand pressures. 	<ul style="list-style-type: none"> ▶ Moreover, the collection of the tax may be complicated and ineffective, thus exacerbating the perception of unjust treatment which can then trigger delays of the actual use of the tax revenue for a transport investment
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▶ **Tax Increment Financing**

Advantages	Disadvantages
<ul style="list-style-type: none"> ▶ TIF, tax increment finance has the flexibility to allow for different funding alternatives, to secure bank loans to local authorities or directly to promoters, either for an up-front investment or as periodic payments during the construction phase. 	<ul style="list-style-type: none"> ▶ TIF is highly controversial because it has an impact in local government district financing, such as for schools.
<ul style="list-style-type: none"> ▶ It has a limited life cycle that ends agreed point in time or when the project complete 	

Example of Value Capture mechanism in India

The Mumbai Metropolitan Region Development Authority (MMRDA) and City and Industrial Development Corporation Limited (CIDCO) have used different Value Capture methods including Betterment levy to finance infrastructure development in the urbanizing areas. Tamil Nadu and Maharashtra have made Land Value Tax applicable to urban areas too under which increase in land value is tapped through increased revenue tax. West Bengal has formulated a system to capture gains from land use conversion. Area based Development charges are being resorted to in Andhra Pradesh, Gujarat, Maharashtra, Tamil Nadu and Madhya Pradesh. Karnataka, Gujarat and Maharashtra have made enabling provisions for enabling Transfer of Development Rights to buy additional FSI/FAR. Tax Increment Financing (TIF) enables realization of investments through increased taxes in the area of influence of a project and has been proposed by some cities under Smart City Plans.

Andhra Pradesh Government has resorted to Land Pooling for acquiring land for its Amaravati Capital Project under which farmers have given land in return for developed land parcels. Gujarat and Haryana also used this tool for some projects.

Conclusion

To establish an efficient and financially self-supporting urban infrastructure system in India, it is crucial that more viable funding strategies and policies such as betterment tax, tax incrementing financing (TIF) should be adopted. Value capture mechanism alongwith concept of Municipal bonds can increase the funding for urban development.

GOVERNANCE ISSUE

Dismal Public Healthcare System


Context

According to the officials at the BRD Medical College, 77 children have died of acute encephalitis syndrome (AES) in Gorakhpur. While 30 died in two days (August 10 and 11), allegedly due to lack of oxygen following non-supply of cylinders by the contractor for non-payment of dues, 12 died due to AES (acute encephalitis syndrome) and the remaining due to other causes.

The tragedy has triggered a massive outcry across the nation and has highlighted the abysmal state of India's healthcare system and focused attention on the country's low public health spending.

Public Health System of India

Primary Healthcare has been defined as an essential healthcare which should be based on practical, scientifically sound and socially acceptable methods and technology.

Primary healthcare is the first level of contact of the individuals, the family and the community with the national health system bringing healthcare as close as possible to where the people live and work. It constitutes the first element of the process of continuing healthcare, and this should get full support from the rest of the health system. This support would be required in the following areas: (a) consultation on health problems; (b) referral of patients to local or other specialized institutions; (c) supportive supervision and guidance; and (d) logistic support and supplies.

Keeping in view of the constitutional obligations, the Government of India has planned Primary healthcare centres. Thus based on population norms, the primary healthcare infrastructure has been developed in rural areas as a three-tier system –Sub-Centre, Primary Health Centre and Community Health Centre; and the services of these three centres are also assisted by the presence of Rural Family Welfare Centres.

The Sub-Centres provide first level contacts between the primary healthcare system and the community. Tasks assigned to these health institutions vary from state to state. In some states the Auxiliary Nurse Midwives (ANMs) stationed in sub-centres perform deliveries and refer only the complicated cases to PHCs or beyond. In some states the emphasis is on interpersonal communication so as to bring a behavioural change in maternal and child health, family welfare, nutrition, immunization, diarrhoeal control and control of communicable disease.

The PHC is referral unit for about five to six Sub-Centres. Activities of PHC include curative, preventive and promotive healthcare as well as family welfare services. CHCs serve as first referral units (Furs) for four to five PHCs and also provide facilities for obstetric care and specialist consultations.

According to norm, each CHC should have at least 30 beds, one operation theatre, X-Ray machine, labour room, laboratory facilities, and to be staffed by four medical specialists - surgeon, physician, gynaecologist and paediatrician.

Reasons for dismal public healthcare system

From inadequate financial resources and a shortage of qualified doctors to the lack of accountability and poor regulation of medical practices; successive governments have failed to plug the systemic deficiencies that threaten to make India the “sick country” of the world.

► Government Spending and Budget related issues

It is worrying that the Centre’s health spending has remained largely unchanged in real terms – at around Rs 15,000 crore annually – for the past seven years. Yet, finance ministers keep announcing new schemes year after year, letting populism overtake real concerns around the state of healthcare.

Further high proportion of budgetary allocations goes unspent every year. Between 2011-12 and 2015-16, actual spending was about Rs 21,000 crore, or 12%, less than what was allocated in annual budgets during this five-year period.

Such shortfalls can be attributed to flawed design of the health plans, inflexible rules and bureaucratic red tape, all of which were at play in the context of Gorakhpur.

A bigger concern relating to the trend in public health spending stems from a rising share of salaries and campaigns at the cost of supply of medicines and in-patient treatment. According to the former Union Health Secretary, the share of salaries in what all the states spent on health increased from 47% in 2007-08 to 55% in 2011-12. The combined share of medicine supplies, equipment, hospital infrastructure and maintenance fell from 20% to 15% during the same period.

Non-communicable diseases account for 60 per cent of the premature mortality in India and cardiovascular diseases, pulmonary diseases, cancer, as well as hypertension, diabetes and stroke are among the leading killers, accounting for four of the top five causes of death, according to the Institute for Health Metrics and Evaluation.

Yet the allocation in the Union budget to meet the growing need for NCD care is barely 3 per cent of the total allocation of Rs 20,000 crore under the National Health Mission (NHM).

► Problems in Health Service Delivery

Community Health Centres report a 65 per cent vacancy rate of specialists since governments are simply unable to attract and retain talent. Even if they are made mandatory to attend to their jobs, it has been shown, the effort put in by qualified doctors in government facilities is far worse than their private counterparts.

Tertiary facilities are disproportionately overloaded. The NSSO’s 71st round registered a decline in the share of in-patient services provided by government-owned facilities in 12 out of 20 major states in rural areas and in 17 out of 21 states in urban areas.

