

FOCUS

HALF YEARLY DIGEST FOR THE LAW MAKER

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FOCUS

***HALF YEARLY
DIGEST FOR
THE LAW MAKER***

Prepared by
THE SECRETARIAT OF THE KERALA LEGISLATURE
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INDIA NEEDS TO SCALE UP DIRECT NUTRITION INTERVENTIONS

Sheila C. Vir

Preconception nutrition, maternal nutrition and child feeding practices in the first 1,000 days of life need priority

As India launches the celebrations of its 75th anniversary of independence, there is much to be proud about, significant advances have been made in science, technology, and medicine, adding to the country's ancient, traditional, and civilizational knowledge base, wisdom and wealth.

Still, it is disconcerting that even after seven decades of Independence, India is afflicted by public health issues such as child malnutrition (35.5% stunted, 67.1% anaemic) attributing to 68.2% of under-five child mortality. Poor nutrition not only adversely impacts health and survival but also leads to diminished learning capacity, and poor school performance. And in adulthood, it means reduced earnings and increased risks of chronic diseases such as diabetes, hypertension, and obesity.

The good news is that the Government appears determined to set it right-with an aggressive push to the National Nutrition Mission (NNM), rebranding it the

Prime Minister's Overarching Scheme for Holistic Nutrition, or POSHAN Abhiyaan. It has the objective of reducing malnutrition in women, children and adolescent girls.

The Ministry of Women and Child (MWCD) continues to be the nodal Ministry implementing the NNM with a vision to align different ministries to work in tandem on the "window of opportunity" of the first 1,000 days in life (270 days of pregnancy and 730 days; 0-24 months). Global and Indian evidence fully supports this strategy, which prevents the largely irreversible stunting occurring by two years of age. POSHAN Abhiyaan (now referred as POSHAN 2.0) rightly places a special emphasis on selected high impact essential nutrition interventions, combined with nutrition-sensitive interventions, which Indirectly impact mother, infant and young child nutrition, such as improving cover age of maternal-child health services, enhancing women empowerment, availability, and access to improved water, sanitation, and hygiene and enhancing homestead food production for a diversified diet.

NHFS data is a pointer

Data from the National Family Health Survey (NFHS)-5 2019-21, as compared to NFHS-4 2015-16, reveals a substantial improvement in a period of four to five years in several proxy indicators of women's empowerment, for which the Government deserves credit. There is a substantial increase in antenatal service attendance (58.6 to 70.0%); women having their own saving bank accounts (63.0 to 78.6%); women owning mobile phones that they themselves use (45.9% to 54.0%); women married before 18 years of age (26.8% to 23.3 %); women with 10 or more years of schooling (35.7% to 41.0%), and access to clean fuel for cooking (43.8% to 68.6%)

But, alarmingly, during this period, the country has not progressed well in terms of direct nutrition interventions. Preconception nutrition, maternal nutrition, and appropriate infant and child feeding remain to be effectively addressed. India has 20% to 30% under nutrition even in the first six months of life when exclusive breastfeeding is the only nourishment required. Neither maternal nutrition care interventions nor infant and young child feeding practices have shown the desired improvement. A maternal nutrition policy is still awaited.

Despite a policy on infant and young child feeding, and a ban on sale of commercial milk for infant feeding, there has

only been a marginal improvement in the practice of exclusive breastfeeding a (EBF). Child under nutrition in the first three months remains high. Creating awareness on EBF, promoting the technique of appropriate holding, latching and manually emptying the breast are crucial for the optimal transfer of breast milk to a baby. Recent evidence from the Centre for Technology Alternatives for Rural Areas (CTARA), IIT Mumbai team indicates that well planned breast feeding counseling given to pregnant women during antenatal checkup prior to delivery and in follow up frequent home visits makes a significant difference. The daily weight gain of a baby was noted to average 30 to 35 grams per day and underweight prevalence rate reduced by almost two thirds.

Another key intervention

NFHS-5 also confirms a gap in another nutrition intervention-complementary feeding practices, i.e., complementing semi-solid feeding with continuation of breast milk from six months onwards. Poor complementary feeding is often due to a lack of awareness to start feeding at six to eight months, what and how to feed appropriately family food items, how frequently, and in what quantity. The fact that 20% of children in higher socio-economic groups are also stunted indicates poor knowledge in food selection and feeding practices and a child's ability to swallow mashed feed. Where are we going wrong?

So, creating awareness at the right time with the right tools and techniques regarding special care in the first 1,000 days deserves very high priority. We must act now, and invest finances and energy in a mission mode. The Prime Minister can give a major boost to POSHAN 2.0, like he did to Swachh Bharat Abhiyaan, using his 'Mann Ki Baat' programme.

There is a pressing need to revisit the system spearheading POSHAN 2.0 and overhaul it to remove any flaws in its implementation. We need to see if we are using opportunity of service delivery contacts with mother-child in the first 1,000 days to the optimum. There is a need to revisit the nodal system for nutrition programme existing since 1975, the Integrated Child Development Scheme (ICDS) under the Ministry of Women and Child and examine whether it is the right system for reaching mother-child in the first 1000 days of life. By depending on the ICDS, we are in fact missing the frequent contacts with pregnant mothers and children that the public health sector provides during antenatal care services and child

immunisation services. There is also a need to explore whether there is an alternative way to distribute the ICDS supplied supplementary nutrition as Take Home Ration packets through the Public Distribution (PDS) and free the anganwadi workers of the ICDS to undertake timely counselling on appropriate maternal and child feeding practices.

We need to systematically review the status, and develop and test a new system that would combine the human resource of ICDS and health from village to the district and State levels. This would address the mismatch that exists on focusing on delivery of services in the first 1000 days of life for preventing child under nutrition by having an effective accountable system.

It is time to think out of the box, and overcome systemic flaws and our dependence on the antiquated system of the 1970s that is slowing down the processes. Moreover, mass media or TV shows could organize discourses on care in the first 1,000 days to reach mothers outside the public health system.

Dr. Shelia C Vir is a public health nutrition expert and the editor of the book, 'Public Health Nutrition Developing Countries'.

**The Hindu,
5th July 2022.**

HATE CRIME, PUNISHMENT

*There Needs To Be Zero Tolerance For Violence
Over Hurt Sentiments' Because of Hate Speech*

India's laws on freedom of expression are clear about the reasonableness of the right to exercise it. But hate speech, directed at communities and intended to fan communal hatred, is not clearly defined in the law. However, there are provisions in the law that can be interpreted as allowing for criminalising offences that are related to hate speech, in particular those that are likely to incite violence. There have been rightful demands, including from the Law Commission of India, to add specific provisions in the Indian Penal Code to tackle hate speech. It is imperative that lawmakers work on doing so, especially in the age of online media and messaging, where hate speech incidents have burgeoned into an even more significant problem. That said, there is no justification for any form of hate speech to be countered with violence. As the adage goes, sticks and stones may break bones, but words will not. There must be zero tolerance for violence. The incident in

Amravati, Maharashtra, where a chemist, Umesh Kolhe, was knifed to death allegedly by three men in retaliation for his sharing a post in support of former Bharatiya Janata Party (BJP) spokesperson Nupur Sharma's comments on the Prophet was on the same lines as the dastardly murder of a tailor, Kanhaiya Lal, in Udaipur a week ago. In both cases, suspects who were incensed by the remarks took to violence as a counter to what they perceived as an insult to their religion. The two cases are being probed by the National Investigation Agency. The culprits, those involved in the planning and execution of these murders, must be brought to book and accorded strict punishment for their crimes.

Even as these hate crimes are investigated, it is imperative on the part of the Union and the State governments to quickly reassure citizens on the need for communal amity and that the purveyors of

hate speech and those indulging in violence in retaliation will be prosecuted. Justice and the application of the rule of law should not only be seen to be done, but needs to be applied in a fair manner without prejudice for or against specific communities. The Union and State governments should not adopt repressive measures by using enforcement authorities to inflict collective punishment on communities for individual acts of transgression. Political parties of all hues, but especially those in power, must refrain from fanning communal hatred. The

unevenness of government actions has resulted in disenchantment among Muslims; the actions of a few criminals among the community have endangered others. It is unmistakable that the developing quagmire is related to the casual bigotry and the callousness of those who were in responsible positions in the BJP. Governments must reorient themselves to the rule of law and to strict adherence to constitutional values as the secular fabric of the country must be preserved at all costs.

**The Hindu,
7th July 2022.**

A COMMUNITY AND A HEALTH ISSUE OF CONCERN

CHAPAL MEHRA

*The mental illnesses and challenges that India's
LGBTQIA+ people face need comprehensive
and long-term solutions*

During the recent celebration of Pride month (June) globally and in India, we witnessed an incredible social media presence filled with striking images and stories. It would not have been amiss to also pause and reflect momentarily on the state of mental health of LGBTQIA++ communities in India. The reflection would undoubtedly have been a sobering one.

Despite the reading down of Section 377, the National Legal Services Authority (NALSA) judgment as also successive progressive movements, India's class, caste and regionally diverse LGBTQIA++ communities remain at risk of lifelong mental illnesses and challenges. This can take the form of severe mental illness or transient and long standing dysfunctional harmful behaviors.

Stigma and suffering

Why? This is caused by life-long dissonance, deep-rooted stigma, discrimination and often abuse, that the community experiences. It often leads to extreme distress and poor self-worth, resulting in self-hate and suffering. The community is often fearful and has such deeply internalised stigma that it is challenging to even articulate what it feels like - forget about seeking help.

While the mental health needs of the LGBTQIA++ communities are not different from others, their identities, social contexts and the discrimination give them stressors that impact their mental health, relentlessly, from a young age. Sexual orientation and gender identity are rarely discussed in our social, educational or familial environments, and it ever done, these discussions are stigmatising. Society

marginalises LGBTQIA++ people throughout life, no matter how accomplished they may be. This is payment extracted by a heteronormative society that demands assimilation.

In such an environment, it is hard to come out to yourself; forget the others. Even within the LGBTQIA++ communities, the lines are easily fractured by caste, class, and, more recently, by religious affiliation. It is difficult to find friends and family who understand what the person feels.

If they are able to cope with this, there is the constant othering. The life one leads and lived experiences have little or no overlap with those around oneself. In every sense, the person remains an outsider. If a person's gender identity is different from the sex assigned to them at birth, this conflict and othering is extreme. The person feels trapped and conflicted, that feeds their gender dysphoria.

This relentless dissonance and othering can result in internalised homophobia, often leading to anxiety, loneliness and substance use. It is not surprising then, that LGBTQIA++ youth are likely to suffer 1.75 times more anxiety and depression than the rest of society while the transgender community is even more vulnerable as its members suffer 2.4 times higher anxiety and depression.

In India and elsewhere, from an early age, everyone is pressured, openly or structurally, into accepting gender roles and sexual identities. Those who do not comply are bullied, abused, and assaulted under the pretence of correcting them.

Inadequate health services

When help is sought even by the most empowered, queer affirmative mental health services are hardly available. A large majority of the psychiatrists in India still consider diverse sexual orientations and gender identities as a disorder and practice 'correctional therapy'. This is also true of general health care as well. In an ongoing study, true Raahat project found that a large number of trans and gay men preferred to pay and seek help in the private sector rather than access government health care due to harassment and stigma.

How then do we build communities that sustain the good mental health of LGBTQIA++ communities? What we need is a national focus on LGBTQIA++ mental health that has become further exacerbated by the global COVID-19 pandemic.

We need comprehensive long term solutions that make queer mental health a priority and address community needs but also engage everyone to change the environment in which they exist. These solutions must engage with

all stakeholders, including educational institutions, communities, health-care providers, mental health professionals, police personnel and families who are often a key source of mental health stress. This is not easy as this is not a priority for the Government and funding agencies, and is also neglected in society.

Awareness and other steps

One way to change the status quo is to ensure that every aspect of mental health work in India must include aspects of queer mental health issues, especially in schools and universities, to destigmatise diverse gender and sexual identities. A key aspect is building self care skills among queer adolescents and youth. Strong components of behaviour change and awareness and also building capacity are important ways to build agency among these youth populations. What we need is a movement on queer mental health guided by non-discrimination and public awareness in order to change social attitudes.

Community building is an important part of improving the mental health for LGBTQIA++ people. We need to create supportive, safe and educative spaces, access points for health care and information on mental health. One such project that the Raahat Project has been working on through participatory methods has opened a host of issues that LGBTQIA++ communities face in leading colleges on an ongoing basis. The challenge is on how to address these issues in a holistic way when institutions are so queerphobic.

In the end, ignoring the mental health needs of LGBTQIA communities comes at a great cost to them and to society. Without addressing both the preventive and support aspects of the mental health of LGBTQIA++ people we will compound an already neglected problem of mental illness that will be hard to handle in the future. This would not just be injustice, but also a crisis created by deliberate neglect.

*Chapel Mehra is a public health specialist and Director,
The Raahat Project*

**The Hindu,
8th July 2022.**

THE ROAD TO PRODUCTIVITY

Kala S. Sridhar & Vishal R.

Investing in roads reduces travel time, increases economic output and helps upgrade human development

It has taken a pandemic to know how important cities are. One reason why our progress towards a \$5 trillion economy could be stifled is the pandemic-induced lockdowns in cities which play an important role in realising national and macroeconomic growth targets. Even as early in the pandemic as April 2020, a Barclays report found that “the absolute economic loss was likely the largest from the shutdown of Kuala Lumpur, Manila, Delhi and Mumbai, ranging from billion 81.7 billion per week.”

Travel time

One aspect of cities that we know very little about, which contributes to their economic productivity, is that they are labour markets where the labour force exchanges their labour and creates knowledge spillovers. As the famous

French planner Alain Bertaud points out, a lot of economic and productive activity takes place in cities and its jobs.

There is no doubt that the commute time for the labour force to the workplace plays a very important role in determining their productivity in cities. The travel time to work was one of the slowest in our cities in 2016: Bengaluru being the slowest at 22 km per hour, Delhi at 25 km per hour, and Chennai the highest at 33 km per hour.

Travel time continues to be long in our post-pandemic cities which are fiscally stressed and battling the problem of potholes following heavy rains. The longer the commute time in a city, the smaller is its effective labour market and vice-versa. While the nominal labour market of the city refers to all jobs created in the metropolitan area, the effective labour market refers to the jobs accessible within a certain commute.

From the viewpoint of enlarging a city's effective labour market and economic output, it is therefore very important to keep the commute time short and commuting cost cheap within a city as it keeps growing in population. It should be clear that a short commute is desirable not only from the micro perspective of the commuter who otherwise wastes time, health and productivity with the delays in traffic, but also from a macro, city level perspective, to enable a large effective labour market. In this context, it is instructive to note that in the pre-pandemic period, firms in Bengaluru threatened to leave the city and relocate if the traffic problems were not fixed, as it was affecting the productivity of their employees.

There is no doubt that the larger a city's effective labour market, the greater its agglomeration economies and knowledge spillovers will be. A study found that within a 45- minute commute on public transit, only 66,427 jobs were accessible in the Phoenix metropolitan area in the U.S. compared to The nearly 2,02,724 jobs which were accessible in the Philadelphia metropolitan area within the same commute time, even though the two cities have the same population

(about 1.6 million). Therefore, there is no doubt that Philadelphia's effective labour market is bigger than its counterpart in Phoenix. This is reflected in the higher per capita income of \$22,874 in Philadelphia compared to \$21,907 in Phoenix in 2010.

A priority

One way in which urban local bodies (ULBS) directly impact the city's economic output is = through their infrastructure. Why aren't our cities investing adequately in roads? In recent research, taking the case of Karnataka's cities, we found that road length has a positive effect on the city's tax base. This is because roads lead to easy access to jobs and increased economic activity; that also gives the public more confidence and motivation to pay taxes. Our estimate indicated that for every one km increase in the road length of a ULB, there is an increase in the ULB's own revenues by roughly ₹ 430 per capita. So, for a ULB with an average population of 78,415, the extent of increase in its own revenues can be to the extent of ₹ 33 million, for an increase of 1 km of roads per 1,000 of its population. So, cities should not view investment in road networks as

expenditure: rather, roads add to the city's revenue base which the city can use to improve infrastructure and public services. Even simple things such as fixing potholes and puddles on roads lead to significant reductions in travel time and should be an important city government priority.

Investing in roads not only reduces travel time and enlarges effective labour markets of cities and their economic output, but also improves access to schooling for children as well as healthcare, thereby upgrading human development. This is indeed the road to the \$5 trillion economy along with improvement in human well-being.

Kala S. Sridhar and Vishal R. are Professor, Institute for Social and Economic Change, and IAS officer, Government of Karnataka, respectively

The Hindu
11th July 2022

REVAMP INDIA'S SCHOOL HEALTH SERVICES

Chandrakant Lahariya

As schools reopen there is a need and an opportunity for states to look at a comprehensive package of services

Children across India are back to school for in-person classes after an unnecessarily prolonged and arguably unwarranted closure (especially for the last one year) in the wake of the COVID-19 pandemic. It is time for concrete policy measures and actions that target schoolchildren. On the education front, while there has been some discourse on 'learning recovery,' there is an urgent need to factor in the health needs of schoolchildren. One of the reasons school health services receive inadequate policy attention is because health-care needs are often equated with medical care needs. Though school age children have a relatively low sickness rate (and thus limited medical care needs), they do have a wide range and age-specific health needs that are linked to unhealthy dietary habits, irregular sleep, lack of physical activity, mental, dental and eye problems, sexual behaviour, and the use of tobacco and other substances, addiction etc. Then, the health knowledge acquired, and lifestyle adopted in the

school-going age are known to stay in adulthood and lay the foundations of healthy behaviour for the rest of their life. For example, scientific evidence shows that tobacco cessation efforts are far more successful if started in school.

The evolution

The first documented record of school health services in India goes back to 1909 when the then presidency of Baroda began the medical examination of school children. Later, the Sir Joseph Bhore committee, in its 1946 report, observed that school health services in India were underdeveloped and practically nonexistent. In 1953, the secondary education committee of the Government of India recommended comprehensive policy interventions dealing with school health and school feeding programmes. The result was programmatic interventions, led by a few selected States, that mostly focused on nutrition. However, school health has largely remained a token service.

In two and half years of the COVID-19 pandemic, there has barely been any serious initiative about school health. In the first week of ranted closure (especially for the March 2022, the government of Delhi began 20 school health clinics with the promise of more. Though small, this initiative has two messages. One, it recognises the importance of school health services in the post pandemic period. Two, the importance of multi-stakeholder partnership for school health services as these are being set up through corporate social responsibility funding from a donor on the one hand and internal collaboration between health and education departments within government on the other. On a flip side, by the Delhi government's own assertion, these clinics are curative focused services. They also highlight the main issue: what makes comprehensive school health services has still not been fully understood.