Due to this, the private sector continues to grow at 15 per cent per annum, accounting for 58 per cent of rural and 68 per cent of urban in-patient care with 80-90 per cent of health facilities and a five-fold higher doctor density. This increases the cost of treatment which results in a very high financial burden on families in case of severe illness. A large fraction of the out of pocket expenditure arises from outpatient care and purchase of medicines, which are mostly not covered even by the existing insurance schemes. In any case, the percentage of population covered by health insurance is small.

► **Poor human resource**

Another problem with India's healthcare system is acute manpower shortage. The country has only about one doctor for every 1,700 patients whereas the World Health Organization (WHO) prescribes at least one for every 1,000 patients. In other words, there is a shortage of about 500,000 doctors. The Medical Council of India (MCI) will have to reform the entire medical education system if this gap has to be filled, but that will be easier said than done. In the meantime, more healthcare providers need to be brought into the system, including nurses, optometrists, anaesthetists and AYUSH (ayurveda, yoga and naturopathy, unani, siddha and homoeopathy) workers. Nurses especially can and should be empowered so that they can take off some of the load from physicians.

► **Insurance**

India has one of the lowest per capita healthcare expenditures in the world. Government contribution to insurance stands at roughly 32 percent, as opposed to 83.5 percent in the UK. The high out-of-pocket expenses in India stem from the fact that 76 percent of Indians do not have health insurance.

► **Rural-urban disparity**

The rural healthcare infrastructure is three-tiered and includes a sub-center, primary health centre (PHC) and CHC. PHCs are short of more than 3,000 doctors, with the shortage up by 200 per cent over the last 10 years to 27,421.

Way ahead

There is a need to increase healthcare expenditure to 5% of GDP in the coming years. Government also needs to make efforts to infuse more healthcare professionals into the system. India also needs to learn from other countries that have successfully adopted universal healthcare systems, which prevent its populations from health shocks, and the vulnerability to slip into poverty.

To meet the issue of limited availability of formally trained health care providers, an alternative strategy for improving the quality of care, in the interim, might be to increase the capacity of the existing supply of informal providers in rural areas by providing them with tools and incentives to deliver better care.

Further it is essential for the government to put in place effective monitoring and governance mechanisms, which ensure quality and value for money in the private sector. Above all, the government cannot abdicate its responsibility to provide quality healthcare, which is affordable to millions of Indians, to its citizens especially the poor. State sponsored healthcare should be an official tool to check rising poverty and inequality in the country. The government must strive to reverse the current figures of state vs. private healthcare seeking behaviour of the population and bring in more and more people within government –sponsored healthcare systems.

Most public health facilities have poor infrastructure as regards to equipment used for medical tests (e.g. X-ray, blood tests, and other complicated tests). Such equipment which is mostly imported is very costly. Government can solve this problem by reducing or complete waiver of import duties and taxes. The equipment should be made available to the public at large by public-private cooperation and by encouraging indigenous production of such equipment by both public and private bodies at competitive prices.

Conclusion

Improving the quality of health care at the system level requires a focus on governance issues, including improving public-sector management, building institutional capacity,

and promoting a culture of data-driven policies. Ideally, state and local governments and local health facilities would use data from administrative sources and household surveys for quality improvement efforts and for accountability in health care delivery. It is critical for governments, implementing agencies, and researchers working in India to collaborate to improve the quality of health care and health outcomes.

Prelims News



Hereby, compiling the important short notes of August (16 to 31), 2017.

Indian Culture

KONGUNADU

- ▶ Kongu Nadu comprising the western part of the Tamil Nadu and parts of the states of Karnataka and Kerala. In the ancient Tamilakam, it was the seat of the Chera kings, bounded on the east by Tondai Nadu, on the south-east by Chola Nadu and on the south by Pandya Nadu regions.
- ▶ Archeological significance
 - The history of Kongunadu dates back to fifth century B.C. Kongunadu fell on the trade route of Greeks and Romans who would travel through this region to Madurai, Uraiyur and other places in the south.
 - About 80 per cent of the Roman coins excavated in India were found in Kongunadu, especially in areas such as Vellalore, Kanayampuththur, Karur, Sulur, Anaimalai and Pollachi
 - Semi-precious stones such as sapphire, quartz, carnelian, agate and lapis-lazuli were also found in places such as Kodumanal (Erode district) and Thandigudi.
 - It facilitated trade relations between India and the West.

CROWDFUNDING TO SAVE ANCIENT KOODIYATTAM ART

Context

- ▶ A crowdfunding campaign has been launched to help protect one of the world's oldest known theatre art forms from dying out for want of patronage and interest in the modern world.

About Koodiyattam

- ▶ It is the earliest classical dramatic art form of Kerala.
- ▶ Koodiyattam used to be a combined dance drama conducted by the *Chakkiyars* (a caste among Hindus), who provided the male cast and the *Nangiars* (women of the Nambiyar caste), playing the female roles. Koodiyattam performance lasts for several days ranging from 6 to 20 days.
- ▶ Themes are based on Hindu mythology.
- ▶ Koodiyattam is enacted inside the temple theatre, known as the *Koothambalam*, with two or more characters onstage at the same time.
- ▶ UNESCO (United Nations Educational Scientific and Cultural Organization) honoured Koodiyattam by declaring the art form as one among the "Masterpieces of the Oral and Intangible Heritage of Humanity", which should be protected and preserved.

Reason for dying of the art

- ▶ The lack of public awareness is one of the reasons for poor financial support and dearth of young artists keen to learn. The crowdfunding drive also aims at increasing awareness.

Science and Environment

AIRPLANES MAY AFFECT OZONE

Context

- ▶ A group of scientists including from the Indian Institute of Science and ISRO's Vikram Sarabhai Space Centre has stated about the adverse impact of airplanes on the ozone layer.

Findings

- ▶ Aeroplanes may be ejecting significant amounts of black carbon (BC) – a pollutant known to aggravate breathing disorders, upset the monsoon and quicken glacier melt – and may be depleting the ozone layer, according to a study by climate researchers from multiple institutions in the country.
- ▶ These black carbon particles linger long enough to provide a fertile ground for other chemical reactions that can deplete the ozone layer.
- ▶ The stratosphere is a stable region of the atmosphere and because BC particles absorb heat, they warm the surrounding air, become lighter and rise to greater heights by a process called 'self lift' and persist in the air.
- ▶ If deposited on snow, it could accelerate the heating of snow and quicken the melting of glaciers.
- ▶ Moreover, when BC particles are located above highly reflective surfaces (snow or clouds), their absorption efficiency is amplified.

About Black Carbon

- ▶ Black carbon is a major component of soot and is produced by incomplete combustion of fossil fuel and biomass.
- ▶ It has a warming impact on climate 460-1500 times stronger than CO₂.
- ▶ Its lifetime varies from a few days to a few weeks. When deposited on ice and snow, black carbon causes both atmospheric warming and an increase of melting rate. It also influences cloud formation and impacts regional circulation and rainfall patterns.
- ▶ In addition, black carbon impacts human health. It is a primary component of particulate matter in air pollution that is the major environmental cause of premature death globally.

About SAMAR

Indian Meteorological Department (IMD) launched a System of Aerosol Monitoring and Research (SAMAR) to study the concentration of black carbon in the atmosphere due to air pollution and its impact on climate.

ELEPHANT CENSUS

Context

- ▶ The environment ministry released the result of the Elephant Census 2017.

Findings of the census

- ▶ Population of the elephant has been pegged at 27, 312 across 23 states which shows decrement in population as compared to last 2012 census.
- ▶ As per the International Union for Conservation of Nature (IUCN), the population of Asian elephants was about 41,410 to 52,345 and of that India alone accounts for nearly 60%.
- ▶ The population was recorded in the following geographical regions: northern, east-central, northeast, and southern.
- ▶ Among the states, the highest population was recorded in Karnataka (6,049), followed by Assam (5,719) and Kerala (3,054). As far as regions are concerned, the highest population was in southern region (11,960) followed by the northeast region (10,139), east-central region (3,128) and northern region (2,085).

Techniques used

- ▶ Techniques like direct count, indirect count, waterhole methods and elephant distribution mapping were used for the estimation.

Water hole count: The water hole count is, as the name implies, a direct method of counting which is based on the fact that wild elephants normally come to drink from sources of water in the evening, especially during the drought season. It is by far one of the most complex methods of direct counting, because it involves actually counting the number of all elephants at all selected water holes during the specific period of the census (in this case two/three consecutive days).

USE OF GARBAGE TO CONSTRUCT ROAD

Current global MSW (Municipal Solid Waste) generation levels are approximately 1.8 billion tonnes per year, and are expected to increase to approximately 2.2 billion tonnes per year by 2025. This represents a significant increase in per capita waste generation rates, from 1.2 to 1.42 kg per person per day in the next fifteen years.

The common waste disposal methods employed in India are land filling, incineration and haphazard littering in the cities, municipalities and the countryside. These disposal methods have a negative impact on human health and the environment; consequently, rivers, gutters and roadsides are choked and filled with waste plastics.

Thus the technology for formation of road using garbage came up.

For example, **Plastic roads** are roads made either entirely of plastic or of composites of plastic with other materials. Plastic roads are different from standard roads in the respect that standard roads are made from asphalt concrete, which consists of mineral aggregates and asphalt.

Techniques used

It sees the use of polymer grills to create the base of a particular structure followed by common construction methods.

In this case, the landfill area was cut up to 2.25 metres below the proposed road, following which geogrids were used to stabilise the landfill. A layer of sand measuring 200 mm and graded stone layer of 150 mm was laid to prevent the geogrid from coming in contact with the landfill and a graded stone layer of 150 mm was laid yet again before concrete was laid.

USE OF DRONES TO CONSERVE MANGROVE COVER

Context

To conserve the fast-dwindling mangroves in Myanmar's low-lying Ayeyarwady Delta, ravaged by decades of deforestation and conversion of land for agriculture and aquaculture, drones have been placed.

Use of drone

Myanmar has lost more than 1 million hectares (about 2.5 million acres) of mangroves since 1980, said Arne Fjortoft, founder and secretary-general of Worldview International Foundation (WIF), which has worked with two local universities to restore mangroves in the Southeast Asian nation since 2012.

WIF has so far planted some 3 million mangrove trees, but the task is laborious and time-consuming.

Benefits of Drones

- ▶ Drones, could plant trees 10 times faster and cut costs by half.
- ▶ Once the process is fully automated, a single pilot operating six drones can plant up to 100,000 trees per day.
- ▶ Drones are particularly useful in complicated or dangerous terrain that is hard for people to access
- ▶ They can help green large areas of land very fast, and could contribute to meeting the

international community's commitment to restore 350 million hectares of degraded forests and agricultural land by 2030.

Benefits of Mangroves

- ▶ Mangroves are self propagating plants and if it is undisturbed, can grow quite easily in conducive soil and locations. These are the plants that grow in the inter-tidal zone along the coastline of India. They are very hardy plants that have adapted over millennia to grow in difficult conditions.
- ▶ Mangrove ecosystems are rich in biodiversity and harbour a number of floral and faunal species (both terrestrial and aquatic) many of which, e.g. the tiger, gangetic dolphin, estuarine crocodile, etc. are endangered.
- ▶ They also act as nurseries for fin fish, shell fish, crustaceans and mollusks.
- ▶ Mangrove forests are regarded as the most productive ecosystems in the world on account of the large quantities of organic and inorganic nutrients released in the coastal waters by these ecosystems.
- ▶ The mangroves besides providing a number of ecological services also play a major role in protecting coastal areas from erosion, tidal storms and surges (tsunamis).
- ▶ They help in land accretion by trapping the fine debris particles.
- ▶ They are also an important source of honey, tannins, wax, besides fish.

IRRAWADY DOLPHIN

Context

- ▶ Endangered Irrawaddy dolphins in the Rambha sector of Chilika lake.

About Irrawaddy Dolphin

- ▶ Irrawaddy dolphins are distributed in shallow, near-shore tropical and subtropical marine waters. They are primarily found in estuaries and semi-enclosed water bodies such as bays and sounds, usually close to mangrove forests. Freshwater populations occur in river systems.
- ▶ These dolphins are a gray to dark blue color with a lighter colored stomach and front.
- ▶ They have a large forehead and rounded skull which lacks the appearance of a snout or beak.
- ▶ The dorsal fin is rounded and located around the middle of its back.
- ▶ They also have long-broad flippers.

- ▶ In terms of size these dolphins can weigh up to 300 pounds and grow to 7 – 8 ft. in length on average.

Present status

- ▶ The total population of these animals in the world is estimated to be less than 7,500. Of these, the highest – 6,400 – was reported from Bangladesh. The population in Chilika is considered to be the highest single lagoonal population.
- ▶ Chilika had registered a marginal drop in population of Irrawaddy dolphins from 144 in 2015 to 134 this year. Dolphins are usually seen in Satapada sector of the lake.

Why movement is low?

- ▶ The dolphins did not have free movement due to the presence of prawn enclosures.
- ▶ Their prey base had also been squeezed.
- ▶ Unregulated boating by tourists.