FRESH approach

One of the reasons for wrongly designed, and often very rudimentally, school health services – not only in India but also in most low and middle-income countries is, arguably, limited unders tanding and clarity on what constitutes well-functioning and effective school health services. This situation co-exists in spite of much evidence guided by international literature. UNESCO, UNICEF, the World Health Organization

(WHO) and the World Bank have published an inter-agency frame-work called FRESH-an acronym for Focusing Resources on Effective School Health The FRESH framework and tools propose four core areas and three supporting strategies. The core areas suggest that school health services need to focus on school health policies, ie., water, sanitation and the environment, skills based health education and school-based health and nutrition services. The supporting strategies include effective partnerships between the education and health sectors, community partnership and student participation.

Additionally, guidelines by the Centers for Disease Control and Prevention, Atlanta, U.S. advise that school health services should focus on four main areas of acute and emergency care; family engagement: chronic disease management; and care co-ordination. According to WHO, school health services should be designed based on local need assessment; should have components of health promotion, health education, screening leading to care and/ or referral and support as appropriate. The objective of school health services has to be the promotion of positive health, prevention of disease, early diagnosis, treatment and follow up, raising health consciousness in children and enabling the provision of a healthy school environment.

In the last three decades, many countries (especially in Europe), have successfully implemented these approaches as part of the health promoting schools (HPS) Initiative. Clearly, there is a lot to learn in terms of designing school health services.

Opportunity in reopening

As schools reopen to full capacity, there is a need and an opportunity for a proactive approach for having expanded and strengthened school health services.

First, every Indian state needs to review the status and then draw up a road map to revamp and strengthen school health services along with a detailed timeline and dedicated budgetary allocation. The fifteenth Finance commission grant for the health sector should and could be leveraged.

Second, build upon the existing school health infrastructure, the renewed focus has to have comprehensive, preventive, promotive and curative services with a functioning referral linkage. Health talks and lifestyle sessions (by school teachers and invited medical and health experts) should be a part of teaching just as physical activity sessions are. Some of the teaching must look at adolescent sexual health; also, subjects such as menstrual hygiene, etc. should be integrated into regular class room teaching.

Third, school health clinics should be supplemented with on line consultation for physical and mental health needs. This could be an important starting point to destigmatise mental health services.

Fourth, the role and the participation of parents, especially through parent-teacher meetings should be increased. Parents need to be sensitised about how school health services are delivered in other countries, this may work as an important accountability mechanism to strengthen school health. Innovative approaches that offer limited health services to parents, families and even school teachers could increase use, acceptance and demand.

Fifth, the Government's school health services initiatives do not include private schools most of the time. Private schools do have some health services, which are nearly always restricted to curative care and taking care of emergencies. Clearly, school health services should be designed to take care of school children be they in private or government-run schools.

Sixth, under the Ayushman Bharat programme, a school health initiative was launched in early 2020, but its implementation is sub-optimal. There is a need to review this initiative, increase dedicated financial allocation to bring

sufficient human resources and monitor performance based on concrete outcome indicators, Otherwise, it will end up being a ‘missed opportunity’.

Seventh, children are the future of society, but only if they are healthy and educated. Therefore, elected representatives, professional associations of public health and paediatricians should shoulder the responsibility every citizen should raise the issue and work towards improved school health services being present in every State of India.

A few weeks ago, following a review of the implementation of the National Education Policy, the Prime Minister’s Office (PMO) is said to have advised regular health check-ups and screening school-children. Some letters were said to have been sent to the Health Department and requests made to depute medical interns and students in post-graduate courses to conduct a health

check-up in schools. Such an approach on an issue that needs a thorough approach is akin to ‘tokenism’. India’s children need better handling than this.

For a platform

Every challenge has a silver lining The onus is on health policy makers and programme managers in every Indian State to do everything in the best interests of children. The Departments of Education and Health in every Indian State must work together to strengthen school health services. It is an opportunity to bring children, parents, teachers, health and education sector specialists and the Departments of Health and Education on a common platform to ensure better health and quality education for every child in India. A convergence of the National Health Policy, 2017 and National Education Policy, 2020 should result in the provision of comprehensive school health services in every Indian State.

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SAVING MOTHERS

Data on MMR should lead to restructuring health-care systems for women

Few things in science or social science are as incontestable as the importance of maternal health to human development. Maternal mortality indicates a woman's ability to access health care, contraceptive devices, nutrition, and, in a sense, is a mark of the efficiency of a health-care system in responding to demands made of it. A recent study published in the peer-reviewed journal, PLOS Global Public Health, casts a shadow over the progress of health care targeting women in the country, but also, questions the reliability of the country's own periodic estimates of maternal mortality ratio, or MMR (number of mothers who die from complications in pregnancy for every one lakh live births.) Researchers from the International Institute for Population Sciences triangulated data from routine records of maternal deaths under the Health Management Information System, with Census data and the Sample Registration System (SRS) to provide the MMR for all States and districts of India. The analysis suggests that 70% of districts (448 out of 640 districts) in India have reported MMR above 70 deaths - a target

under the United Nations' Sustainable Development Goals (SDG). Many of the districts in southern India and Maharashtra have an MMR of less than 70. At the same time, the north-eastern and central regions have the least number of districts (12 and six districts, respectively) with an MMR less than 70. Significantly, it also demonstrates the presence of huge within-State inequalities, even among the better performers - Karnataka, Tamil Nadu, Kerala, Andhra Pradesh, and Telangana. Similar heterogeneity was observed in other States as well. According to the SRS (2016-18), only Assam (215) has an MMR of more than 200, while in this district level assessment, the indications are that about 130 districts have reported above 200 MMR.

It is ironic that as the nation plans to celebrate the 75th anniversary of Independence grandly, so many districts still show a very high MMR, clearly indicative of the inadequacy of responsiveness of health systems. But that is not the

only reason. There is adequate proof that improvements in access to contraceptives, antenatal care, post-delivery health care, body mass index, and the economic status, besides a concerted reduction of higher-order births, births in higher ages, will help reduce MMR. The message during this milestone anniversary year is two pronged: improve overall care for women, and keep

real time track of such crucial health data. Immediate action is required to meet the SDG goal regarding MMR. Ultimately, it is more than about just the numbers. There are people- mothers and infants, entire families- behind these numbers who will benefit from such an urgent and intense action on reducing eminently preventable deaths.

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21st July 2022**

THE COST OF MISREPRESENTING INFLATION

Pulapre Balakrishnan M. Parameswaran

The inadequacy of monetary policy to address food-price-driven inflation has been recently flagged

Globally, Inflation is now the prime concern of government, even as there is a speculation that a recession may not be far behind. In India though Government agencies regularly announce that the country is growing at a much faster rate than most economies and presently assert that inflation is much lower. The growth performance is not so surprising given that among the larger economies of the world. India's economy contracted the most in 2020-21. But despite the sharp recovery, real output in 2021-22 was barely higher than in the pre-pandemic year of 2019-20

On the claim that inflation in India is not so high in an international comparison, note that before the recently announced rise in the US inflation rate for June, inflation here was close to what it was there. While the data on inflation in India is in the public domain, the public may be excused for not seeing that India's economic agencies appear to have

not fully understood what is driving it for this requires some specialist Knowledge. The Governor of the Reserve Bank of India (RBI) has been reported as saying that there was a process "need to recognise global factors in inflation".

In our view, the diagnosis that the current inflation in India is, even largely due to global factors is wrong and harmful for reasons that we set out.

Factors driving inflation

It is a common mistake to observe sharply rising prices of certain goods and conclude there from that it is this that is driving inflation. This conclusion can be way off the mark when the concerned goods account for only a small part of the consumption basket that the overall consumer price index is based on. Thus, while the price of edible oils and the world price of crude may have risen following the Ukraine war, the impact of this development on overall inflation in India,

measured by the rise in the consumer price index, would depend upon their share in the consumption basket of households, which is relatively low.

Our investigation of price trends among the major commodity groups threw up some bindings crucial to understanding the current inflation in India.

Contrary to the belief that the rise in inflation in India is due to higher international prices, we found that for the commodity groups ‘fuel and light’, and ‘fats and oils’, chosen as proxies for the price of the imported edible oils, respectively, inflation has actually been lower in the first five months of 2002 than in the last five months of 2021. On the other hand, for the commodity group food and beverages’. It was exactly the reverse, i.e., inflation has been much higher in the more recent period internationally. Not surprisingly, the estimated direct contribution of this group to the current inflation dwarfs that of all other groups, establishing conclusively that the inflation is driven by domestic factors. This is also readily seen when we find inflation in India trending towards from October 2021, that is, well before the war in Eastern Europe.

While the Governor of the Reserve Bank of India may have flagged global factors in the current inflation, its monetary policy seems to be based on a somewhat different view. Starting in

May, the repo rate has been raised. Raising the interest rate in an attempt to control inflation, implicitly assumes that it reflects economy wide excess demand. Such a diagnosis of the current inflation is belied by the fact that the price of food is rising faster than that of other goods i.e., its relative price has risen. So, the excess demand is in the market for foodstuff, and it is this that needs to be eliminated. To persist with monetary policy to curb inflation under these circumstances is to miss the point that, being a macroeconomic instrument, it cannot affect any particular price.

‘Necessary food surplus’

The inadequacy of monetary policy to address food-price-driven inflation has been flagged by economists internationally.

Thus, at the World Economic Forum’s annual meet held at Davos, Switzerland in June. Nobel Laureate Joseph Stiglitz observed that “raising interest rates is not going to solve the problem of inflation. It is not going to create more food. What you do is that you have supply side interventions. Killing the economy through raising interest rates is not going to solve the inflation in any time frame. We used to have surpluses in food in the United States. We can get those hack. At least, trying to do

everything we can globally to increase the supply is going to do more dealing with the problem. Another observation comes from the head of the U.S. Central bank itself, the Federal Reserve Bank, made the U.S. House Representative in June. Jerome Powell is reported stating that even though the Fed's resolve to fight inflation is unconditional. "a big part of inflation won't be affected by our tools". This is an acknowledgement that there is only so much a central bank can do when battling inflation driven by the rise in energy and food prices. That an independent economist would suggest the impotence of monetary policy to control food inflation is not news, but when the head of a leading central bank does so, it should draw our attention. Interestingly, those responsible for inflation management in India continue to give the impression that the current inflation can be dealt with effectively by monetary policy.

This stance by the economic arm of the government of India, that inflation can be controlled by monetary policy could have been ignored were not

potentially harmful. To hold on to the view that inflation in India is due to excess aggregate demand curable by raising interest rates ensures that attention is not paid to the necessary supply-side Interventions. Note the call by American economists to bring back the food surplus in the United States, even when their country has hardly ever experienced food shortages. By comparison, food in India has never been plentiful, reflected in the high share of the average household budget devoted to it. And, there is here an undercurrent of a food price inflation, which, by exacerbating poverty, stands in the way of a more rapid expansion of the economy.

As the current inflation represents a domestic imbalance, it will not end with the crashing of food prices taking place on the global market right now.

The failure to see inflation in India as the reflection of a structural feature of its economy ensures that there is very little chance that one of India's urgent problems will be solved.

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A GROWING DISENGAGEMENT WITH GANDHI'S IDEAS

SEEMA CHISHTI

*The lionising of Savarkar and the diminution
of the Mahatma endanger the essence of
India's future*

The June 2022 issue of Antim Jan a magazine published by the Gandhi Smriti and Darshan Samini (GSDS), stood out for a reason. The issue was dominated by Vinayak Savarkar, a central figure in Mahatma Gandhi's assassination trial Savarkar was let off for lack of adequate corroborative evidence, but the Jivanlal Kapur Commission set up in the 1960s concluded "All these facts taken together were destructive of any theory other than the conspiracy to murder by Savarkar and his group. No further inquiries about Savarkar's role were made as he was dead by then.

In an article in Antim Jan Bharatiya Janata Party (BJP leader Vijay Goel, the vice chairman of GSDS, tries to place Savarkar on the same footing as Mahatma Gandhi- Savarkar's place in history and structure in freedom struggle is no less than that of Gandhi. The chairman of the GSDS is Prime Minister

Narendra Modi. Prime Ministers have always chaired the GSDS ever since it was set up in 1984.

The point is not to express outrage but to recognise that people (beyond those who call themselves Gandhian), need to be concerned about this odious under taking, which clearly has top official sanction. The lionising of Savarkar and the diminution of Gandhij have implications in terms of the essence of India's future.

Continual appreciation of Gandhiji's assassin Godse by public representatives espousing Hindutva ideology has grown much louder in the past four years, at least two Members of Parliament from the ruling party are examples of this. Popular hatemongers abuse Gandhij and praise Godse in the media without any fear of the consequences. This recrafting of our past

is one of a piece, with Hinduva's attempts to reshape the narrative on the Gujarat riots in 2002. The recent arrests of civil rights activist Teesta Setalvad and former Gujarat Director General of Police R. B. Sreekumar, along with a scrubbing of text books to eliminate references to the violence of 2002, are a part of this effort. The control over new networks of communication (social media and television channels) and the older more formal ones (school text books, the Archaeological Survey of India and a majority of news papers) facilitate this tampering with memory and knowledge.

Gandhi power

The non violence of Gandhiji was a powerful idea and a weapon, and not cowardice as Savarkar and the Rashtriya Swayamsevak Sangh (RSS) caricatured it. In a prayer meeting in September 1947, Gandhiji invoked the epic, the Mahabharata, in ways starkly different from an invocation as a battle cry. He said; "It is said that in the Mahabharata period the Pandavas used to stay in this Purana Qila" Just like the Pandavas, said Gandhiji the Muslims "are under your protection, and under my protection. His invocation of the Shanti Parva-part of the Mahabharata that involves a deep rumination on the futility of conflict after

the war has Bhishma teaching Yudhishtira the rajdharm of nurturing people, holding them together and practicing non-violence.

In March 1931, while moving the Resolution on Fundamental Rights at the open session of the Congress in Karachi, Gandhi emphasised religious tolerance and religious neutrality of the state. Gandhiji's message was not about Hindu reform but of an interpretation of high ideals as the soul of Hinduism itself, putting it on a higher pedestal-not as something bound by an adversarial relationship to any Abrahamic faith or hostage to hate.

This was directly at odds with how M. S. Golwalkar, the RSS or Savarkar interpret Hinduism. Golwalkar was explicit in his appreciation of the way Germany of the 1930s handled the "minorities problem" : the need to get them to "either merge themselves in the national race and adopt its culture, or to live at its mercy so long as the national race may allow them to do so and to quit the country at the sweet will of the national race." Shruti Kapila in *Violent Fraternity Indian Political Thought in the Global Age* (2021) recounts that Savarkar's idea of the virile and masculine and his desire to claim India's history and space, saw the nation as a battleground which makes violence the only desirable means to meet supremacist goals.

A discourse which seeks to diminish Gandhiji will have grievous consequences on the diversity among Indians, and all those who share the Indian dream because it offers them rights, liberation and space. If the nation is now only about one faith and a permanent line between two identities that Hindutva politics obsesses about (Hindu and Muslims) then the entire larger India project would be in jeopardy, even if that is not visible just yet. This was a framing Gandhiji opposed vehemently and paid for, with his life. Now, to take down Gandhiji and to cut out vital parts of India's plural past from its memory so everything can then be framed to cast the Hindu as victim and the Muslim as the oppressor, will have implications.

Real world consequences

India's education system will be immediately impacted by this twisted art history. The Indian education system, with all its drawbacks, has led to Indian students being able to compete at the highest levels globally. But what will be the status in another few years if social science is about skipping empires in India between the 12th century and the 17th century? Or the learning of ancient India is without its many cultures, religions and contradictions, on rich debates that still leave a mark? It will be akin to the Islamisation of Pakistani textbooks, with

social studies becoming Islamic studies, and where vast and rich aspects of the subcontinent were left untaught. With over 60% of India younger than 26 years of age, ideas drilled down now will stay for the lifespan of this now young population. In short, for a long time.

But the more serious consequences of trying to arrange India's reality as a nation in the Golwalkar-Savarkar framework concern the very nature of India itself. The Golwalkar-Savarkar framework is, by self admission, rooted in a now discredited and failed idea of states in the European imagination of the 1930's. This can only widen social distances. Communal incidents are on the rise. Even the pandemic year saw 857 communal incidents, which was a 96% leap in incidents from 2019, India was never incident-free, but top leaders explicitly called for harmony and peace. Today, what we hear loudly instead is a complete silence from the top leader. The estrangement between Hindus and non-Hindus is sought to be widened by everyday acts, and differential treatment accorded by those in power to the place of religion in public life, whether it is namaz, hijab or acts by groups aligned with the ruling ideology or by ruling party leaders when nationalism is equated to Hinduism.

Disallowing solidarities

The majority of Indians remain subjugated and in need of assistance in order to bridge and make up for inequities and injustices that are products of history and also of the recent past. Even a constitution could not wish away structural rigidities sanctioned by scriptures. The attempt is to use Savarkar and push Islamophobia such that there is only one understanding of the majority. The axis of this subjugated majority in India is not a function of faith. The majority, or Bahujan, including Hindus, minorities, tribals and Dalits comprise millions of the poor, the marginalised, the deprived and who are evaluated by several metrics. The attempt in the Hindutva world to cement them in a permanent box by faith is to not allow India's real oppressed majority to form solidarities.

Data on economic inequality (on the socially deprived and the Sachar Committee Report on Muslims), have clearly established the extent of backwardness and oppression suffered by a majority of our countrymen and women. A push towards a worldview promoting deeply divisive ideas from the days of the two-nation theory ensures that real issues - that modern politics deals with and answers are not posed at

all. This means that there is a setback for not just Muslims but also India as a whole.

Weakening social justice

Taking away the soul of Gandhiji and replacing it with Savarkar has implications on the future of the most downtrodden-Dalits. There can be no justice to India's most grievous victims over millennia if the misdeeds of the millennia are not acknowledged and a move made to "annihilate the system that fostered egregious social and economic oppression. The systematic bid to make it "Hindu versus Muslim" has a sinister subproject of burying the call for social justice which via electoral politics, has resulted in significant social change especially in north and western India.

Gandhiji's glasses have been extricated to prop the Swachhta Abhiyan, as a call to cleanliness. But without his empowering and revolutionary companion call to battle untouchability in Hinduism, this is about buying Gandhiji's real message. Amputating Gandhiji's symbols of their substance has been underway for a few years. But with Savarkar on the cover of Antim Jan, we may have entered a darker stage of disengagement with Gandhiji's ideas even as stated ideals.

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THE POOR STATE OF INDIA'S FISCAL FEDERALISM

Kalaiyaran A

Concerns of the founding fathers-addressing socio-economic inequities-are being forgotten in today's fiscal Policy

In his last speech, in 1949, to the Constituent Assembly, B. R. Ambedkar sounded a note of caution about the Indian republic entering a life of contradictions. "In politics we will have equality and in social and economic life we will have inequality. These conflicts demanded attention: fail to do so, and those denied will blow up the structure of political democracy", he warned, though Jawaharlal Nehru truly believed that inequities could be addressed through his trust with the planning process. A degree of centralisation in fiscal power was required to address the concerns of socio economic and regional disparities, he felt. This asymmetric federalism, inherent to the Constitution, was only accelerated and mutually reinforced with political centralisation since 2014, making the Union Government extractive rather than enabling. While States lost their capacity to generate revenue by surrendering their rights in the wake of the Goods and Services Tax

(GST) regime, their expenditure pattern too was distorted by the Union's intrusion, particularly through its centrally sponsored schemes.

A politicised institution

Historically, India's fiscal transfer worked through two pillars, i.e., the Planning Commission and the Finance Commission. But the waning of planning since the 1990s, and its abolition in 2014, led to the Finance Commission becoming a major means of fiscal transfer as the commission itself broadened its scope of sharing all taxes since 2000 from its original design of just two taxes-income tax and Union excise duties. Today, the Finance Commission became a politicised institution with arbitrariness and inherent bias towards the Union government. The original intention of addressing inequities, a lofty idea, indeed, was turned on its head as it metamorphosed into one of the world's most regressive taxation systems due to a centralised fiscal policy.

So, let us see what has changed since 2014. The concerns of the founding fathers-addressing socioeconomic inequities - were forgotten in the process of ushering in an era of political centralisation and cultural nationalism that drive today's fiscal policy. To be sure, India was never truly federal -it was a holding together federalism in contrast to the 'coming together federalism, in which smaller independent entities come together to form a federation (as in the United States of America). In fact, the Government of India Act 1956 was more federal in nature than the Constitution adopted on January 26, 1950 as the first offered more power to its provincial governments

Anticipating this threat of centralisation, CN. Annadurai asserted in the Tamil Nadu Assembly in 1967, I want the centre to be strong enough to maintain the sovereignty and integrity of India should they have education and health department here.. in what way does that strengthen the sovereignty and independence of India? Subsequently, the Dravida Munnetra Kazhagam constituted a committee under Justice PV. Rajamannar in 1969, the first of its kind by a State government, to look at Centre State fiscal relations and recommend more transfers and taxation powers for regional governments. It did not cut ice with the rest of India and centralisation, though partly contained in the 1990s and 2000s due to the coalition at the Centre, touched its apogee in 2014.

Hollowing out fiscal capacity

The ability of States to finance current expenditures from their own revenues has declined from 69% in 1955-56 to less than 38% in 2019-20. While the expenditure of the States has been shooting up, their revenues did not. They still spend 60% of the expenditure in the country-85% in education and 82% in health. Since States cannot raise tax revenue because of curtailed indirect tax rights-sub- sused in GST, except for petroleum products, electricity and alcohol- the revenue has been stagnant at 6% of GDP in the past decade.

Even the increased share of devolution, mooted by the Fourteenth Finance Commission, from 32% to 42%, was subverted by raising non-divisive cess and surcharges that go directly into the Union kitty. This non-divisive pool in the Centre's gross tax revenues shot up to 15.7% in 2020 from 9.43% in 2012, shrinking the divisible pool of resources for transfers to States. In addition, the recent drastic cut in corporate tax, with its adverse impact on the divisible pool, and ending GST compensation to States have had huge consequences.

Besides these, States are forced to pay differential interest - about 10% against 7%-by the Union for market borrowings. It is not just that States are also losing due to gross fiscal mismanagement - increased surplus cash in balance of States that is money borrowed at higher interest rates -

the Reserve Bank of India, when there is a surplus in the treasury, typically invests it in short treasury bills issued by the Union at lower interest rate. In sum, the Union gains at the expense of States by exploiting these interest rate differentials.

By turning States into mere implementing agencies of the schemes, their autonomy has been curbed. There are 131 centrally sponsored schemes, with a few dozen of them accounting for 90% of the allocation, and States required to share a part of the cost. They spend about 25% to 40% as matching grants at the expense of their priorities. These schemes, driven by the one size fits all approach, are given precedence over State schemes, undermining the electorally mandated democratic politics of States.

In fact, it is the schemes conceived by States that have proved to be beneficial to the people and that have contributed to social development. Driven by democratic impulses, States have been successful in innovating schemes that were adopted at the national level, for example, employment guarantee in Maharashtra, the noon meals in Tamil Nadu, local governance in Karnataka and Kerala, and school education in Himachal Pradesh.

The diversion of a State's own funds to centrally sponsored schemes, thereby depleting resources for its own schemes, violates constitutional provision. Why should there be a centrally sponsored scheme on an item that is in the State list? Similarly, why

should the State share the expenditure of a scheme on the Union list? For instance, health is on the State list, so why should the Union thrust this scheme onto States; even on those that are better performing such as Tamil Nadu and Kerala? It only impedes States from charting their own autonomous path of development.

Deepening inequality

This political centralisation has only deepened inequality. The World Inequality Report estimates that the ratio of private wealth to national income increased from 290% in 1980 to 555% in 2020, one of the fastest such increases in the world. The poorest half of the population has less than 6% of the wealth while the top 10% nearly grab two third of it India has a poor record on taxing its rich Its tax-GDP ratio has been one of the lowest in the world -17% of which is well below the average ratios of emerging market economies and OECD countries about 21% and 34%, respectively.

Pavithra Suryanarayan, a political scientist at London School of Economics, demonstrates that the Indian elites historically undermined fiscal capacity as they felt threatened by the political equality offered by the one person-one vote system. That hollowing out of fiscal capacity continued for decades after Independence, resulting in one of the lowest tax bases built on a regressive indirect taxation system in the world. India has simply failed to tax its property classes. If taxing on agriculture

income was resisted in the 1970s when the sector prospered, corporate tax has been slashed by successive governments thanks to a pro-business turn in the 1990s. India does not have wealth tax either. Its income tax base has been very narrow. Indirect tax still accounts for about 56% of total taxes. Instead of strengthening direct taxation, the Union government slashed corporate tax from 35% to 25% in 2019 and went on to monetise its public sector assets to finance infrastructure.

In sum, India's fiscal federalism driven by political centralisation has deepened socio-economic inequality, belying the dreams of the founding fathers who saw a cure for such inequities in planning. It has not altered inter-state disparities either. If there was anything that alleviated poverty, reduced inequality and improved the well-being of people, these were the time-tested schemes of State governments, but they are now under threat.

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AN INDIAN EPIDEMIC

TARAN DEOL

Increasing number of children and adolescents in the country are developing diabetes. This will have lethal consequences

In January this year, a 13 year-old girl from Chennai was referred to Dr. Mohan's Diabetes Specialities Centre. Doctors at the hospital found that she had severe, uncontrolled diabetes. She was put on a balanced diet and prescribed physical activity and medication. While the girl's diagnosis was incidental, discovered during an investigation for another condition, doctors are worried at the indication that diabetes is becoming increasingly common among younger populations in the country.

The disease is a dysfunction in the body's regulation of blood-sugar levels and comes in two varieties. Type 1 is rare and usually shows up early in life. In this autoimmune disease, the body attacks the cells in the pancreas that produce insulin, a hormone that helps in the use of glucose for energy. Patients must administer insulin for up to four times a day. Type 2, which the 13-year-old girl

was suffering from, is far more common in adults but tends to develop when the body cannot regulate its use of insulin or resists the hormone. Obesity and an inactive lifestyle are the most common causes of Type 2. It can usually be controlled with pills and lifestyle changes. Both types, if not treated well and in time, can cause complications like organ failure, blindness, strokes and heart attacks.

India is often referred to as the diabetes capital of the world. But over the past decade, cases of both Type 1 and Type 2 diabetes have seen an increase among children and adolescents. There are currently 95,600 cases of Type 1 diabetes among children under 14 years of age, with nearly 16,000 new cases added every year, states the Indian Council of Medical Research (ICMR) in its first-ever treatment guidelines for Type 1 diabetes released on June 6. Which recommends a nutritious diet, regular physical activity

and tracking of blood glucose levels for children: ICMR observes that the disease has trickled down from high-income to middle and low-income groups.

Other studies provide broader insights into the prevalence of childhood diabetics in the country. The 10th edition of Diabetes Atlas, a 2021 report by the International Diabetes Federation (IDF) states that India has the highest estimated prevalence of Type 1 diabetes in people under 20 years (229,400), followed by the US (157,900) and Brazil (92,300). While India adds an estimated 24,000 new cases each year, the US adds 18,200 and Brazil 8,900. This is a major shift from the trend five years ago, when India was second to the US. IDF's diabetes Atlas for 2017 records 128,500 cases of under-20 Type 1 diabetes in India, with 16,800 new cases annually, as against the US' 169,900 total cases and 17,100 new cases a year.

Manoj Chadha, a consulting endocrinologist at Mumbai's Hinduja Hospital, tells Down To Earth (DTE), "A decade ago, a paediatrician with an interest in Type 1 diabetes would see four-six new cases per year. This has increased by three-four times." As the cause of the condition is not known, reasons for the rise in cases also remain unclear. Doctors say it may be a combination of environmental and genetic

factors. Viswanathan Mohan, chairperson and chief of diabetology at Dr. Mohan's Diabetes Specialties Centre, a chain of clinics, and director of the Madras Diabetes Research Foundation (MDRF), believes that the surge may also be due to better and earlier diagnosis.

"COVID-19 has also been a big factor for the rise in Type 1 diabetes cases since the onset of the pandemic," says Jothydev Kesavadev, a Kerala-based diabetologist. Research shows that the SARS-cov-2 virus can destroy insulin-producing cells. But the impact is greater than anticipated. "Before the pandemic, most diabetes hospitals would see one-two new patients every month. This has now increased to two-three new patients every week," adds Kesavadev. A January 2022 study by the US Centers for Disease Control and Prevention says, "Persons aged less than 18 years with COVID-19 were more likely to receive a new diabetes diagnosis more than 30 days after infection."

TYPE 2 TOO SOARING AMONG YOUTH

More than Type 1, the exponential rise of Type 2 diabetes among younger populations warrants concern because the condition is preventable. Two decades ago, a doctor would see one new case of Type 2 diabetes in a child per month; this has

now risen to at least one new case per week. This trend is common among doctors DTE spoke with in Tamil Nadu, Odisha, Jammu and Kashmir, Gujarat and Delhi. “In 2014-15, only 10 per cent of my diabetic patients under 25 had Type 2 diabetes. This has increased to 20 per cent now,” says Shariq Masoodi, professor at the endocrinology department at Sher-i-Kashmir Institute of Medical Sciences in Jammu and Kashmir.

“While it is likely 5-7 per cent of those under 25 will have diabetes, the number of prediabetic cases may be more than double, and will convert to diabetes in three or four years,” says Kesavadev. Prediabetes is a condition wherein the patients blood glucose level is higher than normal-100 to 125 mg/dL, above which it converts to diabetes. Prediabetes can be identified only for Type 2 diabetes. Overall, one in 10 children in India is pre-diabetic, as per the Comprehensive National Nutrition Survey (2016-18) by the Union Ministry of Health and Family Welfare, UN Children’s Fund (UNICEF) and Population Council. Northeastern states such as Manipur (22 per cent), Sikkim (21.6 per cent), Tripura (21.1 per cent) and Mizoram (19.7) have highest percentage of pre diabetic children aged

5-9 years, while for adolescents is the 10-19 age group, Kerala has the highest pre diabetic rate at 32.2 per cent (see ‘Alarming indicators’)

The rise in Type 2 diabetes is parallel to the increase in obesity among children. As per the World Obesity Federation, India has a childhood obesity risk score of 4/11 (with 11 being the highest risk), and is likely to miss the World Health Organization’ target of “no increase in childhood obesity prevalence by 2025”. The federation says at current rate obesity will increase to 6.2 per cent among adolescents and 10.8 per cent among children aged 5-9 by 2030.

IMPACT ON DEMOGRAPHIC

Greater prevalence of diabetes puts the younger populations at higher risk of mortality and morbidity. December 2020 study by researchers from MDRF find that “individuals diagnosed at a younger age have more severe form of diabetes and poor glycemic control when compared with those with late - onset diabetes.” This was a 10-year follow up of another study of health conditions of urban children aged 6-19 years.

Anoop Misra, executive chairman of the Fortis (Doc hospital chain, describes diabetes as “accelerate ageing”

which may lead to a decrease in life expectancy. “The later you contract the disease, the milder’ the complications. But if a child contracts it at 1 years of age, complications develop by the time the are 30 and are severe,” adds Mohan. Some 80-90 per cent patients who do not get treatment see complications. “We are used to treating the complication, not the disease; this needs to change,” says Kesavadev.

The first step is an increased focus on screening. There are no guidelines to screen for Type 1 diabete It is typically diagnosed on the basis of severity and symptoms, which can appear

suddenly. With Type diabetes, onset is insidious and diagnosis can be missed for years. Currently, screening is done for people above 30. A 2021 study published in Science Direct argues this bar needs to be reduced to 25 years. MDRF says childhood obesity also needs attention “Childhood and adolescent obesity is not taken up seriously in South Asian countries, due to which there is a steady rise in Type 2 diabetes in these age groups,” it notes. As per the study, the lack of data will further plague efforts to formulate policy of screening and prevention of diabetes in these younger age groups.

Down to Earth
31th July 2022.

RAPIDLY UPROOTED

*Excessive use risks extinction of wild plant species.
Use traditional knowledge to manage them wisely*

Native communities in the GreatLakes region of the US rely heavily on *Zizania palustris*, a variety of wild rice that has high levels of protein and micronutrients and can be stored for long periods. It used to help them survive harsh winters and is served in feasts and ceremonies even today.

Zizania palustris is just one of the thousands of wild species used by billions of people globally, according to the latest assessment by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). These species include both flora and fauna; more than 60 per cent of them are plants, algae and fungi. Hence, the threats the e species face due to land-use change, over-exploitation and climate impacts will be detrimental to global food systems and livelihoods, says the Assessment Report on the Sustainable Use of Wild species. It is one of two assessments released during IPBES's ninth plenary Session in Bonn, Germany.

The first assessment highlights that the world depends on 50,000 wild species for various purposes. Out of these, 31,100 are wild plants and 1,500 species are of fungi, Some 10,000 wild species are used as food.

But while the world is able to identify many of these plant species and the manner in which they are used, there are massive information gaps on their gathering, conservation status and management, Jean - Marc Fromentin, a French scientist and co-chair of the assessment, said while releasing the report on July 8. The lack of adequate data on a large number of species is concerning, as there is a growing demand for these resources in food, alternative medicines and aromatics.

The assessment presents a grim picture Unsustainable gathering is one of the main threats for plants such as cacti, cycads and orchids. An estimated 12 per cent of wild tree species are threatened by

excessive logging. Wild species are also the third largest class of all illegal trade, with an estimated value up to US \$199 billion per year. In terms of volumes and value, timber and fish lead in illegal trade.

ROPE IN NATIVE COMMUNITIES

Unregulated exploitation threatens even those groups that have so far been used sustainably by communities. But due to diversity among species, their ecosystems and uses, finding one solution to conserve them all is a herculean task. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Biological Diversity (CBD) and IPBES have been working for decades on biodiversity conservation such a “one-size fits all” solution, but it remains elusive.

The latest assessment too, highlights that there is no silver bullet or single recipe. But the co-chairs are cautiously optimistic about sustainable use of species. Although the species used by the Maasai tribes of Africa, the indigenous peoples of the Russian far east, and the local communities in North America and in eastern Europe are different, the challenges they face in managing them sustainably are similar, Marla Emery, a US-based research geographer and

a co-chair of the assessment, said during the release. Hence methods to conserve and protect them can be adopted universally, she said.

The report investigated the potential of cultivation of wild species and found that this approach will reduce pressure on the natural population; but it can adversely affect indigenous people that depend on these sources of nutritional security and income. For example, local communities have long made choices about which species, time periods and places to avoid while harvesting-which modern methods may not acknowledge. For example, felling of entire trees to harvest fruits or introducing new technologies to increase produce can alienate communities and override traditional knowledge.

The assessment finds that policies supporting secure tenure rights and equitable access to land, fisheries and forests, along with poverty alleviation, enable sustainable use. It gives the example of the Solomon Islands, where fishing is organised around customary sea tenures provided to native communities and fish are distributed through a kinship-based system. It notes that strengthening of inclusive and participatory decision-making practices; recognising and supporting multiple forms of knowledge;

enabling fair and equitable sharing of benefits; monitoring wild species and practices; and aligning policies at international, national, regional and local levels can augment the success of policies.

However, the second report to be released by IPBES shows that these criteria are rarely included in policies. The Assessment Report on the Diverse Values and Valuation of Nature reports that though there are currently more than 50 methods to indicate values of nature, the focus is solely on short-term profits and economic growth. For example, the assessment's review of studies on people's participation in deciding market values shows that just 1 per cent of them include stakeholder consultations and

involvement in every step of the valuation process. Similarly, only 4 per cent of the studies work towards improving social justice.

The report says that policymaking overlooks the many non-market values of nature's contributions to people, such as climate regulation and cultural identity. This means wild species that provide food, energy, material, medicine, income and have social and cultural importance are left open to unsustainable exploitation.

The IPBES' assessments arrive ahead of CITES and CBD meets later this year. It is hoped that these assessments will inform discussions and decisions at the meets, paving the way for sustainable management of biodiversity.

Down to Earth
15th August 2022

INDEPENDENCE, IN THE WORDS OF AN AMERICAN

Shashi Tharoor

*The power of that magical moment when
India became free, which Mildred Talbot
recorded, must never be forgotten*

Independent India will turn 75 on Sunday, under the helm of an Adivasi President and a Gujarati Prime Minister, who, in their addresses to the nation (as yet undelivered as I write these words), will give voice to the extraordinary civilisational ethos of our country that they themselves personify. It is a very special moment in the history of this ancient land, one we are all privileged to be living through.

A rare privilege

My mind turns this week, though, to another very special moment 75 years ago - the moment of India's celebrated "freedom at midnight. I am privileged to have seen a remarkable document, a letter written on August 27, 1947 by a young American woman, Mildred Talbot, who had the rare privilege of being

present at the Independence ceremonies of both India and Pakistan. Mildred, the wife of the admirable Journalist, diplomat and Indo-ophile, Phillips Talbot, died in 2004 at the age of 89. But she had agreed that I could share with others her first hand impressions of the day, and I do so in homage to the occasion whose anniversary we all commemorate today.

Mildred's seven page, single spaced typed letter is a personal reminiscence of the sights, sounds and encounters, not a political analysis (she left that to her husband, who was covering events for the Chicago Daily News). In sending me her "simple, unsophisticated account", she mentioned that she had put her impressions down while they were still fresh "to get them out of [her] system"- only then, she wrote, did

sleep become possible again. (It is striking that someone who, by nationality, had no direct emotional stake in the events she witnessed still found them so exciting that thoughts of what she had seen kept her awake for two weeks.)