INDIA SIGNS GLOBAL ENVIRONMENT FACILITY (GEF) GRANT AGREEMENT

Context

- ▶ A Grant Agreement from the Global Environment Facility (GEF) of the World Bank of USD 24.64 million for “Ecosystem Service Improvement Project” was signed.

About the project

- ▶ The size of Project is USD 24.64 million which entirely will be financed by the World Bank out of its GEF Trust Fund. The project’s duration is 5 years.
- ▶ Ministry of Environment, Forest and Climate Change (MoEF&CC) will implement the Project in the States of Chhattisgarh and Madhya Pradesh through Indian Council of Forestry Research & Education under the National Mission for Green India. The objective of the Project is to strengthen the institutional capacity of the Departments of Forestry and Community Organisations to enhance forest ecosystem services and improve the livelihoods of forest dependent communities in Central Indian Highlands.

About Global Environment Facility

- ▶ **GEF is a unique partnership** of 18 agencies – including United Nations agencies, multilateral development banks, national entities and international NGOs – working with 183 countries to address the world’s most challenging environmental issues. The GEF has

a large network of civil society organizations, works closely with the private sector around the world, and receives continuous inputs from an independent evaluation office and a world-class scientific panel.

- ▶ **It is a financial mechanism** for 5 major international environmental conventions: the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention on Biological Diversity (UNCBD), the Stockholm Convention on Persistent Organic Pollutants (POPs), the United Nations Convention to Combat Desertification (UNCCD), and the Minamata Convention on Mercury.

STUDYING THE SUN CORONA, HOW CAN ECLIPSE HELPS SCIENCE

Context

- ▶ A total solar eclipse happens somewhere on Earth about once every 18 months. But because Earth’s surface is mostly ocean, most eclipses are visible over land for only a short time, if at all. The total solar eclipse of Aug. 21, 2017, was different as its path stretches over land for nearly 90 minutes, giving scientists an unprecedented opportunity to make scientific measurements from the ground.

Significance of eclipse

- ▶ The eclipse has revealed the Sun’s outer atmosphere, called the corona, which is otherwise too dim to see next to the bright Sun.
- ▶ Though corona is studied from space with instruments called coronagraphs – which create artificial eclipses by using a metal disk to block out the Sun’s face – there are still some lower regions of the Sun’s atmosphere that are only visible during total solar eclipses. Because of a property of light called diffraction, the disk of a coronagraph must block out both the Sun’s surface and a large part of the corona in order to get crisp pictures. But because the Moon is so far away from Earth – about 230,000 miles away during the eclipse – diffraction isn’t an issue, and scientists are able to measure the lower corona in fine detail.

The source of space weather

- ▶ Our Sun is an active star that constantly releases a flow of charged particles and magnetic fields known as the solar wind. This solar wind, along with discrete burps of solar

material known as coronal mass ejections, can influence Earth's magnetic field, send particles raining down into our atmosphere, and – when intense – impact satellites. Though scientists are able to track these solar eruptions when they leave the Sun, the key to predicting when they'll happen could lie in studying their origins in the magnetic energy stored in the lower corona. Study of eclipse may help in finding that.

VERSIUS

- ▶ British scientists have developed the world's smallest surgical robot which could transform everyday operations for tens of thousands of patients.
- ▶ The robot, called Versius, mimics the human arm and can be used to carry out a wide range of laparoscopic procedures – including hernia repairs, colorectal operations, and prostate and ear, nose and throat surgery – in which a series of small incisions are made to circumvent the need for traditional open surgery.
- ▶ This reduces complications and pain after surgery and speeds up recovery times for patients.
- ▶ The robot is controlled by a surgeon at a console guided by a 3D screen in the operating theatre.

BIOMARKER

Definition

- ▶ A biomarker is “a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacological responses to a therapeutic intervention.”
- ▶ Biomarkers are the measures used to perform a clinical assessment such as blood pressure or cholesterol level and are used to monitor and predict health states in individuals or across populations so that appropriate therapeutic intervention can be planned.

Basic features

- ▶ An ideal biomarker has certain characteristics that make it appropriate for checking a particular disease condition. Ideally, an ideal marker should have the following features:
 - Safe and easy to measure
 - Cost efficient to follow up
 - Modifiable with treatment
 - Consistent across gender and ethnic groups

Benefits of biomarkers in medicine

- ▶ In medicine, biomarkers are often compounds isolated from serum, urine, or other fluids that can be used as an indicator of the presence or severity of a particular disease state.
- ▶ Biomarkers can also be used to assess the effectiveness of particular therapies in ameliorating the effects of a disease.
- ▶ By using easily obtained and assayed biomarkers to monitor a patient's reaction to a particular drug, it is possible to determine whether treatment is effective for that individual by measuring drug response rate or toxic effects associated with the drug.
- ▶ Biomarkers can be used to detect a change in the physiological state of a patient that correlates with the risk or progression of a disease or with the susceptibility of a disease to a given treatment.

Polity and Governance

RESTORE DIGNITY TO WIDOWS: SC

Context

- ▶ Supreme Court in its recent decision condemned the modern-day stigma against widows and asked the Centre and the UP government to take all the needed steps to rehabilitate the widows of Vrindavan and to bring them to a stage where they can live with dignity.

Judgment of SC

- ▶ The SC ordered setting up of a committee of experts from various fields to study a plethora of reports collected by the court during the past decade and come up with a common working plan to rehabilitate the widows of Vrindavan and other ashrams by November 30, 2017.
- ▶ The verdict was based on a PIL filed almost 10 years ago by the Environment and Consumer Protection Foundation highlighting the plight of widows of Vrindavan.
- ▶ SC has requested the committee to consider few things during its deliberations. i.e.
 - This is a subject of hope that might enable our society to give up the stereotype view of widows.
 - Widows choose to come to holy places like Vrindavan to escape social Ostracisation, but later they fall into a mire of indignity and beggary.

Suggestions

- ▶ Few Suggestions before the committee are -
 - One of the suggestions before the committee is to kick into motion Aadhaar-enabled software to identify widows when they enter as inmates of Swadhar homes.
 - The court has recommended the need to encourage widow remarriage.
- ▶ The court said it is part of its constitutional duty and for reasons of social justice to issue appropriate directions “intended to bring back some dignity (Right to a dignified life Art 21) in the lives of the widows in Vrindavan and in ashrams elsewhere in the country.

ASSAM MANIPUR CAN NOW DECIDE ON AFSPA

Context

- ▶ The Union Home Ministry has decided to give up its power to impose the ‘disturbed areas’ tag on Assam and Manipur. The move effectively means it will be the States’ decision to either continue the Armed Forces (Special Powers) Act (AFSPA) or to revoke it.