From Karachi to Delhi

I shall skip past her account of the Karachi ceremony which took place on August 13-14 within eyeshot of a bronze statue of Mahatma Gandhi in a nearby circle-though some of her irreverent comments are worth quoting even now (“Jin nah, whose smile muscles seem to be permanently out of order... Karachi was still a Hindu-majority city, and large sections of the population were understandably subdued at Partition. Delhi’s mood was altogether more joyous. The Talbots arrived at the Constituent Assembly just in time after a hair raising journey from Pakistan on the afternoon of August 14. Mildred describes Jawaharlal Nehru’s famous “Tryst with destiny” speech, recounts the now-forgot ten exuberance of a delegate who marred the decorum of the occasion by shouting a cheer for the Mahatma, and then tells a story I have not come across elsewhere:

“At the moment when the clock was chiming the (midnight) hour there was a rude interruption which startled everyone. A conch shell was blown long

and loudly from the rear of the hall. In voluntarily. every head turned... It was revealing to witness the relief when they saw that it was one of the most highly respected members of the Assembly, a devout Hindu, simply invoking the gods to witness this ceremony. I happened to spot Nehru just as he was turning away, trying to hide a smile by covering his mouth with his hand.” The first harbinger of a Hindutva renaissance, or a simple re affirmation of an ancient culture?

Mildred describes the pressure of the throngs outside the Assembly clamouring for a glimpse of their idol, Nehru, whom the police obliged to slip out by a back en trance. (As an American democrat, she was struck by the fact that when the crowds got out of hand, it was the VIP who changed his plans. As an Indian three-quarters of a century later, I know it would be the other way around today.)

There are numerous fascinating vignettes in her letter of the next morning’s Independence Day events: of Nehru’s horror at seeing a horse fall the only turned his attention back to the ceremony when he saw the horse rise again and move); of the US Ambassador’s irritation that US President Harry S. Truman’s cable of congratulations had been omitted when other leaders greetings were read it turned out that it had been misplaced), of Louis Mount batten’s demeanor of “sincere pleasure”,

a sharp contrast with his stiffness in Karachi (Here he was relaxed and at home among friendly companions his good wishes were obviously heartfelt"). Mildred's harrowing account of the evening's ceremony, ruined by rain and by 5,00,000 people turning out for an event planned for 25,000, is too long to summaries here, but for one detail amidst the chaos, Indira Gandhi looked "woe be gone and bedraggled. Her sari was torn, her hair stragglng, her fingernails ruined. And she was one of the dignitaries!".

When the flag was raised

But the highlight of Mildred's account is of the morning of August 15, 1947 when the national flag was raised over the Council Hall: "The multitudes had gathered as far as the eye could see in the two-mile- long parkway approach to the Secretariat, on tops of buildings, in windows, on cornices, in trees, perched everywhere like so many birds. The raising of that first flag was the single most thrilling experience of the entire celebration.... The first who spotted it pointed like eager children; others... looked up and tried to push their way to a vantage point so they too could see this miracle. For a few minutes there was

almost a subdued hush over the whole crowd; then a soft bass undertone slowly swelled until, perhaps when the flag reached the top... there was a breathtaking roar of cheering. shouting, and excited cries which others said penetrated to the hall inside and made their spines tingle. While I was being stirred by the sheer power and grandeur of the spectacle... the Indians either stood mute, immersed in their own overwhelming thoughts, or were shouting almost uncontrollably. It was a grand emotional experience that left most of us with shaky voices or complete inability to speak."

These are the words not of an Indian nationalist but of a young American woman, Mildred wrote to an American friend two weeks after witnessing that first flag-raising: "The memory of the feelings that surged up within us as we watched their [ie. the Indian masses'] excitement and awe still brings tears to my eyes." Seventy- five years later, the memories of that first Independence Day have faded in all but a minuscule percentage of our population. But the power of that magical moment when India became free, and the hopes raised of what we would make of that freedom, must never be forgotten.

Today we contemplate a different India, when the hopes of that midnight moment are sought to be transmuted by rising intolerance and increasingly belligerent majoritarianism, to a very different idea of what this land is all about. And yet, re-reading Mildred's letter makes August 15, for me, a day to remember that original moment, and to

rededicate ourselves to its promise. It is the promise of an inclusive, pluralist, democratic and just India - the India that Mahatma Gandhi fought to free. As the nation celebrates the sweet nectar of an "Amrit Mahotsav", let us not forget that original vision. It is one that every Indian can still do his or her own part to fulfill.

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**The Hindu,
13th July 2022.**

WHAT NEXT ON DATA PROTECTION?

Rishab Bailey & Suvash Rai

There are two issues - the form that a new law will take, and the nature of protections it will offer

The withdrawal of the Personal Data Protection Bill from Parliament came as a surprise, particularly after so much effort was put into it over the last five years. Between August 2017 and July 2018, a 10-member committee chaired by a former Supreme Court judge drafted the Bill. The committee included four senior government officials. The Bill was then revised by the government, approved by the Cabinet, and tabled in Parliament in December 2019. Subsequently, a joint parliamentary committee, or JPC, comprising a majority of BJP members, reviewed the bill and submitted its report in December 2021. The withdrawal does not reflect well on the government, the entire process having been played out under its regime. This also increases uncertainty about the future of privacy regulation in India.

One way to understand this decision is to go back to the genesis of this law, which arose out of the Justice K.S. Puttanamy. Union of India case where the court held that the right to privacy had both a positive and negative aspect. The former implies the need for the state to actively take measures to protect an individual's privacy. Thus, the government was more or less forced to initiate the drafting of a data protection law. This experience also tells us something about the limits of judicial inducement for regulation, for which active effort of the other two branches of the state is needed. The options of delay and dilution are always available.

The scope of the Law

The growing importance of the digital economy and the broad scope of the proposed law also contributed to

contestations between stakeholders as the law was being deliberated. Shaped by different interests and incentives, the state, industry, and advocacy groups all have very different expectations of what a data protection law should look like. For instance, for domestic industry such a Law represents a compliance hurdle which could put it at a disadvantage, However, a law can also promote regulatory certainty, thereby opening up the possibility of increased data flows and the growth of data processing business. For the state, a law could limit intrusive data processing by state agencies, but it could also promote geopolitical, strategic or regulatory interests. Similarly, individuals could benefit by the restrictions on harmful data processing, but on the other hand, a poorly drafted law could legitimise certain intrusive practices.

Each version of the law the 2018 Bill of the Srikrishna Committee, the 2019 Bill introduced in Parliament, and the version of the JPC in 2021-faced different types of critique from different stakeholders, For instance, law enforcement interests were seen as being obstructed by the 2018 draft, leading to broad exemptions being provided in the 2019 Bill.

However, what appears striking is the consistent dilution of the focus on data privacy from the 2018 version onwards. From being the centerpiece of the legislation, privacy protection was increasingly being seen as one of several objectives being pursued. This was seen most clearly in the JPC's recommendations, which sought to significantly revise the scope of the law. The JPC recommended moving away from a personal data protection law towards a law to govern the entire data eco system. It further suggested putting in place a number of broader restrictions on social media and other entities. This attempt to solve the problems in the digital ecosystem saw an already broad law being turned into an omnibus Bill. This made one question the ability to properly implement it. In addition, the provisions relating to many issues were lacking in detail. For example, the provisions related to processing of data by the state, governance a non personal data and the regulations of social media could all have been fleshed out with greater substantive and procedural detail, which is required to balance the complex competing interests at hand.

The way forward

Looking forward, there are two critical issues—the form that a new law will take, and the nature of protections it will offer.

On the first issue, the government has suggested that it will introduce multiple legislation comprising a new comprehensive legal framework. This is the right approach, as trying to fit all objectives related to the digital ecosystem or even data governance into one Bill would be a mistake. It is healthy to maintain some poly-centricity in the governance of a complex digital economy, and different laws and agencies should co-exist. It would be ideal if each bill addressed a single coherent set of objectives: For instance, one personal data protection bill should not be burdened with other objectives. Similarly, separate laws could deal with issues concerning state surveillance, or issues in the data economy such as dealing with competition-related concerns arising out of the monopolisation of data by certain entities. Over time, such a system may lead to more balanced and beneficial results. In the short term, however, the government would do well to put in place a specific personal data protection law—given the effort already dedicated to this (and the significant areas of agreement amongst stakeholders).

The second issue is the nature of privacy protection any new law will provide to individuals. The 2018 law, on which future drafts were based, borrowed heavily from the rights-based European General Data Protection Regulation. This framework was however criticized by some due to its perceived unviability in the Indian context. For instance, creating a cross-sectoral data protection entity with the power to take significant coercive action is seen as problematic given the rule of law, capacity and regulatory constraints in India. Some of these issues could be addressed in creating a new data privacy law.

First, it should build in a risk-based approach to data protection, so that the regulatory focus is directed towards addressing sources of potential harm. Second, based on risk assessments, the law could enable co-regulation and self-regulation (with the regulator acting as a back-stop). These could reduce compliance burdens on entities without significantly affecting rights protection. Third, the current version of the law was weak on accountability measures for the data protection regulator. The new Bill should include more provisions to ensure that the regulator uses its powers well. These

include provisions relating to appointments, consultations, reporting, and so on. Fourth, even while the law is being drafted, the government should invest in building some administrative capacity to implement it, so that when the law is eventually passed, implementation

can begin soon after. This has been previously done with SEBI and PFRDA. Finally, it is vital that any new law is framed based on transparent and meaningful consultations with all stakeholders.

Rehab Bailey is an advocate and technology policy researcher, associated with the KDR Forum, Mumbai, and Suyash Rai is a Deputy Director and Fellow at Carnegie India

**The Hindu,
22nd August 2022**

KEEP IT SIMPLE

Any mandatory linking of Aadhaar to the voter ID is problematic

One of the clear successes of Indian democracy has been the regular conduct of elections and the relatively high participation of electors in the voting process compared to other countries. Besides the fact that the process is relatively simple with the use of the electronic voting machine, high voter turnout has also been possible due to registration drives by the Election Commission of India (ECI). Periodically, the ECI does face the issue of a cleaning up of electoral rolls due to increases in migrant populations in urban sprawls, demographic changes due to the entry of more eligible voters, besides deaths of older people. But repeated cycles of elections have allowed for a cohesion in this process with voters allowed to register based on proofs of their age and current place of residence. With the increase in the school-educated population, and most Indian citizens living in houses whose addresses are to be

mentioned in several identity documents, registering to vote is a relatively easy process. This begs the question as to why election authorities are coercing citizens to mandatorily link registration in voter rolls with their Aadhaar number, as recent reports have indicated. In December 2021, the Lok Sabha passed the Election Laws (Amendment) Bill seeking to link the voter identity card with the Aadhaar number in order to avoid errors such as voter duplication on the electoral roll. But the Government and later, ECI authorities, have insisted that this process would be voluntary.

The Aadhaar number is not a proof of citizenship and is meant to be issued to residents, while only adult citizens who are resident in India are eligible to vote. Instrumentally speaking, matching the Aadhaar number to the electoral roll in order to perform verifications is not a foolproof process.

The Internet Freedom Foundation has cited data to show that self-reported errors in the Aadhaar database are higher than those in the electoral database. There is also evidence that Aadhaar-linkage with voter identity cards, as in the Assembly elections in Telangana and Andhra Pradesh recently, for example, led to the arbitrary deletion of eligible voters on a large scale. Besides, with the Aadhaar number now being used to access a variety of services, linking to voter IDs, when aggregated from booth level data, can possibly lead to misuse by agencies that can access them to profile

voters based on harvested information. The absence of a data protection law heightens the risk of this possibility as well. Scholars studying elections in various countries have averred that simplicity of design and effectiveness of constitutional institutions such as the ECI have gone a long way in easing voting and setting India apart as an electoral democracy. The insistence on linking Aadhaar with the voter ID militates against these principles. The ECI should limit itself to utilising existing proofs for voter authentication and Aadhaar declaration should remain voluntary.

**The Hindu,
26 August 2022.**

CHALLENGES OF SUB-NATIONAL FISCAL CORRECTION

M. Suresh Babu

*The Centre and States need to prioritise
expenditure and adhere to fiscal discipline*

Recent concerns over excessive doing out of freebies by States are often interpreted as intrusion into the federal powers of the States. States push back on this issue on the grounds of welfare provisioning and protection of the vulnerable sections of the population. The Central government's alarm has been on the mounting debt burden and the deteriorating fiscal situation in some States. As both the Union government and States are expected to work closely in a co-operative federal structure, frictions arising out of these exchanges might have repercussions on both resource sharing and expenditure prioritisation. Hence, it is important that the Centre and States are on the same page on these issues.

In recent times, three issues have emerged as major discussion points in India's fiscal federalism, leading to back

and forth exchanges between the Centre and States. First are a set of issues related to Goods and Services Tax (GST) such as the rate structure, inclusion and exclusion of commodities, revenue sharing from GST and associated compensation. Second, State level expenditure patterns especially related to the welfare schemes of States. Third, the conception and the implementation of central schemes.

Issues related to GST have a forum for discussions as they are usually the agenda for GST council meetings. However, other two matters are generally flagged by the Finance Ministry based upon reports and studies done by the Reserve Bank of India (RBI) and the Comptroller and Auditor General of India. As States engage in clarifications on these reports and studies, it often ends up as

exchanges of shifting the blame, especially when the Centre and the concerned State have different political parties in power.

Discretionary expenditure

A key issue of recent debates between the States and the Centre is the quantity and quality of public expenditure by the States. In this context, it is important to distinguish between two kinds of public expenditure. Mandatory spending is expenditure that is governed by formulas or criteria set forth, rather than by periodic appropriations and as such, unless explicitly changed, the previous year's spending bill applies to the current year for these items of expenditure. By contrast, discretionary spending is expenditure that is governed by annual or other periodic appropriations. While States demand more fiscal space for increasing discretionary spending, the Centre is pushing for more fiscal discipline by reducing the scope for discretionary spending and limiting States to focus on mandatory expenditures.

Generally, the aim of enhanced discretionary public expenditure is to stimulate the economy during periods of excess slack, as government spending multipliers would be high and work primarily through consumption channel.

Discretionary expenditure is, at the same time, more volatile than mandatory expenditure. Cross country empirical evidence also shows that discretionary expenditure is not contemporaneously correlated with output growth and the correlation is low for the next immediate time period. Further, once started, some of the discretionary expenditure, used to increase demand in the economy, continues for longer periods leading to fiscal stress. This is because of the fact that it is hard to decrease government spending, especially on expenditure heads that raise private consumption, as it requires some counter balancing measures to deal with the resistance from the public.

The current debate around freebies needs to be viewed in this larger context of sub-national fiscal consolidation. In a federal system, States fiscal stress gets spilled over to the Centre, leading to a situation of overall magnified fiscal slippages. As the economy is recovering from crisis there exists a need to adhere to the path of fiscal correction both by the Centre and by the States, as a crisis demands more discretionary spending than normal times. Such additional expenditures need not be and cannot be sustained over longer periods. However, in the Indian context,

many States indulge in higher levels of expenditures towards maintaining what they call as their models of welfare provisioning. While these models claim to have their own merits, the effects of such expenditures on growth of the economy and well-being of the beneficiaries are ambiguous as there is a lacuna of credible evidence.

Fiscal consolidation

Sustained increase in welfare expenditure by the States leads to fiscal expansion, which necessitates additional resource mobilisation. Where efforts towards additional resource mobilisation yield limited success, as in the case of many States in India, the States resort to borrowings. Fiscal expansion financed through debt and the resultant debt accumulation have important impacts on the economy both in the short run as well as in the long run. While debt per se might not be bad, the utilisation of funds raised through borrowings is important, that is, if it is used for capital formation, it could contribute to the real income of future generations and add to repayment capacity of the government as well. On the contrary, if use of borrowings is to finance only the current expenditure, it poses the risk of debt rising to unsustainable levels.

Data published by the RBI show that in recent years, States' outstanding debt has registered an upward movement. This could be partly attributed to the implementation of the Ujwal DISCOM Assurance Yojana (UDAY), farm loan waivers, sustained increase in populist welfare measures and growth slowdown especially in 2019-20. A combination of increased expenditure and non-commensurate revenue mobilisation efforts has resulted in increased debt-GSDP ratio (gross state domestic product) between 2013 and 2022. The debt-GSDP ratio of States increased from 22.6 in 2013 to 25.1 in 2018, and further to 31.2 in 2022 (budget estimates).

Given the prevailing macro economic environment, the debt-GSDP ratio is expected to increase further. This rising trend in debt GSDP ratio needs to be seen in the context of revenue mobilisation efforts of the States. Overall, there is a decline in revenue receipts due to a fall in the States' own tax revenue. With dwindling revenue receipts, many States had to opt for expenditure compression to adhere to the fiscal responsibility legislation target.

This scenario underscores the importance of fiscal correction at the State level. While there exists a need for raising additional resources at the sub-national levels, expenditure prioritisation has to be carried out diligently. Discussions on freebies need to be understood in this context of squeezing of development

expenditure and capital expenditure on some important social and economic services. The Centre, too, on its part needs to demonstrate commitment to fiscal discipline by sticking to announced fiscal glide path to ensure the sustainability of a frictionless co operative federal structure.

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**The Hindu
30th August 2022**

NOT AN EASY FIX

Rohini Krishnamurthy New Delhi

Global warming could be depleting forests and grasslands of a key macronutrient, nitrogen. This will have far-reaching consequences on the growth and survival of the animal world

NITROGEN is all pervasive. It is more abundant in the air than oxygen and constitutes 78 per cent of the atmosphere. Nitrogen is also vital to life-it is essential for plant and animal nutrition and thus, sustains all the other beings. But plants cannot use atmospheric nitrogen directly the way they absorb carbon dioxide (CO₂) for photosynthesis. For this, they depend on a biogeochemical cycle which, with the help of some bacteria or even lightning, combines the inert gas with other elements to form reactive compounds like ammonia and nitric oxide and “fix” them in the soil. Scientists have known for quite a while that this cycle is getting disrupted, as per a 2019 study published in *Frontiers in Ecology and the Environment*, the levels of reactive nitrogen have increased ten-fold since the pre-industrial era due to rampant use of synthetic nitrogen fertilizer and burning of fossil fuels. This has caused algal blooms,

created dead zones in oceans and accelerated biological diversity loss in aquatic and terrestrial ecosystem. A recent study, however, states that scientists have so far only partly understood the scale of this disruption and where it is unfolding.

“There is both too much nitrogen and too little nitrogen on Earth at the same time,” says Rachel Mason, lead author of the study, published in the journal *Science* in April 2022. Just like too much of nitrogen, declining availability of nitrogen is also a cause of worry. “While forests with high nitrogen availability suffer from less diversity as they allow certain species to flourish at the cost of others, low-nitrogen forests are more likely to have plants growing slowly with fewer leaves,” explains Marcos Fernández-Martínez, postdoctoral researcher at the Centre for Ecological Research and Forestry Applications, Spain. His research on the impact of

atmospheric CO₂ concentrations on declining nutritional status of European forests was published in journal Nature in March 2020.

The study by Fernandez Martinez is one of the 100 research papers that Mason and her colleagues from the US and Europe have analysed to collate data on nitrogen availability across ecosystems between 1750 and 2017. In their review paper, they have found that Nitrogen availability is declining in “many non-agricultural terrestrial ecosystems that do not receive additional reactive nitrogen because of human activities. The decline is sustained across a range of terrestrial ecosystems, including forests in the US and Europe and grasslands in central and north America, dating at least as far back as the early 20th century.

LOOMING CRISIS

Mason’s study establishes that human activities are also to be blamed for the decline in nitrogen availability and identifies multiple environmental changes, particularly elevated atmospheric CO₂ and rising global temperatures, as the drivers. Atmospheric CO₂ concentration has increased by 50 per cent since the 1750s, as per US National Oceanic and Atmospheric Administration. This has quickened the rate of photosynthesis in plants up to a saturation point, leading to

higher nitrogen demand by plants. Rising temperatures is also known to stretch the growing seasons, adding to this demand.

The study thus warns that large parts of Australia, sub-Saharan Africa, parts of Asia and South America and vast swathes of boreal forest, that have remained free of additional reactive nitrogen, could lose their natural deposits of nitrogen in a warming world.

The researchers, however, refrain from drawing a general conclusion as they found a high load of reactive nitrogen in non-agricultural ecosystems in China, Panama and the Democratic Republic of the Congo alongside reduced nitrogen availability in Europe and North America. Besides, not much data is available for other places. For instance, in India, researchers have focused on nitrogen supply but not on availability, which is a more robust metric based on the difference between supply and demand. Manaswi Raghurama, a research student at the National Centre for Biological Sciences in Bengaluru, says that data gaps exist because determining nitrogen levels in plants is expensive and time consuming. Fernández-Martínez also says fund crunch is a problem. This is the reason the link between climate change and the nitrogen cycle remains understudied, he says.

But understanding the nitrogen cycle in its entirety is crucial as it is a key component of amino acids that form the building blocks of plant proteins and enzymes. Reduced levels of nitrogen in plants can have a worrying impact on the health of insects and grazing mammals that depend on leaves for protein. Herbivores may initially respond to the situation by increasing consumption, but it eventually affects their growth, survival, reproduction and population size.

The study by Mason cites a PNAS paper published in 2020, in which researchers have found a link between the decline in nitrogen levels in Konza Prairie, a grass land in Kansas, US, and a 36 per cent drop in grasshopper abundance over the past 30 years. With a low protein concentration in pollen, bees might find it harder to resist pests and survive over winter. Grazing mammals on a low-protein diet have poor growth.

Down to Earth
31st August, 2022

INDIA'S CYBER INFRASTRUCTURE NEEDS MORE THAN PATCHES

R. K. Vij

With cybercrime on the rise the central and State governments need to work in tandem

There has been a steady spike in cases of cybercrime in the last five years. According to the National Crime Records Bureau (NCB), from 12,317 cases of cybercrime in 2016, there were 50,035 cases registered in 2020. In India, cybercrime is increasing with the increased use of information and communication technology (CT). However, despite this alarming trend, the capacity of the enforcement agencies to investigate cybercrime remains limited.

As far as the admissibility of electronic evidence is concerned, though there were some conflicting judgments of the Supreme Court of India earlier, the law was finally settled in Arjun Pandit Rao Khorkar vs Kailash Kushanrao Go ranyal & Ors. The Court held that a certificate under Section 65B(4) of the

Indian Evidence (IE) Act was a mandatory pre-requisite for the admissibility of (secondary) electronic record if the original record could not be produced.

With police' and 'public order' being in the State List, the primary obligation to check crime and create the necessary cyber infrastructure lies with States. At the same time, with the IT Act and jor Laws being central legislations, the central government is no less responsible to evolve uniform satisfactory procedures for the enforcement agencies. Though the Government of India has taken steps that include the setting up of the Indian Cybercrime Co-ordination Centre (ICCC) under the Ministry of Home Affairs to deal with all types of cyber crime, much needs to be done to plug the infrastructural deficit.

No procedural code

There is no separate procedural code for the investigation of cyber of computer related offences. As electronic evidence is entirely different in nature when compared with evidence of traditional crime, laying down standard and uniform procedures to deal with electronic evidence is essential. The broad guidelines for the identification, collection, acquisition and preservation of digital evidence, are given in the Indian Standard IS/ISO/IEC27037:2012, issued by the Bureau of Indian Standards (BIS). This document is fairly comprehensive and easy to comprehend for both the first responder (who could be an authorised and trained police officer of a police station) as well as the specialist (who has specialised knowledge, skills and the abilities to handle a wide range of technical issues). The guidelines, if followed meticulously, may ensure that electronic evidence is neither tampered with nor subject to spoliation during investigation.

A significant attempt has been made by the higher judiciary in this field also. As resolved in the Conference of the Chief Justices of the High Court in April 2016, a five judge committee was constituted in July 2018 to frame the draft rules which could serve as a model for the reception of digital evidence by courts.

The committee, after extensive deliberations with experts, the police and investigation agencies, finalised its report in November 2018, but the suggested Draft Rules for the Reception, Retrieval, Authentication and Preservation of Electronic Records are yet to be given a statutory force.

Shortage of technical staff

Second, there have been half hearted efforts by the States to recruit technical staff for the investigation of cybercrime. A regular police officer, with an academic background in the arts, commerce, literature, or management may be unable to understand the nuances of the working of a computer or the Internet. He can at best, after proper training, act as a first responder who could identify digital evidence and secure the scene of crime or preserve digital evidence till the arrival of an expert. It is only a technically qualified staff who could acquire and analyse digital evidence.

It is relevant here to mention that the Court, during the trial of the infamous State of Goa, through CID CB, North Goa, Goa is Turunjit Tejpal took objection to the fact that the investigating sub inspector, who seized the relevant CDs, did not know the meaning of the term 'hush value'.

Similarly, in the Aarushi murder case of Noida, reported as Dr (Smt) Nupur Talwar Vs State of UP and Anr,

the Alahabad High Court observed that the Indian Computer Emergency Response Team (CERT-IN) expert was not provided with the details of the Internet logs, router logs and laptop logs to prove whether the Internet was physically operated on the fateful night. Even the certificate under Section 65 B of the IE Act (which is statutorily required), was undated, and hence rejected by the trial court.

Therefore, it is essential that State governments build up sufficient capacity to deal with cyber- crime. It could be done either by setting up a separate cyber police station in each district or range, or having technically qualified staff in every police station.

Further, the Information Technology (IT) Act, 2000 insists that offences registered under the Act should be investigated by a police officer not below the rank of an inspector. The fact is that police inspectors are limited in number in districts, and most of the field investigation is done by sub inspectors. Therefore, it will be pragmatic to consider a suitable amendment in Section 80 of the Act and make sub-inspectors eligible to take up investigation of cybercrimes.

Upgrade cyber labs

Third, the cyber forensic laboratories of States must be upgraded

with the advent of new technologies. Offences related to crypto currency remain under-reported as the capacity to solve such crimes remains limited. The central government has proposed launching a digital rupee using block chain technology soon. State enforcement agencies need to be ready for these technologies. The Centre helps in upgrading the State laboratories by providing modernisation funds, though the corpus has gradually shrunk over the years. While most State cyber labs are sufficiently equipped to analyse hard disks and mobile phones, many are yet to be notified as Examiner of Electronic Evidence (by the central government) to enable them in provide expert opinion on electronic records. Since there is now a state of art National Cyber Forensic Lab and the Cyber Prevention, Awareness and Detection Centre (Cy PAD) of the Delhi Police, there may be an extension of professional help to States in getting their labs notified.

Need for localisation

Most cybercrimes are trans national in nature with extra-territorial jurisdiction. The collection of evidence from foreign territories is not only a difficult but also a tardy process. India has extradition treaties and extradition arrangements with 48 and 12 countries,

respectively. In most social media crimes, except for the prompt blocking of an objectionable website or suspect's account, other details do not come forth quickly from large IT firms. Therefore, data localisation' must feature in the proposed Personal Data Protection law so that enforcement agencies are able to get timely access to the data of suspected Indian citizens. Also, the police still get CyberTipline reports on online Child Sexual Abuse Material (CSAM) from the US; non profit agency, the National Center for Missing &

Exploited Children (NCMEC). It would be a step forward if India develops in its house capacity and/or makes intermediaries accountable to identify and remove online CSAM for immediate action by the police.

In fact, the Centre and States must not only work in tandem and frame statutory guidelines to facilitate investigation of cybercrime but also need to commit sufficient funds to develop much-awaited and required cyber infrastructure.

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**The Hindu,
3 September 2022.**

THE FUTURE OF OLD TIMES IN INDIA

Near-universal social security pensions would be a good start to a radical expansion of public support for the elderly

Life expectancy in India has more than doubled since Independence - from around 32 years in the late 1940s to 70 years or so today. Many countries have done even better, but this is still a historical achievement. Over the same period, the fertility rate has crashed from about six children per woman to just two, liberating women from the shackles of repeated child-bearing and child care. All this is good news, but it also creates a new challenge – the ageing of the population.

The share of the elderly (persons aged 60 years and above) in India's population, close to 9% in 2011, is growing fast and may reach 18% by 2036 according to the National Commission on Populations. If India is to ensure a decent quality of life for the elderly in the near future, planning and providing for it must begin today.

Pensions help

Recent work on mental health among the elderly in India sheds new light on their dire predicament. Evidence on depression from a collaborative survey of the Abdul Latif Jameel Poverty Action Lab (J-PAL) and the Government of Tamil Nadu is particularly telling. Among persons aged 60 and above, 30% to 50% (depending on gender and age group) had symptoms that make them likely to be depressed. The proportion with depression symptoms is much higher for women than men, and rises sharply with age. In most cases, depression remains undiagnosed and untreated.

As one might expect, depression is strongly correlated with poverty and poor health, but also with loneliness. Among the elderly living alone, in the Tamil Nadu sample, 74% had symptoms that would classify them as likely to be

mildly depressed or worse on the short-form Geriatric Depression Scale. A large majority of elderly persons living alone are women, mainly widows.

The hardships of old age are not related to poverty alone, but some cash often helps. Cash can certainly help to cope with many health issues, and sometimes to avoid loneliness as well. The first step towards a dignified life for the elderly is to protect them from destitution and all the deprivations that may come with it. That is why old-age pensions are a vital part of social security systems around the world.

India has important schemes of non-contributory pensions for the elderly, widowed women and disabled persons under the National Social Assistance Programme (NSAP), administered by the Ministry of Rural Development. Alas, eligibility for NSAP is restricted to “below poverty line (BPL) families, based on outdated and unreliable BPL lists, some of them are 20 years old. Further, the central contribution to old-age pensions under NSAP has stagnated at a tiny ₹ 200 per month since 2006, with a slightly higher but still paltry amount (2300 per month) for widows.

Many States have enhanced the coverage and/or amount of social-security pensions beyond NSAP norms using their own funds and schemes. Some

have even achieved near-universal” (say 75%-80%) coverage of widows and elderly persons. That is now the norm, for instance, in all the southern States except Tamil Nadu an odd exception since Tamil Nadu has been a pioneer in the field of social security.

Beyond targets

“Targeting” social benefits is always difficult. Restricting them to BPL families has not worked well there are huge exclusion errors in the BPL lists. When it comes to old-age pensions, targeting is not a good idea in any case. For one thing, targeting tends to be based on household rather than individual indicators. A widow or elderly person, however, may experience major deprivations even in a relatively well off household. A pension can help them to avoid extreme dependence on relatives who may or may not take good care of them, and it may even lead relatives to be more considerate.

For another, targeting tends to involve complicated formalities such as the submission of BPL certificates and other documents. That has certainly been the experience with NSAP pensions. The formalities can be particularly for bidding for elderly persons with low incomes or little education, who are in greatest need of a pension. In the Tamil Nadu sample,

eligible persons who had been left out of pension schemes were found to be much poorer than the pension recipients (by more than just the pension). Moreover, even when lists of left out, likely eligible persons were submitted to the local administration, very few were approved for a pension, confirming that face resilient of barriers in the current scheme of things.

The problem is generally not a lack of effort or goodwill on the part of the government officials. Rather, many have absorbed the idea that their job is to save the government money by making sure that no ineligible person qualifies by mistake. In Tamil Nadu this often means, for example, that if the applicant has an able-bodied son in the city, they may be disqualified, regardless of whether they get any support from their son. In their quest to avoid inclusion errors, many officials are less concerned about exclusive errors.

A better approach is to consider all widows and elderly or disabled persons as eligible, subject to simple and transparent “exclusion criteria”. Eligibility can even be self declared, with the burden of time bound verification being placed on the local administration or grama panchayat. Some cheating may

hapen, but it is unlikely that many privileged households will risk trouble for the sake of a small monthly pension. And it is much preferable to accommodate some inclusion errors than to perpetuate the massive exclusion errors we are seeing today in targeted pension schemes.

Widening the net

The proposed move from targeted to near universal pensions is not particularly new. As mentioned earlier, it has already happened in several States. Of course, it requires larger pension budgets, but additional expenditure is easy to justify India’s social assistance schemes have low budgets and make a big difference to large numbers of people (about 40 million under NSAP). They are well worth expanding.

An example may help. In Tamil Nadu, social security pensions (typically 1,000 per month) are targeted and cover about a third of all elderly persons and widowed women, at a cost of around ₹ 4,000 crore per year. If, instead, 20% were to be excluded and the rest eligible by default, the cost would rise to ₹ 10,000 crore per year. That would be a modest price to pay to ensure a modicum of economic security in old age to everyone. It would be a fraction of the ₹ 40,000 crore. Tamil Nadu is

expected to spend this year on pensions and retirement benefits for government employees - barely 1% of the population. If the transition cannot be made in one go, there is a strong case for starting with women (the widowed or the elderly), who often face special disadvantages. This would also be a step towards the fulfillment of the Tamil Nadu government's promise of a "home grant" of 1,000 per month for women.

The southern States are relatively well-off, but even some of India's poorer States (such as Odisha and Rajasthan) have near-universal social security pensions. It would be much easier for all

States to do the same if the central government were to revamp the NSAP. The NSAP budget this year is just ₹ 9,652 crore - more or less the same as 10 years ago in money terms, and much lower in real terms. This is not even 0.05% of India's GDP.

Social security pensions, of course, are just the first step towards a dignified life for the elderly. They also need other support and facilities such as health care, disability aids, assistance with daily tasks, recreation opportunities and a good social life. This is a critical area of research, policy and action for the near future.

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HOW CAN INDIA REDUCE ITS IMPACT ON GLOBAL WARMING

D. Balasubramanian

The U.S. Environmental Protection Agency (EPA) has pointed out that since the industrial revolution, which started around 1800, human activities have released large amounts of carbon dioxide (CO₂) due to fuel burning and other ‘greenhouse gases’ such as methane, nitrous oxide, and compounds of sulphur, phosphorous, ozone into the atmosphere, changing the earth’s climate.

Alarming increase

Atmospheric carbon dioxide levels have increased by over 40%, from 280 ppm in the 18th century to 414 ppm in 2020, and greenhouse gases level by over these 200 years. India had 170 million people in 1800, which has risen to 1.4 billion people today. And industrial revolution started only after India’s Independence 75 years ago. While it has helped in reduction of poverty, it has also led to rise in atmospheric carbon dioxide and greenhouse gases.

The Food and Agriculture Organisation (FAO) site points out that we have a rural population that constitutes 70% of the country, and their main occupation is agriculture. This gives us a total foodgrain production of 275 million tonne. India is the second largest producer of rice, wheat, sugarcane, cotton and groundnuts. It, thus, becomes important that India reduce its carbon footprint, more in its farming sector.

Farmers have come up with some admirable methods, with the help of agricultural professionals, by using solar panels in their fields, so that they can avoid diesel for groundwater pumps.

Sibi Arasu, an independent journalist from Bengaluru writes, “Climate-friendly agriculture offers new income sources and is more sustainable” in the journal Carbon Management that India’s carbon emissions could drop by 45-62 million tonnes annually. The government and professional groups have helped rural

farmers put in solar panels to save money and gain greater income.

Indian farmers not only grow rice and wheat but produce other foodgrains as well. They grew about 121.5 million tonnes of rice and 109 million tonnes of wheat during the year 2020-2021. They also produce other foodgrains such as millets (bajra), cassava and more. They grow about 12 million tonnes of millets annually. Likewise, the amount of maize produced per year is about 28.6 million tonnes. It may also be added that millets have more proteins (7.3 m per 100 g), fat (1.7 g per 100 g) and fibre content (4.22g per 100g) than rice (protein content 2.7 g per 100 g; fat content 0.3 g per 100 g; and fibre content 0.4 g per 100 g).

It is, thus, healthier for us to add more millets in our diet, besides rice and wheat. And wheat is superior to rice as it has more proteins (13.2 g per 100 g), fat (2.5 g per 100 g), and fibre (10.7 g per 100 g).

A common goal

India has about 20-39% vegetarians and 70% of the population eat meat - mainly chicken, mutton and fish (Devotional). India, with its many rivers, on has a vast coastline which is rich in fishes. And fishes have high nutritional value and help in reducing carbon footprint (Nature, Jude Colman, September 13, 2022 issue).

Thus, with farmers, meat sellers and fishermen, each contributing to India in reducing our carbon footprint, we can hope to be an exemplary nation for the EPA.

**The Hindu,
2nd October, 2022.**

NEXT STOP NET ZERO

Seema Prasad

Indian Railways plans to become a net-Zero emitter by 2030 Her's how

The Indian Railways—the world’s fourth largest railway network aims to become net zero carbon emitter in the next seven years. The Railways plans to achieve this ambitious target in two steps: a complete transition to electric trains by December 2023 and powering the trains and stations primarily through non-renewable sources by 2030. If successful, the move will help India meet its nationally determined contribution of reducing its carbon emissions by 33 per cent by 2030, as transport is a key sector with substantial mitigation potential.

Put simply, net zero means cutting greenhouse gas (GHG) emissions to as close to zero as possible. Most corporations trying to achieve this are focusing on carbon offsets, where they compensate for their emissions by

carrying out green activities such as reforestation or land restoration drives. The Indian Railways, in contrast, is primarily relying on reducing its emissions.

The Union Ministry of Railways announced its plan to go green way back in July 2020 and has since reiterated the goal several times. The most recent announcement came on October 7, 2022, where it says the target will be achieved through “an integrated approach.” It will, on the one hand, increase the share of railways in the movement of freight from the current 35 per cent to 45 per cent by 2030, and, on the other hand, build its renewable energy generation capacity.