About AFSPA

- ▶ AFSPA was first invoked in Assam for the first time in 1990. As per Section 3 of the AFSPA, it can be invoked in places where “the use of armed forces in aid of the civil power is necessary.”
- ▶ The AFSPA empowers the Army and Central forces deployed in “disturbed areas” to kill anyone breaking the law and arrest and search any premises without warrant.
- ▶ The choice of declaring any area as ‘disturbed’ vests both with state and central government. After an area comes under the ambit of AFSPA, any commissioned officer, warrant officer, non-commissioned officer or another person of equivalent rank can use force for a variety of reasons while still being immune to the prosecution.

Decision of the centre

- ▶ The centre has decided to rescind the power of invoking the AFSPA in two States of Assam and Manipur for now. The States are competent to decide whether they want to continue with it in entirety or impose it in a few pockets where disturbance is expected. But there is no such proposal for Jammu and Kashmir.

- ▶ Earlier, the Home Ministry used to issue a notification declaring States “disturbed areas” every six months. Right now, AFSPA is effective in the whole of Nagaland, Assam and Manipur (excluding seven Assembly constituencies of Imphal). In Arunachal Pradesh, it is in force in 16 police station areas and in Tirap, Longding and Changlang districts bordering Assam. Tripura withdrew the AFSPA in 2015. It is not in force in Meghalaya (except in a 20-km area along the border with Assam) and Mizoram.
- ▶ Consequently, while 246 insurgency-related incidents were reported in Assam in 2014, the number came down to 11 in 2017 (till March 31). Cases of abduction also declined, with 94 reported in 2014 and nil from January to March this year 2017. In Manipur, 56 incidents were reported till March this year, while 278, 229 and 233 incidents were reported in 2014, 2015 and 2016 respectively.

SPECIAL FUND FOR SECONDARY AND HIGHER EDUCATION

Context

The Union Cabinet has approved the creation of a non-lapsable corpus fund for secondary and higher education, to help fund select education schemes for which demand exceeds budgetary allocations.

About Madhyamik and Uchattar Shiksha Kosh

- ▶ The corpus named as Madhyamik and Uchattar Shiksha Kosh (MUSK), will have all the proceeds from the 1% cess the government collects under the ‘secondary and higher education cess’ which has been in place since 2007.
- ▶ The fund may have a corpus between Rs 3,000 crore and Rs 5,000 crore. The fund will be similar to the Prarambhik Shiksha Kosh (PSK) already in place since 2005 to fund elementary education schemes such as Sarva Shiksha Abhiyan (education for all). The government collects a separate 2% cess for PSK.
- ▶ The fund will cater to schemes such as interest subsidy on education loans, education credit guarantee fund, scholarship schemes, girls’ education schemes and a scheme that funds higher education in states.
- ▶ According to the plans, in any financial year, the expenditure on ongoing schemes of the department of school education & literacy and

department of higher education would be initially incurred from the gross budgetary support (GBS) and the expenditure would be financed from the MUSK only after the GBS is exhausted. Therefore, money from the MUSK corpus will serve as an extra budgetary provision.

- ▶ Also, it will be a non-lapsable reserved fund, meaning if the amount collected in a year is not utilized, it would be carried forward. So far, there has been no such provision and cess collections are deemed utilized as part of the budgetary provisions.

UGC APPROVES PLAN FOR GRADED AUTONOMY

Context

- ▶ The University Grants Commission (UGC) has approved the plan to grant graded autonomy to institutions on the basis of their performance.
- ▶ This means that the institutions performing extremely well will be completely free of government control and the poor performers will get least autonomy. The plan was approved after including suggestions that were received from public on framing of the guidelines.
- ▶ According to the plan, UGC-recognised public, private and deemed universities will be divided into three categories, and according to those categories, each institute will be awarded different degrees of autonomy.

Eligibility Rules

- ▶ Universities either accredited by NAAC with a score of at least 3.5 or ranked in the top 50 institutions of National Institutions Ranking Framework (NIRF) for two consecutive years will be parked in 'Category I'. Universities under this category will be free to start a new course, department and school without UGC's approval. They will also be exempt from UGC's regular inspections and can collaborate with foreign educational institutions without the regulator's permission. Their performance will be reviewed based on self-reporting.
- ▶ For 'Category II', universities should either have been accredited by NAAC with a score between 3.01 and 3.49 or ranked between 51 and 100 in the NIRF ranking. Although, such universities will also be exempt from UGC's regular inspections, they will be subject to stricter control in comparison to 'Category I'

institutions. So, 'Category II' universities will need the UGC's permission to sign MoUs with foreign universities. Their performance will be reviewed by a peer group.

- ▶ Lastly, institutions categorized as 'Category III' will be the most regulated universities. They will not enjoy any of the exemptions granted to their counterparts in 'Category I & II'.

Economy News

NEW METRO RAIL POLICY

Context

The Union Cabinet approved a new Metro Rail Policy that seeks to enable realization of growing metro rail aspirations of a large number of cities but in a responsible manner. The policy opens a big window for private investments across a range of metro operations making PPP component mandatory for availing central assistance for new metro projects.

Private investment and other innovative forms of financing of metro projects have been made compulsory to meet the huge resource demand for capital intensive high capacity metro projects. Private participation either for complete provision of metro rail or for some unbundled components (like Automatic Fare Collection, Operation & Maintenance of services etc) will form an essential requirement for all metro rail projects seeking central financial assistance.

Key features of the new Metro Rail Policy

- ▶ In view of inadequate availability and even absence of last mile connectivity at present, the new policy seeks to ensure it focusing on a catchment area of five kms. on either side of metro stations requiring States to commit in project reports to provide necessary last mile connectivity through feeder services, Non-Motorised Transport infrastructure like walking and cycling pathways and introduction of para-transport facilities.
- ▶ Seeking to ensure that least cost mass transit mode is selected for public transport, the new policy mandates Alternate Analysis, requiring evaluation of other modes of mass transit like BRTS (Bus Rapid Transit System), Light Rail Transit, Tramways, Metro Rail and Regional Rail in terms of demand, capacity, cost and ease of implementation. Setting up of Urban Metropolitan Transport Authority (UMTA) has been made mandatory which is to prepare

Comprehensive Mobility Plans for cities for ensuring complete multi-modal integration for optimal utilization of capacities.