The agency is also carrying out innovative solutions, such as investing in battery projects to ensure round-the-

clock renewable supply, and installing solar panels along the rail tracks for sustained generation (see ‘Green all the way’, P 42))

GOING ELECTRIC

Starting in 2014, the Railways picked up the pace to phase out diesel coaches and carry out the electrification of broad gauge railway tracks. It plans to completely transition to an electrified rail network by December 2023. The annual diesel consumption of the Railways has dropped from 3,066 million liters in 2018-19 to 1,092 million liters in 2020-21 (till January 2021). Besides being clean, the phase out of diesel coaches makes economic sense, as the country imports most of its fuel. Apart from this, the average speed of trains increases along the routes of electrification due to increased throughput, and there is development of industries, agro-based businesses, and progress of villagers and farmers along the electrified routes,” says the “Mission 100% Electrification: Moving towards Net Zero Carbon Emission” report released by the Union Ministry of Railways in February 2021.

As of July 2022, the share of diesel coaches for freight movement stood at 18.74 per cent and 21.7 percent for passenger trains. At the same time, a little less than 20 per cent of the railway’s broad gauge tracks remain non-electrified.

“We are confident about completing our goal in the next 14 months,” says a senior official with the Union Ministry of Railways, requesting anonymity. Once achieved, the transition will substantially increase the Railways’ electricity consumption. In 2019-20, it consumed 21 billion units of electricity. It is projected to see a threefold increase to 72 billion units by 2029-30. If the agency manages to shift to renewables by 2030, it will offset 60 million tonnes of carbon dioxide as compared to a business-as-usual scenario, says the July 2022 release.

ALONG THE TRACKS

By 2030, the total energy requirement of the Railways is expected to increase to 8,200 MW, or 8.2 GW. A small portion of the projected energy requirement-700 MW or 8.5 per cent of the total energy demand-will still be

sourced from non-renewable sources because of the current power purchase agreements with coal plants, says the official. The lion's share-91.5 per cent-will be met through renewable sources, he adds.

For this, the Railways will need to create a renewable energy installed capacity of 30,000 MW as solar and wind energy is not available round the clock and the generation varies region to region. Till August 2022, the installed renewable energy capacity of the Indian Railways was only 245 MW.

While the gap looks like a lot, it is achievable, says Vaibhav Chaturvedi, who leads the low-carbon pathways at Delhi-based non-profit Council on Energy, Environment, and Water. "The Railways do not necessarily have to produce it themselves, they can draw from the grid or source it from third-party vendors," he adds.

For now, the Railways plans to bridge the gap on its own. For this, it is undertaking several initiatives. It plans to install solar panels along the railway tracks, on top of the trains, stations and administrative buildings. "The Indian Railways has a potential of 20 GW of

solar power and is planning to utilise its vacant land parcels to set up land based solar plants for its traction power requirement. Railways initially plans to set up 3GW of solar plants on the unused vacant land in three phases," says the "Green Indian Railways" report released by the Union ministry in March 2021. Till January 2021, over 1,000 stations and buildings had installed solar panels with a total capacity of 111 MW. The Railways is also setting up a solar-plus-storage hybrid pilot project at Dahod, Gujarat, that will ensure round-the-clock supply to the traction network. It has entered into an agreement with the Solar Energy Corporation of India for a similar round-the-clock supply project at Rajnandgaon, Chhattisgarh. The Railways plans to replicate the model across the country.

It is also working on improving the energy efficiency of its stations and buildings. It is already made 700 stations compliant with ISO 14001, which deals with effective environmental management systems, and achieved green certifications for 31 railway buildings and 32 stations. Starting from 2016-17, the Railways has started manufacturing only three-phase locomotives that generate electricity during braking (known as regenerative braking).

It has also carried out afforestation on vacant railway land and in between sections. Since 2017, the Railways has on average planted 10 million saplings a year along with state forest departments, says the July release.

While the Railways is benefitting through the efficiency initiatives, it has to priorities the transition from coal-based power to renewable. A recent paper by Delhi-based consultancy firm Climate

Trends warns that the phasing out of diesel engines will increase carbon dioxide emissions by 32 per cent due to the country's reliance on coal to produce electricity. "The transition is a major opportunity to solar developers and will attract investments to the tune of US \$4-5 billion, but achieving the goal is going to be a tall order," says AartiKhosla, director of Climate Trends.

Down to Earth

30th November 2022.

HYPERTENSION: A TICKLING TIME BOMB IN INDIAN ADOLESCENTS

Anura Kurpad, Harshpal Sing Sachdev

High blood pressure is occurring in one in three or four children, and this is much higher than earlier estimates of about 7% elevated blood pressure in more prevalent in poorer than the richest category

High blood pressure is already a problem of great magnitude in India. The Indian National Health Portal reports that 30% of adult Indians have elevated blood pressure - a little higher in urban (34%) compared with rural (28%) areas. High blood pressure is relatively silent, with grave consequences, as it is a major cause of cardiovascular diseases, including stroke. The best way forward is prevention, especially starting in childhood. Our paper (with Anil vasudevan as the first author) published recently in *JAMA Network Open* reports that Indian adolescents aged between 10-12 years have hypertension prevalence of 35%, while in those above 13 years, the prevalence is 25%. This is roughly the same in urban and rural areas; for younger children, the prevalence is even higher than in adults.

More prevalent

Effectively, high blood pressure is occurring in one in three or four children, and this is much higher than earlier estimates of about 7%. Even factoring for the somewhat higher estimates derived from a single survey, there is enough signal that hypertension in adolescents is much more widely prevalent than previously thought and bodes ill for the next generation of adults.

The figures are robust and believable, coming as they do from a national survey called the Comprehensive National Nutrition Survey (CNNS), which used a statistically appropriate method to sample adolescents without illnesses, aged 10-19 years, across all States and Union Territories.

Blood pressure was measured rigorously, and high blood pressure was defined based on the mean of second and third readings as per the 2017 American Academy of Pediatrics cut-offs, as height-adjusted blood pressure above the 95th percentile below 13 years and greater than 130/ 80 mm Hg in older adolescents.

Hypertension is often clustered with- other cardio-metabolic risk factors including overweight and obesity. Adolescents with high fasting blood glucose, hemoglobin A1c, serum triglyceride and LDL cholesterol levels also have a greater risk of high blood pressure.

But there is also a deeply unsettling and counter- intuitive pattern of the occurrence of hypertension in Indian children. The notion that this is associated with affluence, which will not occur in undernourished children stands firmly dispelled. In fact, elevated blood pressure is more prevalent in poorer than the richest category and occurs with similar frequency in rural and urban areas. Its prevalence in younger stunted adolescents is as high as 40% compared with 34% in those not stunted.

The prevalence in thin/ underweight adolescents is also high (32% in younger and 22% in older adolescents). We now need

to come to terms with the combined presence of diseases of over nutrition in undernourished adolescents, or the intra individual of double burden of malnutrition.

Rapid urbanisation

So, why is this happening in Indian children, and why is this happening across the board, even in undernourished adolescents, in rural areas, and among the poor? Higher prevalence of high blood pressure in rural areas may be attributable to rapid urbanisation, resulting in altered dietary habits, more screen time and a lower level of habitual physical activity. One causative factor that is relevant in India today is the explosion of ready-to-eat (ultra) processed foods and snacks, which depend on a high salt and sugar content.

These have penetrated rural areas and schools deeply. Chhattisgarh, Odisha, Telangana, Andhra Pradesh, Manipur, Mizoram, Tripura, and Naga-land have higher hypertension prevalence (over 35%) compared with the rest of India. Data from the NSSO survey of 2011-12 show that the highest salt-consuming regions are these States, with a per-capita intake of over 9 grams/day, while the median intake for India is about 8 grams/day.

There is a need now to think ahead: a need to screen and identify adolescents with hypertension; preventive interventions to control the burden of hypertension and its consequences in India; and a need to assess high blood pressure at even younger

ages. This is important as many people with hypertension, particularly in India, are not aware of their disease and the detection, treatment, and control of it should be an urgent health priority.

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**The Hindu,
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THE GEO HERITAGE VALUE OF RAM SETU

C.P. Rajendran

In November 10, the Supreme Court gave the Centre four weeks time to file a response clarifying its stand on a plea by former Rajya Sabha MP Subramanian Swamy seeking national heritage status for the 'Ram Setu'.

While the story of the controversial Sethusamudram Ship Channel Project (SSCP) can be traced back to the British, who proposed creating a channel to link the Palk Strait with the Gulf of Mannar, it was only in 2005 that the project was inaugurated. Separating the shallow sea consisting of the Gulf of Mannar in the south and Palk Bay in the north is a somewhat linear coral ridge called Adam's Bridge or Ram Setu. This runs between Rameswaram in Tamil Nadu and Thalaimannar in Sri Lanka. The SSCP, if completed, is expected to considerably reduce the navigation time between the east and west coasts of India

Concerns about the project

Though the CSIR National Environmental Engineering Research Institute ruled out any serious environmental risk and certified the feasibility of the project, concerns have been raised on the stability of the

proposed channel and its environmental impact. Computer models suggest that the central, eastern and north-eastern parts of the Palk Bay may be impacted by waves of higher energy. This means that these areas also receive more sediment, rendering them more turbid. The models also indicate that waves enter the Bay from its north and south, corresponding to how the channel is aligned.

The area is also vulnerable to cyclonic storms. A cyclone in 1964 was so powerful that it wiped out the town of Dhanushkodi. Such storms can cause the local sedimentary dynamics to go haywire. Finding safe places for dumping dredged material without harming terrestrial or marine ecosystems is therefore a big challenge. Emissions from ships traversing the narrow channel will pollute the air and water. And if a rogue ship carrying oil or coal is grounded or strays from its course within the canal, it could cause an ecological disaster. While environmental groups have been protesting against the project for the huge environmental cost it would entail, religious groups have been opposing it as they believe that the structure, which is mentioned in the Ramayana, is of religious significance.

In 2003, space-based Investigations, using satellite remote sensing imagery, by researchers at the Space Applications Centre in Ahmedabad concluded that Ram Setu is not man-made, “but comprises 103 small patch reefs lying in a linear pattern with reef crest, sand cays and intermittent deep channels”. Cays, also known as keys, refer to low elevation islands situated on surfaces made of coral reef. Thus, it is reasonable to assume that Ram Setu is a linear ridge made of coral reefs and forms a shallow part of the ocean that is being constantly impacted by sedimentation processes. Like the Great Barrier Reef, the Ram Setu is also a continuous stretch of limestone shoals that runs from Pamban Island near Rameswaram to the Mannar Island on the northern coast of Sri Lanka

During a global glaciation period that began around 2.6 million years ago and ended 11,700 years ago, the Indian coast, including parts of the Sethusamudram, may have been raised above water. The post-glaciation period witnessed a steady rise in sea levels around the world. The coral polyps could once again have grown higher on the newly submerged platforms. And in time, the platforms may have been used by migrants to cross oceans. The Ramayana

refers to a putative land bridge in this region; believers hold it as the structure that Lord Rama and his army built to reach Lanka. This ridge may have been used in the distant past as a migratory route.

Need for protection

The coral reef platforms between Thoothukudi and Rameswaram in the Gulf of Mannar were notified as a marine biosphere reserve in 1989. More than 36,000 species of flora and fauna reportedly live there, flanked by mangroves and sandy shores which are considered conducive for turtles to nest. This is also a breeding ground for fish, lobsters, shrimps and crabs. Of the 600 recorded varieties of fish in the region, 70 are said to be commercially important. This area is already threatened by discharge from thermal plants, brine runoff from salt pans, and illegal mining of corals. The SSCP, if it becomes a reality, will be the final blow to this sensitive environment and to the livelihoods of the people there.

While considering this issue from a believer’s point of view, it is also important to consider this feature from a ‘geoheritage perspective. The geoheritage paradigm is used in nature conservation to preserve the natural diversity of significant

geological features. It accepts the fact that geo diversity, consisting of varied landforms and features representative of dynamical natural processes, is under threat from human activities and needs protection. The natural heritage of a country includes its geological heritage. The value of abiotic factors like geology, soils and landforms is also recognised for their roles in supporting habitats for biodiversity, India's tryst with destiny

does not begin at Harappa or the Vedic Period, it goes back billions of years when the Indian tectonic plate moved thousands kilometres from the south of the equator to its present location. The Ram Setu carries the unique geological imprints of an eventful past. Therefore, it needs to be preserved not just as a national heritage monument, but also a geoheritage structure as defined from a scientific perspective.

C.P.Rajendran is an adjunct faculty at the National Institute of Advanced Studies, Bengaluru, and author of the forthcoming book The Rumbling Earth-The Story of Indian Earthquakes. Views are personal.

The Hindu,

22nd November 2022.

FIGHTING CANCER

*Along with vaccination, screening must be done
to detect early signs of HPV*

India has taken up the fight against cervical cancer in earnest with the Central government announcing that it will roll out vaccination for girls aged between 9 and 14 years through schools. The decision comes at a critical juncture with a study in *The Lancet* published this month showing that India accounts for the highest number of cervical cancer cases in Asia, followed by China. More than 58% of all cases of cervical cancer and deaths globally were estimated in Asia with India accounting for 21% of cases and 23% of deaths, followed by China (18% and 17%). Cervical cancer is a preventable and treatable cancer. It is caused by infection with the human papillomavirus (HPV) and there are vaccines which protect against carcinogenic HPV. With more than 6,00,000 women diagnosed with cervical cancer worldwide in 2020, the World Health Organization laid down several guidelines that countries need to follow to

eliminate it as a public health problem. According to the International Agency for Research on Cancer, the WHO has specified that countries must reach and maintain an incidence rate of fewer than 4 new cases of cervical cancer per 1,00,000 women a year. To achieve that goal, it is necessary that 90% of girls will have to be fully vaccinated with the HPV vaccine by the age of 15.

To that end, the government's intent to introduce the HPV vaccine in the Universal Immunisation Programme (UIP) is a welcome move. India's immunisation network, as was evident during COVID-19, has worked well, and diseases such as polio and maternal and neonatal tetanus have been eliminated. The UIP is one of the largest public health programmes targeting over 2 crore newborns and 2 crore pregnant women annually, and offers free vaccines for at least 12 diseases. To battle cervical

cancer, India is expected to roll out the indigenously developed Cervavac vaccine by mid-2023. It has received the Drugs Controller General of India's approval and has been cleared by the National Technical Advisory Group for Immunisation for use in the UIP programme. The vaccination will be provided primarily through schools, but importantly the government has clarified that girls who do not go to school will

be reached through community outreach and mobile teams. This is a vital step because studies show that there is a link between cervical cancer incidence and human development index values, with progressively lower rates observed as HDI rises. Together with vaccination, screening programmes must be conducted to detect early signs of the disease to allow time for treatment.

The Hindu,

24th December 2022.

A NEW JUDICIAL DEVICE FOR 'COMPLETE JUSTICE'

India's top court cannot be seen to be helpless when faced with issues of individual liberty.

Kaleeswaram Raj

Mohammed Zubair, the co-founder of Alt News, continues to be in prison despite the Supreme Court of India, last Friday, granting him interim bail, because of remand in another case by the Delhi police. The Court was aware of the futility of the bail order. Yet, the Court did not direct his release by granting him bail in the other case too.

The order relates to a case challenging the Allahabad High Court's judgment refusing to quash the First Information Report (FIR) against Mr. Zubair. The charge was under Section 295A of the Indian Penal Code (IPC) - outraging religious feelings ... by insulting religion or religious beliefs. Later, a charge under Section 153-A IPC, of promoting religious enmity, was added.

It was explained to the Court that there was not even a *prima facie* case against Mr. Zubair. Also, it was shown that the case itself was a device to crush dissent. The political malice behind the charge was very obvious. The Court also seemingly accepted the contentions, as evident from the grant of bail. Yet, the

Court said the order was with respect to only the case registered in Uttar Pradesh. This has meant the continued detention of Mr. Zubair.

Challenges before judiciary

The Supreme Court of India is regarded as the world's most powerful top court, on account of its wide power of judicial review. It has the jurisdiction to issue writs under Article 32 of the Constitution. It also has the original jurisdiction under Article 131 of the Constitution. There is also wide appellate power under Articles 132, 133, 134 and 136 of the Constitution. More significantly, the Supreme Court has the power to "make such order as is necessary for doing complete justice in any cause or matter pending before it", as per Article 142 of the Constitution. Yet, the top court has shown itself to be helpless when issues of individual liberty have been placed before it on very many occasions. Many political prisoners languish in prison after their bail pleas have been repeatedly rejected by different courts. The executive is able to register multiple FIRs in different States of India so as to

ensure that the dissident is not released from prison even if bail is granted in some of the cases. Thus, the jail jurisprudence of the executive effectively surpasses the Court's bail jurisdiction. Reports say that after the Supreme Court's order, another warrant was issued against Mr. Zubair by a local court in Lakhimpur Kheri in Uttar Pradesh. This scenario, which reflects the new normal in the country's criminal jurisprudence, poses crucial challenges to the judiciary.

The Supreme Court cannot afford to be conventional if it really wants to tackle this situation where an aggrandising executive hunts its opponents in a systematic and incremental way. Conventional legal wisdom proclaims that every criminal case is a case which requires to be dealt with as such and taken to its logical conclusion. Even in Mr. Zubair's case, the contention of the Solicitor General of India was that "any order passed by (the Supreme) Court (in this case) will interdict four judicial orders passed by two courts which have not been challenged. It is the Court's inability to overcome this line of argument by invoking the spirit of Article 142 that led to the ironic predicament of Mr. Zubair being in jail, despite the grant of the 'interim bail'.

The practice of registering multiple FIRs is extremely problematic. In the context of free speech American legal

scholar Professor Vincent Blasi identifies "historical period when intolerance of unorthodox ideas is most prevalent and when governments are most able and most likely to stifle dissent systematically". The situation in India is illustrative.

More rule by Law

The criminal justice system in such tough times degenerates into rule by law, that replaces rule of Law. The law becomes an effective device in the hands of the Government for the purposes of a witch-hunt and this operates against the opponents of a regime, as a class. In this scenario, if the Court erroneously presumes that the nation's legal system is governed by the principle of rule of law, fallacies and unjust consequences are bound to occur. In such a legal ambience, it will be equally fallacious to treat each case as isolated, as in reality, it is not so. Climatic changes in a nation's constitutionalism are a hard reality which no court can ignore.

Even in challenging times, a constitutional court should be able to evolve a mechanism of its own to preserve the democratic foundation of the country by intervening in the incremental process of nation's "deconstitutionalisation" - Professor of law Rosalind Dixon in a recent study says that "at least under certain conditions of sufficient independence, political support and remedial power courts can too play

an important role in buttressing democratic processes and commitments”, and this, according to her, “is the essence of responsive judicial review”. The constitutional courts in Colombia and Brazil have developed the new doctrine of “unconstitutional state of affairs”. This enables the court to address structural deficits with a sense of realism and to pass effective orders even by deviating from procedural rigour, with a view to protect fundamental rights. This is in certain ways, akin to the practice of Public Interest Litigation (PIL) in India and structural injunctions in the United States.