- ▶ Policy proposes regular assessment of new metro proposals and an independent third party assessment by agencies to be identified by the Government like the Institute of Urban Transport and other such Centres of Excellence whose capacities would be augmented, as required in this regard.
- ▶ Taking note of substantial social, economic and environmental gains of metro projects, the Policy stipulated a shift from the present 'Financial Internal Rate of Return of 8%' to 'Economic Internal Rate of Return of 14%' for approving metro projects, in line with global practices.
- ▶ Under the policy, States need to adopt innovative mechanisms like Value Capture Financing tools to mobilize resources for financing metro projects by capturing a share of increase in the asset values through 'Betterment Levy'. States would also be required to enable low cost debt capital through issuance of corporate bonds for metro projects.
- ▶ The new policy empowers States to make rules and regulations and set up permanent Fare Fixation Authority for timely revision of fares.
- ▶ The policy envisages private sector participation in O & M of metro services in different ways. These include:
 - **Cost plus fee contract:** Private operator is paid a monthly/annual payment for O&M of system. This can have a fixed and variable component depending on the quality of service. Operational and revenue risk is borne by the owner.
 - **Gross Cost Contract:** Private operator is paid a fixed sum for the duration of the contract. Operator to bear the O&M risk while the owner bears the revenue risk.
 - **Net Cost Contract:** Operator collects the complete revenue generated for the services provided. If revenue generation is below the O&M cost, the owner may agree to compensate.

Current Status of the Metro Project in India

- ▶ At present, metro projects with a total length of 370 kms are operational in 8 cities viz., Delhi (217 kms), Bengaluru (42.30 kms), Kolkata (27.39 kms), Chennai (27.36 kms), Kochi (13.30 kms), Mumbai (Metro Line-1 - 11.40

km, Mono Rail Phase-1 - 9.0 km), Jaipur-9.00 kms and Gurugram (Rapid Metro-1.60 km).

- ▶ Metro Projects with a total length of 537 kms are in progress in 13 cities including the eight mentioned above. New cities acquiring metro services are; Hyderabad (71 kms), Nagpur (38 kms), Ahmedabad (36 kms), Pune (31.25 kms) and Lucknow (23 kms).
- ▶ Metro projects with a total length of 595 kms in 13 cities including 10 new cities are at various stages of planning and appraisal. These are; Delhi Metro Phase IV- 103.93 km, Delhi & NCR-21.10 km, Vijayawada-26.03 km, Visakhapatnam-42.55 km, Bhopal-27.87 km, Indore-31.55 km, Kochi Metro Phase-II - 11.20 km, Greater Chandigarh Region Metro Project-37.56 km, Patna-27.88 km, Guwahati-61 km, Varanasi-29.24 km, Thiruvananthapuram & Kozhikode (Light Rail Transport)-35.12 km and Chennai Phase-II - 107.50 km.

CONSOLIDATED FDI POLICY

Context

To ensure greater ease of doing business in India and an investor-friendly climate to foreign investors so that the country attracts more FDI, the government has brought out the latest edition of its consolidated FDI policy document which is a compilation of the changes made in the past one year in a single document. The Department of Industrial Policy and Promotion (DIPP) is the nodal agency for FDI policy.

The last one year has seen FDI policy being liberalized in sectors, including defence, civil aviation, construction and development, news broadcasting and private security agencies. These reforms have been consolidated in the document.

Key features of the Policy

- ▶ Start ups have been included for the first time in the document. As per the norms, start-ups can raise up to 100 per cent of funds from Foreign Venture Capital Investor (FVCI). The document said the start-ups can issue equity or equity linked instruments or debt instruments to FVCI against receipt of foreign remittance.
- ▶ Start-ups can issue convertible notes to person resident outside India (subject to certain conditions). A start-up company engaged in a sector where foreign investment requires government approval may issue convertible notes to a non-resident only with approval of the Government. The start-up issuing

convertible notes would also be required to furnish reports as prescribed by the RBI.

- ▶ A person residing outside India (other than citizens/entities of Pakistan and Bangladesh) will be permitted to purchase convertible notes issued by an Indian start-up company for an amount of Rs 25 lakh or more in a single tranche. Non Resident Indians can also acquire convertible notes on non- repatriation basis.

LESSONS OF JAN DHAN YOJANA

Context

Pradhan Mantri Jan Dhan Yojana (PMJDY) (the financial inclusion scheme implemented by the government) has completed the third anniversary in August 2017.

About PMJDY

- ▶ **PMJDY** is encompassing an integrated approach to bring about comprehensive financial inclusion of all the households in the country. The plan envisages universal access to banking facilities with at least one basic banking account for every household, financial literacy, access to credit, insurance and pension facility. In addition, the beneficiaries would get RuPay Debit card having inbuilt accident insurance cover of Rs. 1 lakh. The plan also aims at channeling all Government benefits (from Centre / State / Local Body) to the beneficiaries' accounts and pushing the Direct Benefits Transfer (DBT) scheme of the Union Government.

As per the recent data of PMJDY, there are 295.2 million beneficiaries or account holders, with a total bank balance in their accounts of Rs658.45 billion (a little over \$10 billion). That is a little under half a per cent of the Indian gross domestic product (GDP) of around Rs 150 trillion.

An empirical study has shown that

- ▶ PMJDY accounts are increasingly being used actively as 70% of the accounts migrate out of dormancy into active use.
- ▶ Activity levels in PMJDY accounts increase over time, a pattern not necessarily seen in non-PMJDY accounts.
- ▶ Active accounts experience significant increase in cash balances. Government direct benefits transfer aids but does not fully explain usage.
- ▶ Overall, the data indicate that the unbanked learn by doing, and increase usage of accounts for transactions, liquidity management, and increasingly, balance accumulation.

Another study suggests that,

- ▶ Financial development facilitates economic growth by moving workers out of less productive, informal entrepreneurial activity into formal jobs in more productive firms. In other words, there are multiple benefits arising out of access to finance for the poor. If this were to happen, India could reasonably aspire to resemble the prosperous high-growth economies of the West. But it would take time and much more remains to be done to get from here to there. The important and underlying requirement is that productive firms create formal jobs. Unfortunately, it is not happening.
- ▶ It requires fixing two issues. One is the issue of non-performing assets (NPA) in the banking system and the other is the absence of dynamism in the formal business sector.
- ▶ A scheme like PMJDY is testimony to the fact that the poorer sections of society were not able to access financial services adequately from the organized financial system.
- ▶ Government has also passed the bankruptcy legislation and empowered the central bank to direct the banks under its supervision to invoke its provision to recover their dues. But the big challenge that banks face is the share of bad assets in the overall loan portfolio, and it has shown no sign of peaking yet. Credit Suisse estimates that total stressed loans in Indian banking (recognized and unrecognized bad debts together) constituted 17.75% of total bank loans as of March 2017. It was 16.9% as of March 2016.
- ▶ The reason that the NPA problem has not peaked is the absence of economic dynamism in the country. Economic dynamism will remain elusive unless long-term capital investments are made by industry. Domestic capital formation remains elusive because there is too much uncertainty in the air.
- ▶ The government policies and legislation like the bankruptcy legislation, real estate sector regulation and regulation dealing with *benami* transactions— passed in the last two years are essential for the long-term growth of the economy.
- ▶ There is much to learn from successes, as there is to learn from failures. The PMJDY is a success story. It is a rare case of a popular policy that delivers political and long-term economic

benefits. Hence, the government applied itself to the task. It needs to repeat the formula for economically pragmatic decisions.

UNDER-EMPLOYMENT SEVERE IN INDIA: NITI

- ▶ NITI Aayog in its three year Action Agenda has said that not unemployment but a severe under-employment is the main problem facing the country. The government think-tank has said that a focus on the domestic market through an import-substitution strategy would give rise to a group of relatively small firms behind a high wall of protection.
- ▶ Also, contrary to some assertions that India's growth has been 'jobless', the Employment Unemployment Surveys (EUS) of the National Sample Survey Office have reported low and stable rates of unemployment over more than three decades.
- ▶ According to the Action Agenda, the creation of high-productivity, high-wage jobs is needed right now. Citing examples of South Korea, Taiwan, Singapore and China, it said: "The 'Make in India' campaign needs to succeed by manufacturing for global markets."
- ▶ Noting that with Chinese wages rising due to an ageing workforce and many labour-intensive sectors in that country looking for lower-wage locations, India, with its large workforce and competitive wages, would be a natural home for these firms. Therefore, the time for adopting a manufactures— and exports—based strategy is very much needed.
- ▶ The Aayog also recommended the creation of a handful of Coastal Employment Zones, which may attract multinational firms in labour-intensive sectors from China to India. Making a case for reforming labour laws, the Aayog noted that recently fixed-term employment has been introduced in the textiles and apparel industry.

CENTRE REJIGGING FOOD GRAIN INVENTORY MANAGEMENT

- ▶ The Centre has decided to carry out an urgent overhaul of inventory management of foodgrains to eliminate scenarios where it is compelled to allow exports from public stockholding of these items.
- ▶ Government is acting fast to allay the fears of some World Trade Organisation (WTO)-member nations that India could export surplus grains

from food security stockpiles to markets overseas at subsidized prices and distort international trade. The development also assumes significance as it comes in the backdrop of increased efforts by India to ensure a permanent solution to the public stockholding issue at the WTO-level talks by December 2017.

- ▶ The Department of Commerce (DoC) is the nodal body for WTO-related matters and it had recently asked the Department of Food and Public Distribution (in charge of procurement and distribution of food grains) to expedite the overhaul of food grains inventory management so that the need for exports from public stockholding of these items can be avoided.
- ▶ As per the WTO, public stockholding is a policy tool used by governments to purchase, stockpile and distribute food when needed. Under it stocking and distributing food is permitted under WTO rules, but the governments purchasing food at prices higher than market prices are considered to be subsidizing their farmers.
- ▶ Incidentally, in July 2012, the Centre had approved the export of two million tonnes of wheat "for managing the over-flowing wheat stocks in the central pool." The move was aimed at "disposing of the excess wheat stocks from the central pool to make space available for the forthcoming kharif crop of paddy and then wheat crop in the rabi Season,".
- ▶ According to a WTO report on the informal agriculture negotiating session held at the WTO-level during July 19-20, 2012 some WTO member-countries had said "public stockholding programmes could yield 'unintended consequences' if governments unloaded the stocks on world markets and impact prices for similar products in other countries." The report said those WTO members, therefore stressed the need for stronger safeguards to address potential direct and indirect release of stocks in international markets.
- ▶ However to find a 'Permanent solution', all the WTO members reaffirmed the commitment made at the WTO's Ministerial Conference (its highest decision-making body) in Nairobi (in December 2015) "to engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution" to the public stockholding issue by the 11th Ministerial Conference scheduled for December at Buenos Aires.

Efforts for Online procurement

- ▶ According to the Ministry of Consumer Affairs, Food and Public Distribution, steps taken to improve foodgrain management include bring operations of Food Corporation of India (FCI) godowns online, using FCI's software for Online Procurement Management System (OPMS) for procurement and about 20 states either fully or partially implementing OPMS.

**POWER MINISTRY MOOTS DIRECT
SUBSIDY**

- ▶ The Union power ministry, in a consultation paper has suggested that direct subsidy is a better way to support the poorer categories of consumers than cross-subsidizing tariff across the board.
- ▶ The ministry has proposed that open access customers should be required to schedule power for at least 24 hours whenever they seek open access and the state electricity regulatory commissions should determine cross subsidy surcharge (CSS) based on the category-wise cost of supply, thus identifying real cross subsidy.
- ▶ Under open access, customers can choose the power suppliers. Open access in distribution had the objective of promoting competition at retail level and consumers of power would have a choice to opt for a supplier. Unfortunately, it could not move forward due to a very high incidence of cross subsidy surcharge and additional surcharge which recently was increased by most of the states to an unsustainable level. Therefore, there is a need to strike a good balance between the interest of discoms and providing competition at retail level.
- ▶ The ministry has highlighted issues faced by open access consumers, power sellers, distribution licensees and non-open access retail supply consumers of distribution licensees. The problems are relating to inability of discoms to manage power procurement efficiently due to the high frequency of shifting of open access consumers, insufficient to recover the entire loss of cross subsidy on account of consumers procuring power through the open access route, inappropriate calculation of additional surcharge leading to under recovery of power procurement expenses incurred by discoms and the mismatch between their actual fixed and variable cost liability.

- ▶ Therefore Ministry has stressed the need for tariff rationalization by SERCs, to enable discoms to recover the fixed cost through fixed/demand charges and variable charges through energy charge. Besides, the ministry has proposed that SERCs should ensure that distribution companies (discoms) develop the requisite capability and infrastructure to assess the costs incurred in the supply of power to each consumer category. The ministry has also made a case for the introduction of differential cross subsidy surcharge by SERCs as per time of the day tariff for peak, normal and off-peak hours. On this line the ministry has sought further suggestions and objections from various stakeholders by September 8.