Create a judicial atmosphere

The courts, no doubt, may sometimes subserve the interest of the executive. This may even pose a serious threat to personal liberty as it happened recently in its observations against activist Teesta Setalvad and former police officer R. B. Sreekumar. But in certain rare situations, it could still act as a determined umpire who checks the executive’s excesses. The Supreme Court’s intervention in the Center’s COVID-19 vaccine policy and the Pegasus episode illustrates this point. The need is to expand the latter approach and to create and perpetuate a democratic judicial atmosphere that supports the cause of freedom.

At least in principle, the Indian Supreme Court is constitutionally equipped with the power to invoke its jurisdiction for the larger cause of liberty, even by deviating from the conventional technical route. The “complete justice” under Article 142 is meant to be used when the legalistic arguments such as those raised by the state in Mr. Zubair’s case have the effect of sabotaging the goal of constitutional justice. The Court needs a new version of judicial activism, which the Court itself evolved, in the 1980s.

The genesis of Article 142 shows that the makers of the Constitution have consciously incorporated this provision by drastically modifying the earlier corresponding provision in the Government of India Act, 1935. The Government of India Act, by way of Section 210(2), only said about the enforceability of the orders of the Federal Court. It did not, naturally, contain an idea of complete justice in the constitutional sense. Article 142, on the other hand, arms the Supreme Court with this supplemental power.

The interpretation of the scope of this provision has been varied, and sometimes even conflicting. Some judgments pleaded for its restrictive use while some others did for its liberal and

contextual application. In *Delhi Development Authority vs. Skipper Construction Company (1996)*, the top court said that the power under Article 142 should remain “undefined and un-catalogued, so that it remains elastic enough to be moulded to suit the given situation”

Treat them as a class

It is essential for the Supreme Court of India to treat political prisoners and dissenters facing multiple FIRs and undergoing unjustifiably long incarceration as a class. It needs jurisprudence at the normative level to tackle the technical arguments that create a false notion of rule of law when the very cause of arrest and detention is the lack of it. When a

glaring instance of curtailing a person’s freedom is placed before the top court, it should be capable of calling for the records pertaining to the multiple FIRs and to *suomoto* add all the stakeholders as parties (if needed); the Court should immediately ensure that vindictive incarceration does not continue even for a day. This might be difficult, yet not impossible. Mr. Zubair’s case is one (like many other cases in the past) that demonstrates the judicial deficits of today’s Supreme Court. It is, therefore, an imperative to evolve an effective jurisprudence of “complete justice” by focusing on personal liberty. It is the praxis of this new judicial device that can perhaps, preserve the country’s democratic legacy.

(Kaleeswaram Raj is a lawyer at the Supreme Court of India)

The Hindu
13th July 2022

MINORITY STATUS IN INDIA IS STATE-DEPENDENT, SAYS SC

Krishnadas Rajagopal

*Minorities can claim protection under
Articles 29 and 30*

Every person in India can be a minority in one State or the other. Minority status of religious and linguistic communities is “State-dependent”, the Supreme Court said on Monday.

“Every person in this country can be a minority. I can be a minority outside my State, Maharashtra. Similarly, a Kannada speaking person may be in minority in States other than Karnataka. Every person in this country can answer this description. Justice U. U. Lalit said. The court was hearing a petition filed by a Mathura resident, Devkinandan Thakur, complaining that followers of Judaism, Bahaim and Hinduism, who are the real minorities in Ladakh, Mizoram,

Lakshadweep, Kashmir, Nagaland, Meghalaya, Arunachal Pradesh, Punjab and Manipur, cannot establish and administer educational institutions of their choice because of non-identification of ‘minority’ at the State Level.

But the court indicated that a religious or linguistic community which is a minority in a particular State can inherently claim protection and the right to administer and run its own educational institutions under Article 29 and 30 of the Constitution. The court asked whether a specific notification was required.

The question from the Bench came in response to submissions made by senior advocate Arvind Datar, for Mr. Thakur, that Hindus residing in certain

States were unable to exercise their rights under Articles 29 and 30 in the absence of a specific notification declaring them a minority.

The petition has argued that the recognition of Muslims, Christians, Sikhs, Buddhists and Parsis nationally by the

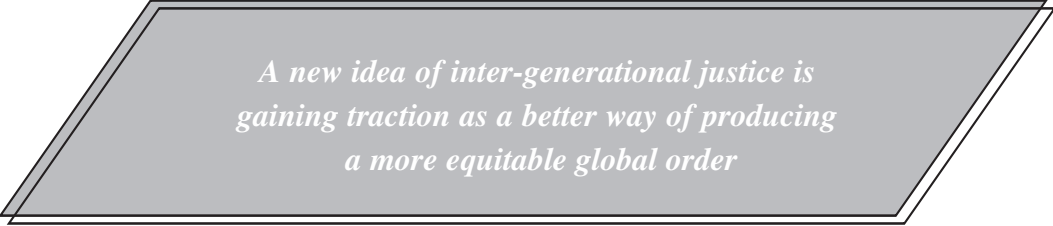
Centre as ‘minorities’ ignored the fact that religious communities such as Hindus were “socially, economically, politically non-dominant and numerically inferior in several States.”

The court listed the case of hearing after two weeks.

The Hindu
19th July 2022

SHARING POWER WITH THE NEXT GENERATIONS

Arun Maira



A new idea of inter-generational justice is gaining traction as a better way of producing a more equitable global order

After the horrific destruction in the 20th century in two World Wars the second ending with a wanton display of scientific progress and the destruction of thousands of innocent civilians in Hiroshima and Nagasaki-the victors of the wars vowed “never again” A new breed of global institutions was created to prevent the proliferation of weapons of mass destruction, rebuild shattered economies, and maintain global peace. These were the United Nations head quartered in New York and the Bretton Woods institutions-the World Bank and the International Monetary Fund (IMF) in Washington. Power in these institutions was retained by the victors: in the UN in the five member Security Council, and in the World Bank and the IMF by the United States and Europe who appoint their own at the top. The UN General

Assembly is theoretically democratic. But the real power, of guns and money, is controlled by the Security Council and Washington institutions. The North Atlantic Treaty Organization (NATO) is back in the picture to keep the centre of gravity of global power in the West.

A fresh concept

The power struggle has heated up in and around Ukraine, camouflaged as an ideological war between democracies and dictators. All countries are expected to declare whose side they are on. Institutions of global governance which were supposed to guarantee peace have failed. Clearly, new ideas for global governance are required. A new concept of “inter generational justice” is gaining traction as a better way of producing a more equitable global order and

hopefully, arresting man-kind's breakneck destruction of the planet despite-or because of great advances in technologies.

The answer to the rhetorical question - what sort of world we want to leave for our grandchildren is to ask them what sort of world they want to live in. Older generations listening to younger generations, rather than younger people following their elders, may be a radical civilisational shift. However, elders listening to youth will not be enough. Youth must also be given charge of producing the world they want to live in. They cannot leave solutions to the older generation whose ways of working have caused these global problems. The problem is that if youth apply the same old ways which are being taught in universities and also learned where they work, they will make global problems worse.

Time is running out

The modern approach to progress, disseminated widely through "STEM" (Science, Technology, Engineering, and Math) education, is to extract resources from the planet to create new products for human benefit. And then to find new technological approaches to repair the damage caused to the planet by those technologies. Thus, scientific technology goes round in circles. On each round, owners of technologies become wealthier. The people suffering the harm from a relentless growth of

economies are advised to be patient until the size of the pie produced is large enough to share with them. Time is running out. The climate is heating up. Inequalities are growing. People are losing their patience. New ways must be found to solve complex global problems.

A new theory of change

The prevalent scientific theory of change is both "outside in" and "top down". Scientific experts try to be "objective" about the systems they study by placing their minds outside the systems. From their supposedly objective perches, they try to map the systems' shapes detachedly. Like engineers, they look for levers within systems they can pull to improve efficiency and increase outputs. However, this way cannot work in socio-ecological systems. Because, in them, unlike in machines designed by engineers, social scientists and economists are situated within the systems they wish to observe objectively. Unlike 'scientific' the design thinkers who try to design systems 'objectively', natural systems thinkers learn to live with and within the systems that give them life. They do not feel the need for rockets to take them to other planets after they have spoiled this one.

The global approach to governance is "outside in" and also "top down". Many disciplines must be brought together to understand the social,

economic, and physical facets of complex issues such as climate change. Moreover, stake holders with conflicting needs must be aligned. Therefore, central coordination seems essential for large-scale change. This is the standard model of a hierarchical organisation, which is applied in the corporate sector, in national governments and in international development organisations too.

The problem is this is the wrong approach for solving complex global problems. Because experts, remote from the diverse ways in which these complex problems manifest themselves on the ground are not equipped to find effective solutions for large scale outcomes. Since standard, “one size” solutions cannot fit all, not only do their solutions not work well but trust also breaks down between the leaders on top of large international organisations (and the experts who advise them) and people on the ground. This is a principal cause of the rise of populism and revolts against “the Establishment” of ideas and institutions governing the world.

A new configuration, the G7, was formed in the 1970s when the Bretton Woods institutions seemed unable to prevent the global economic crisis caused by large “oil shocks”. The United States, the United Kingdom, France, Germany, Japan, and Italy formed the G6. Canada and later the European Union, joined later. Russia was invited later (G8) when the Soviet Union collapsed and was

swiftly removed in the Crimean war (2014). China, now the second largest economy in the world, was never included. The G7 was expanded to the G20 in the 1990s, when China, Russia, India, Indonesia, and other large economies were added. And now the G20 is being cracked up because the G7 wants to throw Russia out. India will be the chair of the G20 this year and must try to keep the group together.

Power must shift between generations to create a more equitable global order. Less than 10% of the world’s citizens, and less than 6% of the world’s children below 10 years, are in the G7. Power must shift within economies from older persons to youth. Globally, it must shift from the older, so called ‘advanced’ countries to younger emerging economies. The G7 and the Security Council must invite the rest to find new solutions for global problems.

Recycle this wisdom

Inter-generational dialogue is imperative. Though all countries are aging, older persons in economies are not burdens to be cast aside. Already the numbers of older persons in the world exceed the numbers of children below five years, and will soon exceed the numbers below 10. Older persons are humanity’s fastest growing yet least used resource. While power must shift towards younger generations and emerging

economies, all generations and countries must work together. All are stages in a larger process of evolution. All must listen to others' aspirations and must understand others' wisdom. Emerging economies must not be arrogantly considered, in the colonial legacy, as a white man's burden to be improved by a more advanced West. Many native communities have not yet lost their wisdom of living within natural systems and living as families and communities.

Such wisdom on the ground needs to be cycled to the top to save the world for everyone.

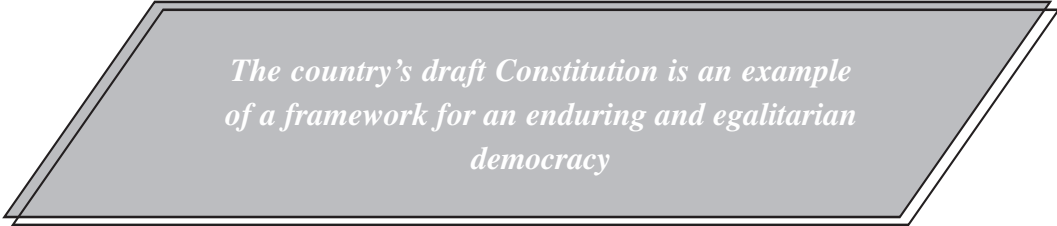
The UN's Sustainable Development Goals list 17 complex global problems. They appear in different forms everywhere in the world. Centrally managed organisations cannot solve such problems. Local systems solutions, cooperatively implemented within their communities by old and young person's together, are the way to solve these global systemic problems.

(Arun Maira is Chairman, HelpAge International.)

The Hindu
19th July 2022

CHILE MARKS A NOTCH IN GLOBAL CONSTITUTIONALISM

Gautam Bhatia



The country's draft Constitution is an example of a framework for an enduring and egalitarian democracy

In 2019 a wave of protests engulfed the country of Chile. These protests were triggered by familiar themes: social inequality, the cost of living, and probity in governance. But at the heart of the protests was also the fact that Chile's Constitution was no longer fit for purpose. Drafted in 1980, under the military regime of General Augusto Pinochet, the Chilean Constitution embodied what is popularly known as Chicago School economics: market deregulation was not just a policy choice, but encoded into the Constitution, with one of its most notorious elements being the privatisation of water as a constitutional imperative. Over the years, this led to Chile becoming one of the most unequal countries in the world.

It is inclusive

Consequently, one of the demands of the Chilean protesters was to replace Pinochet's Constitution with a democratic Constitution, written by the People of Chile, for themselves. The Chilean government eventually conceded to this demand. This led to the formation of a directly elected Constituent Assembly, which was strikingly representative: 51% of the Constituent Assembly members were women, and there were 17 reserved seats for indigenous peoples. Constituent Assembly members also included people from across the socio-economic and geographical spectrum of Chile, sexual minorities too.

Unsurprisingly, this intensely representative and participatory process has led to the drafting of a Constitution that is both inclusive and visionary.

The constitutional draft was finalised at the beginning of July, and will be put to a nationwide referendum on September 4. At the time of writing, there is in tense campaigning across the country, both to approve and to reject the draft Constitution, with polls showing a close contest.

To understand the contribution of the Chilean people and the Chilean Constituent Assembly to the present global conversation around democracy, it is important to locate this draft Constitution within a longer history of constitutionalism. In the early to mid-20th century, constitutional drafting around the world often followed the United States model. It was believed that the purpose of a Constitution was to constrain state power. To this end, Constitutions set out enforceable bills of rights, and divided power between the three wings of State the legislature, the executive, and the judiciary.

Other rights

In the latter half of the 20th century, it came to be understood that this vision of constitutionalism was necessary, but inadequate, to address the many problems faced by countries across the world. For one thing, Constitutions

tended to ignore the “social question”, and issues around equitable access to material resources. In response, starting in the 1980s, Constitutions began to include “socio-economic rights”, such as the rights to housing, to education, and to health, among others within their bills of rights.

A particularly famous example of this is South Africa’s post-apartheid Constitution of 1996. While recognising that it is not always possible for Constitutions to mandate how national resources will be allocated, socio-economic rights provisions have been useful in requiring governments to justify how resources are used, and to hold them to account where resource distribution was discriminatory, or insufficiently attentive to the needs of the most vulnerable.

Second, it was recognised that the complexities of governance require a set of institutions that are independent of the legislature and the executive, and can hold them to account. Some familiar examples include information commissions, human rights commissions, and electoral commissions. In constitutional parlance, these are sometimes referred to as “integrity institutions”, as their task is to ensure integrity in the functioning of state agencies. For example, Chapter Fifteen of the 2010 Constitution of Kenya lists out 10 commissions, and guarantees their in-dependence from the government.

Drawing upon wisdom

Third, it was recognised that mere periodic elections constitute only a thin and attenuated version of democracy. This is exacerbated by the fact that elections require money, and often the backing of established political parties. Thus, to have a rich and thriving democracy, there needs to be a deeper and more substantive involvement of the people, in between election cycles. This has come to be known as the requirement of “public participation”. Once again, the 2010 Constitution of Kenya is instructive here it mandates public participation in the process of law making, and also envisions popular initiatives - alongside civic education and widespread consultation - as one way of bringing about constitutional change.

The Chilean draft Constitution draws upon this past wisdom, and decades of trial and error across the world, to craft a document that can serve as the framework for an enduring and egalitarian democracy. Some of the striking features of the draft Constitution, thus, are a catalogue of basic socio-economic rights (such as the right to education, workers’ rights, gender identity rights, and the decommodification of water); the existence of autonomous institutions, independent of the government; and the guarantee of citizen initiatives - including Indigenous initiatives for introducing or changing laws in

Parliament. As experience has shown, these are all integral elements for sustaining a culture of constitutionalism.

Document with vision

However, what is even more striking is that the Chilean draft Constitution not only draws upon past wisdom; it is a future-facing document as well. For example, the Constitution grapples with the pervasive role of technology in our lives by stipulating the existence of a National Data Protection Authority, as well as guaranteeing a right to digital connectivity. The need for an independent data protection body is being felt in countries across the world, and the draft Constitution’s move to enshrine it within the constitutional text is, therefore, important.

Similarly, the draft Constitution acknowledges the gravity of the climate crisis, and constitutionalises important principles of international environmental law, such as inter-generational equity. It also guarantees a right to nature, which is something that courts in different countries, from India to New Zealand, have recently explored.

The draft Constitution’s progressive and inclusive bent has naturally given rise to criticism. For example, *The Economist* - notorious for justifying the 1973 Chilean coup-called it

a “woke” document (whatever that means). The focus of the criticism appears to be that the document “goes too far” and can lead to economic irresponsibility. This criticism, however, proceeds on a range of incorrect assumptions. As we have seen, none of its provisions is outside the mainstream of contemporary constitutionalism; indeed, the provision of socio-economic rights in a Constitution has an ancient vintage in the Latin American constitutional tradition, going back to the Mexican Constitution of 1917!

Furthermore, Constitutions do not enforce themselves, but are interpreted, and interpretation always takes place in the real world. For example, the constitutional rights to housing, health, and education have not bankrupted the South African economy. Rather, they have been interpreted by the Constitutional Court of South Africa to protect vulnerable people against evictions, and in the fight against

the AIDS crisis - to take just two examples Within Latin America, the Constitutional Court of Colombia has been similarly disciplined in its interpretation of the Colombian Constitution, and is often hailed as the model of how a constitutional court ought to function.

Thus, when we take a step back and consider the draft Chilean Constitution in its historical and present context, a remarkable picture emerges: this is a document, drafted through an intensely inclusive, participatory, and egalitarian process, and which in its substantive content both draws upon the wisdom of the past, and looks to the future. It is, in many ways, a model for how Constitutions in the modern world ought to be drafted, and a lesson to the rest of the world, and if it is approved in the referendum of September 4, it will rightly be hailed as a historic triumph in the annals of global constitutionalism.

(Goutam Bhatia is a Delhi based Lawyer)

**The Hindu,
20th July 2022.**

ANEW LEGISLATION THAT MIRRORS THE OLD

Dinesh Thakur & Prashant Reddy T.

*The New Drugs, Medical Devices and Cosmetics
Bill is antiquated and needs to be revised.*

The Union Health Ministry recently published a new draft Bill to replace the antiquated Drugs and Cosmetics Act, 1940. While we salute the Ministry for recognising the need for a new legislation, there is much to disagree with the new Bill. To begin with, although the Ministry has described it as being consistent with the government's move to review obsolete pre-Independence legislation, most of it is a copy of the old law. There is nothing new in this Bill re-granting drug regulation. And the Bill does nothing to address burning issues thrown up over the last decade since the Ranbaxy scandal

Regulatory theory

The original Act was enacted when the Indian pharmaceutical industry was in its infancy. At the time, the guiding

theory of this law was based on testing manufactured drugs purchased by drug inspectors from the open market. If a drug failed quality testing, the manufacturer could be jailed. This was not the most efficient system of regulation because it depended entirely on luck or fate only if a drug inspector picked a certain drug on a certain day and it failed testing would the manufacturer face legal action. Much of the world has shifted to a more rigorous system of regulation centered around the compliance of manufacturing units with good manufacturing practices (GMPs). In theory, a drug manufactured in compliance with GMPs is subject to so many checks that it is unlikely that it would fail quality tests once shipped to the market.