ANTI PROFITEERING RULES 2017**What are Anti Profiteering Rules 2017?**

- ▶ Anti profiteering Rules 2017 are the rules that prevent entities from making excessive profits due to the GST. The GST, along with the input tax credit, is eventually expected to bring down prices, therefore, a National Anti-profiteering Authority (NAA) is to be set up to ensure that the benefits that accrue to entities due to reduction in costs is passed on to the consumers. Also, the entities that hike rates inordinately, citing GST as the reason, would also be checked by this body.
- ▶ The Anti-Profiteering Rules, 2017 lay down details about the selection of the members of the NAA and the other committees that will assist the NAA in investigating the complaints, the procedure to be followed in investigations and the powers given to the authority.
- ▶ Once the registered entity, which has profited illegally, is identified, it can be asked to reduce prices if it has hiked prices too much and, if price reduction due to GST has not been passed on to customers, to return to the customer the sum equivalent to the price reduction along with 18 per cent interest from the date the higher sum was collected. The authority can further impose penalty on the profiteer or cancel its registration.
- ▶ The rules however do not lay down the formula based on which the extent of profiteering can be determined. This task has been left to the NAA to decide and the Authority will be relevant only in the transition phase.

Why is it important?

- ▶ Many countries that have adopted GST such as Singapore and Australia witnessed a spurt in inflation after implementation. Retail inflation in Australia, for instance, spurted from 1.9 per cent in the year before GST to 5.8 per cent in the year when the tax was rolled out. Malaysia was able to avoid a similar surge in inflation by effectively implementing anti-profiteering rules.
- ▶ The Government is also thinking along similar lines. But it is way behind schedule in forming the rules. The Authority is yet to be formed, the committees have to be selected, they have to formulate the rules to determine profiteering and then listen to complaints. This is a tool that the Govt needs to wield effectively to keep prices under check and ensure that businesses do not pocket all the gains.

Miscellaneous News

ANTI-CONFEDERACY MOVEMENT

Context

- ▶ The United States' anti-Confederacy movement refers to the sustained campaign to remove symbols of the Confederacy, a self-declared nation of 11 states that seceded from the Union around 1861.
- ▶ The anti-Confederacy movement considers symbols of the Confederacy, including the Confederate flag, statues of generals and heroes, monuments, city seals, the names of streets, parks and schools, and official state holidays to be endorsements of the country's troubling history of racist oppression of African-Americans.
- ▶ Contrarily, the Confederate flag and statues of Confederate generals are viewed by some white Southerners as an "emblem of their heritage and regional pride."
- ▶ The crux of the argument is whether the legacy of the Confederate movement, in terms of its martial conquests and struggle for secession from the Union, can be viewed in isolation from the premise of legalised slavery, although the latter was the cornerstone of the plantation economy, which was in turn the backbone of the Southern states.

Present scenario

- ▶ There have been at least 100 attempts at the state and local levels to remove or alter

symbols of the Confederacy, according to the Southern Poverty Law Center, despite which at least 1,503 such symbols still stand, including 718 monuments and statues; 109 public schools; 80 counties and cities; nine official holidays in six states; and 10 U.S. military bases.

- ▶ The authority to remove a Confederate symbol varies depending on the specific symbol and the public space it occupies, as well as the state laws applicable.
- ▶ In many cases removal was authorised by Governors, Mayors, City Councillors, County Commissioners, or private persons in the case of private property. Many more Confederate symbols slated for removal have become vectors of protest on both sides.
- ▶ The debate still continues.

DEEPAK MISRA SELECTED AS CJI

- ▶ Justice Dipak Misra took the oath of office as the 45th Chief Justice of India.
- ▶ He has a tenure of just under 14 months, till October 2, 2018.
- ▶ Justice Misra was elevated to the Supreme Court on October 10, 2011. He enrolled himself as an advocate on February 14, 1977 and was appointed as an Additional Judge of the Orissa High Court in 1996. After a stint in the Madhya Pradesh High Court, he became a Permanent Judge in December 1997 before assuming charge as the Chief Justice of the Patna High Court in 2009. Later, he served as the Chief Justice of the Delhi High Court.
- ▶ As the Executive Chairman of the National Legal Services Authority, Justice Misra launched a number of initiatives to turn the offices of the State Legal Services Authorities into hubs providing facilities for litigants to access court documents, find out case status and connect to their advocates online and through dedicated phone numbers.
- ▶ In May 2017, Justice Misra authored the landmark judgment confirming the death penalty of four convicts in the Nirbhaya gangrape and murder case.
- ▶ He also ordered patrons to stand up as a mark of respect when the National Anthem and the National Flag are featured before shows in cinema theatres.

**PRESIDENT REWARDS SPORTING
EXCELLENCE**

► **Rajiv Gandhi Khel Ratna 2017**

S. No.	Name of the Awardee	discipline
1.	Shri Devendra Jhajharia	Para Athlete
2.	Shri Sardar Singh	Hockey

► **Dronacharya Awards 2017**

S. No.	Name of the Awardee	Discipline
1.	Late Dr. R. Gandhi	Athletics
2.	Mr. Heera Nand Kataria	Kabaddi
3.	Mr. G.S.S.V. Prasad	Badminton (Lifetime)
4.	Mr. Brij Bhushan Mohanty	Boxing (Lifetime)
5.	Mr. P.A. Raphel	Hockey (Lifetime)
6.	Mr. Sanjoy Chakraverthy	Shooting (Lifetime)
7.	Mr. Roshan Lal	Wrestling (Lifetime)

► **Arjuna Awards 2017**

S. No.	Name of the Awardees	Discipline
1.	Ms. V.J. Surekha	Archery
2.	Ms. Khushbir Kaur	Athletics
3.	Mr. Arokia Rajiv	Athletics
4.	Ms. Prasanthi Singh	Basketball
5.	Sub. Laishram Debendro Singh	Boxing
6.	Mr. Cheteshwar Pujara	Cricket
7.	Ms. Harmanpreet Kaur	Cricket
8.	Ms. Oinam Bembem Devi	Football
9.	Mr. S.S.P. Chawrasia	Golf
10.	Mr. S.V. Sunil	Hockey
11.	Mr. Jasvir Singh	Kabaddi
12.	Mr. P. N. Prakash	Shooting
13.	Mr. A. Amalraj	Table Tennis
14.	Mr. Saketh Myneni	Tennis
15.	Mr. Satyawart Kadian	Wrestling
16.	Mr. Mariyappan Thangavelu	Para-Athlete
17.	Mr. Varun Singh Bhati	Para-Athlete

► **Dhyan Chand Award**

S. No.	Name (S/Shri)	Discipline
1.	Mr. Bhupender Singh	Athletics
2.	Mr. Syed Shahid Hakim	Football
3.	Ms. Sumarai Tete	Hockey