In 1988, India incorporated a system of GMPs via rules framed by the government rather than Parliament. But even then, the government did not make GMPs the centrepiece of its regulatory strategy. In the US, the regulator's focus is in ensuring that manufacturing units comply with GMPs. American law presumes that any drug that is manufactured in a facility that fails to comply with GMPs is adulterated. Given this focus on GMPs compliance, US law mandates the publication of reports of inspections conducted by its drug inspectors. Indian Law, on the other hand, contains no such criminal penalties for pharmaceutical companies failing to comply with GMPs. At the most, licences may be cancelled, but since inspection reports are never published, citizens have no idea if drug inspectors are conducting GMP compliance-related inspections. There is ample evidence to suggest that such inspections are not carried out. The Bill does nothing to change this system. In fact, it does not mention the phrase GMP even once.

The federalism question

The one issue that has come up in every review of the drug regulatory system since 1947 has been the uneven enforcement of the Drugs and Cosmetics Act across India. This is because, unlike the US which has a single federal agency

tasked with enforcing drug regulation across the country, India has 37 agencies for the same job: one in each State and Union Territory along with the Central Drugs Standard Control Organisation (CDSCO), which is under the control of the Union Health Ministry. State drug controllers are expected to license drug manufacturing and also conduct enforcement actions such as sampling, testing and prosecution for substandard drugs. The CDSCO's role is limited to regulating imports and to deciding whether new drugs have adequate clinical evidence before they can be sold. Over the years, even the CDSCO has started drawing samples for testing and prosecuting erring manufacturers. In addition the Health Ministry is in charge of laying down rules and regulations and banning drugs which do not have supporting clinical evidence.

A problem with this setup is that States such as Himachal Pradesh, which account for a bulk of pharmaceutical manufacturing on account of a tax holiday, do a poor job in enforcing the Drugs and Cosmetics Act. This is not just because of poor state capacity; the fear of scaring away investments by the pharmaceutical industry likely plays a key role in the State's decision to not enforce the law.

Since India is a single market, drugs manufactured in Himachal Pradesh are sold across the country and even States with relatively more competent drug regulators, such as Tamil Nadu, Karnataka and Gujarat, can do little to stop the flood of these substandard drugs. It is only the drug controller in Himachal Pradesh who can cancel manufacturing licences of facilities located in that State. This is the reason that the Mashelkar Committee in 2003 had recommended centralising drug licensing with the central regulator. The present Bill is silent on the issue. And since the Ministry never released a white paper explaining its position, we don't why this issue was never tackled.

Democratise regulation

Drug regulation by its very nature vests vast discretionary powers in unelected bureaucrats to take decisions such as approving a new drug or a new manufacturing facility, both of which can have huge implications for public health and profits of the pharmaceutical industry. These decisions are often based on scientific data inspections, reports, etc. In such circumstances, the only safeguard to

ensure accountability is transparency. As citizens, we should not be required to run after the regulator begging for information under the Right to Information Act, 2005. Rather, the law should be written in a way to guarantee proactive disclosure of all crucial documentation related to regulatory decisions. If a new drug is being approved, the regulator should be required to disclose all the data, including clinical trial data. Every time a drug is tested in a government laboratory, the test report should be published on a publicly accessible database. Each inspection for GMP compliance should conclude with an inspection report accessible to the general public. This is the only way to ensure accountability and build public confidence in the regulator. The new law is silent on this critical issue of transparency because it is structured largely on the basis of the original colonial-era legislation. The government must consider rewriting this law in a way that guarantees transparency by design.

Modern regulation delegates an incredible amount of power to unelected bureaucrats and technocrats. From a perspective of efficiency, such delegation is required, but from the perspective of

accountability, it leads to a democratic deficit. This is why a modern regulatory system should be designed in a manner that guarantees citizens a right to participate in decision making. Making information available to citizens is only the first step in this process. The next step is to create legal pathways, such as public hearings or citizen's petitions which will enable citizens to participate in the regulatory process and register their objections. For example, every drug approval process should be accompanied

by a public hearing to allow doctors and ordinary citizens to question regulators and explain their rationale for approving the new drug. The proposed legislation does not make accommodation for public participation.

Since the present reform process is still in the early days, nobody will fault the Health Minister for junking this draft Bill and appointing a new committee of external experts to draft a Bill reflecting the democratic character of an India celebrating its 75th year of independence.

(Dinesh Thakur was the Whistle blower in the Ranbaxy case,
Prashant Reddy T. is a lawyer)

**The Hindu,
20th July 2022.**

A SHOT IN THE ARM FOR RULE OF LAW

R. K. Raghavan

The Supreme Court's recent observations on indiscriminate arrests and the reluctance to give bail are pertinent

In *Satender Kumar Antil v. Central Bureau of Investigation* (2022), the Supreme Court expressed its unhappiness with the current state of India's criminal justice system. The court said there was scant regard for the violation of basic human rights. It was categorical that indiscriminate arrests are indicative of a colonial mindset and create the impression of India being a "police state".

It is not as if the court said something that has not been said before. But the vital message that agencies must be civilised towards both crime suspects and convicts was clear. The court's words were emphatic and practical. The highlights of the courts observations were the accent on safeguarding basic human rights, the emphasis on quickening the pace of trials and the suggestion for a new Bail Act, analogous to an existing UK legislation.

The court's role

The gravamen of the court's charge was that Law enforcement agencies make far too many arrests in violation of basic human rights. The fact, however, is that members of the lower judiciary often ask investigating officers why they did not arrest some suspects while arresting others. Often, courts suspect that the police lack integrity in discriminating between the accused. One often wonders whether a Magistrate or judge has the right to question police discretion in the matter, unless there is prima facie injustice to the person arrested. Caustic comments by courts evoke fear in the lower echelons of the police and drive them to take impulsive and questionable action even where arrests are not warranted. Judges sometimes go into the nitty-gritty of an ongoing investigation, which is undesirable if police action has to be balanced.

Arrest and confinement to police custody or judicial custody often smacks of vindictiveness. An average police officer invariably believes that it is only in the rigour of custody that a suspect will cough out the truth. This is unfortunate. It is distressing that the practice of arresting suspects at the drop of a hat remains the style of policing in our country. The need for a cultural change at all levels in the police has never been felt more than now. Justice Krishna Iyer had said in *State of Rajasthan, Jaipur V. Balachand Alias Baliay* (1977): “The basic rule is bail, not jail except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court”. That bail is the rule and jail the exception has been reiterated in several judicial and other forums. This has been violated by the police in cases where they enjoy discretion as well as by the lower courts, some of which are downright rude to those arraigned before them. The Supreme Court’s latest order should awaken their conscience and make them understand that when they grant bail, they are not doling out charity but implementing the dictates of law.

The apex court’s reference in the *Satender Kumar* case to the Bail Act of the U.K. is appropriate. The essence of that law is that arrests should be rare, and bail provisions should be uncomplicated even to the unlettered citizen. There is a provision for electronic surveillance of those released on bail. This is something novel, but practicable, at least in urban India. The court’s recommendation that India should consider a similar enactment is welcome. One cynical view, however, is that existing legal provisions, especially those of the Criminal Procedure Code, are adequate to curb the overzealous practices of law enforcement agencies

Problem of overcrowding

The Supreme Court also drew attention to the problem of overcrowding of prisons, which has attendant issues such as corruption, crime and hygiene within prisons. An overwhelming majority of the inmates are undertrials. There are two ills here. One, there is an insistence during trial on judicial custody, which is different from what prevails in many countries, especially the U.K., where grant of bail is much more liberal. And two, court proceedings are tortuous

as a result of the collusion between principal players in the scene. This situation has been discussed with only a marginal impact.

Ultimately, it all boils down to a change of mindset, which cannot happen unless the political and bureaucratic


leadership are convinced of the role of ethics, which is in short supply these days in public life, in shaping and administering the criminal justice system. The inescapable impression of a majority of Indians is that we have a system that is arbitrary and cruel and this must change.

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WE NEED TO PROTECT WHISTLE BLOWERS

Madan Lokur



Ignoring the fact that Right to Information users are facing death for keeping democracy alive is a threat to democracy itself.

“Words, words, words” was Hamlet’s reply to Polonius’ question, “What do you read, my lord?” That is what our Right to Information (RIT Act, 2005, is being reduced to. The Centre for Law and Democracy classifies it among the top five laws in the world. The RTI empowers us to participate in the policymaking process, by providing access to information relating to the functioning of all public authorities. Ordinary citizens have used the law to make public authorities accountable and transparent in their functioning. In fact, the law has been used extensively by a cross section of citizens including activists, lawyers, bureaucrats, researchers, journalists and most importantly, ordinary

folk. They all have been asking simple questions and pursuing answers on the use of public funds, and an earthing corruption of all kinds from the Panchayat level right up to Parliament. The widespread understanding and use of the RTI is a shining example of a participatory democracy in spite of our current realities.

The killing of activists

Unfortunately, the dangerous underside of the RTI is manifesting itself through violent reactions from entrenched interests and powerful lobbies. Since the implementation of the Act, some 100 RTI activists across the country have been killed and several are harassed on a daily

basis. This is a reality of one of the strongest laws for democratic accountability that we must systematically address through strong legal and institutional safeguards.

Bihar is turning out to be one of the most dangerous States for RTI activists despite being one of the earliest promoters of the law. The State ranks first in the number of deaths of RTI users. As many as 20 RTI users have lost their lives since 2010 in different districts across Bihar. In 2018, six RTI users were killed for seeking information related to the functioning of public programmes and institutions. These brutal murders have not only raised an urgent question of the protection of people engaging with the system to seek accountability, but also of the state's responsibility to provide legal assistance, time-bound grievance redressal, compensation and dignified access to justice to the families of those killed.

Earlier this month, civil society organisations organised a public hearing in Patna where families of the 'whistle blowers' disclosed that the whistle blowers had been working on issues of public importance and interest, exposing

irregularities and corruption, pursuing transparency in the functioning of the Public Distribution System, the Mahatma Gandhi National Rural Employment Guarantee Act, Anganwadi centers, housing schemes, illegally operating health clinics and so on. They had been requesting information that should have been mandatorily disclosed to the public under Section 4 of the RTI Act. Family members at the hearing also questioned the abdication of responsibility by the State government in assisting them to get justice in each case. After all, the whistle blowers were performing a basic civic duty of public vigilance that the government should encourage and initiate timely action on. The killing of RTI users and the intimidation of their family as they struggle for Justice, in Bihar and other parts of the country, are reflective of the lack of action by the government and collusion of the police with powerful vested interests to deny, if not subvert, justice.

A new framework

We are living in a time where the government denies the existence of casualties emanating from its acts of

omission and commission. This has prompted civil society to maintain lists of persons who lost their lives on account of demonetisation, COVID-19 and now RTI, so that the lives of the people, particularly the poor, are not remembered merely as numbers. We need to move beyond maintaining a count. We need to advocate for and move towards creating a socio-legal system that recognises RTI users under attack as human right defenders and build a frame work that facilitates and protects them in their attempt to pursue issues of public interest. Otherwise, words in the RTI legislation will ring hollow.

There can be multiple components to such a framework, and it is time State governments take the lead without waiting for the Central government to set an example. First, State governments must direct law-enforcement agencies to expeditiously and in a time-bound manner complete investigations in all cases where RTI users are harassed. This must include making proactive efforts to provide adequate compensation to the victim's family.

Second, available evidence clearly shows that the information requested by the murdered RTI users was information that should have been mandatorily disclosed in the public domain under Section 4 of the RTI Act. Therefore, the State governments must take immediate efforts to institutionalise proactive disclosure of actionable information. Is this possible? Rajasthan has taken the lead in active disclosure. Its Jan Soochna portal subsequently followed by Karnataka's Mahiri Kanaja are outstanding examples of practical ways of mandatory disclosure.

Third, in all cases of threats, attacks or killings of RTI users, the State Information Commission must immediately direct the relevant public authorities to disclose and publicise all the questions raised and the answers given to the user. Giving wide publicity to such information may potentially act as a deterrent against attacks on RTI users, as perpetrators get the message that rather than covering up the matter, any attack would invite even greater public scrutiny.

Effective legislation

Last, there is an urgent need to enact an effective legislation to protect whistle blowers. In 2016 the Supreme Court bench of Justice name T.S. Thakur and Justice A.K. Skiri came down heavily on the Union government for its reluctance in notify the Whistle Blowers Protection Act of 2014, but unfortunately to no avail. The Supreme Court observed that there was an “absolute vacuum” which could not be allowed to go on. The Central government was called upon to decide on a specific time frame to establish an administrative set up to protect whistle blowers. The court recognised that the concept of a whistle

blower is a global phenomenon and has become a reality. It cannot be wished away Words, words, words that have no effect on the Central government Eight years have gone by and the proposed Act has not been notified.

Given this reality, State governments, such as those of Bihar and Maharashtra, which have recorded the highest number of murders a of RTI activists, must introduce their own mechanisms for protecting whistle blowers by enacting atleast a State-level whistle blower protection law. Ignoring the plight of RT1 users facing death for keeping our democracy alive is a threat to democracy itself.

Justice Madam B. Lokur, a former judge of the Supreme Court of India, is presently a Judge of Supreme Court of Fiji.

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WITHDRAWAL OF THE DATA BILL WAS A BAD MOVE

Vrinda Bhandari

The enactment of the Personal Data Protection Bill into law would have helped create a framework for redress

In a surprise development last week, the Government withdrew the Personal Data Protection (PDP) Bill, 2019, thereby abruptly halting the country's quest for a national data protection law that had been in the works for over five years. The reasons for the Government's decision are brief and cryptic. The short circular issued by the Minister of Electronics and Information Technology simply states that considering the report of the Joint Parliamentary Committee (JPC) it had proposed 81 amendments and made 12 recommendations - "a comprehensive legal framework is being worked on "In these circumstances", the Government proposed to withdraw the Bill and present a new Bill "that fits into the comprehensive legal framework".

Multiple iterations, to no avail

Interestingly, there is no elaboration on what such a "comprehensive legal framework" entails. The Government could enact a fresh privacy legislation or a comprehensive data protection law (covering both personal and non personal data). Alternatively, it could subsume data protection under its ongoing attempts at revising the existing Information Technology Act, 2000. It could also enact a digital markets law, along the lines of the European Union's Digital Services Act, focusing on competition and innovation in the digital space. Unfortunately, the Ministry's circular leaves us with no clarity on the way forward.

The Ministry's attribution of the withdrawal to the JPC Report is also at odds with the proposed amendments of the JPC which did not recommend withdrawing the PDP Bill in favour of a comprehensive legal framework

The lack of clarity is compounded by the fact that the circular does not establish any timelines on when the new Bill will be introduced in Parliament, or when it will be passed. This is particularly important, given the drafting history of the PDP Bill. When the Supreme Court of India affirmed the right to privacy in its historic. K.S Puttaswamy judgment in 2017, the nine-Judge Bench of the Court referred to the Government's Office Memorandum constituting the B. N. Srikrishna Committee to suggest a draft Data Protection Bill. The committee released its draft Personal Data Protection Bill in 2018, which was the first public articulation of a data protection law in India.

Subsequently, when the Supreme Court upheld the constitutionality of the Aadhaar Act, the majority emphasised that it believed that "there is a need for a proper legislative mechanism for data protection". It "impressed" upon the Central government to bring out a "robust data protection regime" through the enactment of a law based on the

recommendations of the Srikrishna Committee Report, with modifications as deemed necessary .

In December 2019, the Government introduced the PDP Bill, 2019 in the Lok Sabha as a comprehensive personal data protection regime. Considering the importance of the Bill and the controversies associated with various provisions, the Bill was referred to the JPC for its recommendations. In 2021, the JPC suggested multiple amendments to its re worded Data Protection Bill, 2021, which privileged state exceptionalism over individual privacy, while continuing to strictly regulate corporate action.

Now, after five years of hard work and their iterations of data protection legislation, the Government has wasted efforts to protect our privacy.

The faultlines

The PDP Bill, 2019, as well as the JPC's recommendations in the suggested Data Protection Bill, 2021, suffered from serious lacunae, leading Justice Srikrishna to criticise the Bill for its potential to turn India into an "Orwellian state". First, the Bill's expansive exemptions allowed the state to exempt the entire application of the law simply as if it was "expedient" to do so

in the interest of national security or public order. These exemptions did not need to be tabled before Parliament and there was no provision for review or oversight of the Government's decision. In fact, Member of Parliament Jairam Ramesh pointed out in his dissent note, "government agencies are treated as a separate privileged class whose operations and activities are always in the public interest and individual privacy considerations are secondary".

Second, the PDP Bill, 2019 as well as the JPC's version established a strong regulator (the Data Protection Authority) with a lot of power, but very little independence or accountability.

Third, the Bill imposed a strong data localisation mandate, requiring companies to store all sensitive personal data and critical personal data (which was not defined) in India. Despite concerns around surveillance and increased cost of compliance expressed by civil Society and the private sector, the Government did not endorse crossborder data transfer.

Finally the JPC recommended subsuming the regulation of personal data and non-personal data within a single legislation, even though it undermined the Puttaswamy mandate to ensure protection of personal data.

Increasing digitisation, issues

However, despite these real concerns, it was, and continues to be, imperative to enact data protection legislation urgently. India currently has over 750 million Internet users, with the number only expected to increase in the future. The Government is also making a strong push for a "Digital India" with increased focus on digitisation of access to health, ration, banking insurance, especially after the COVID-19 pandemic. There is a greater focus on the inter-linking of data, whether through facial recognition. Aadhaar, or the Criminal Procedure (Identification) Act, 2022.

At the same time, India has among the highest data breaches in the world. It has been reported that around 18 of every 100 Indians have been affected by data breaches since 2004, with 962.7 million data points being leaked, primarily personal data points such as names and phone numbers. Without a data protection law in place, the data of millions of Indians continues to be at risk of being exploited, sold, and misused without their consent.

Unlike state action, corporate action or misconduct is not subject to writ proceedings in India. This is because fundamental rights are big and large, not enforceable against private non-state

entities This Leaves individuals with limited remedies against private actors They can either seek action under the inadequate and ineffective provisions of the information Technology Act, or file civil / criminal proceedings before a court of law (which itself is time-consuming and expensive)

A personal data protection legislation would remedy this lacuna by providing individuals with proper grievance redress options and creating sufficient deterrence among private actors. Inadequate and flawed as it was, the enactment of the PDP Bill into law would have marked a beginning in providing a redress framework. Instead, we are left with the vague promise of a “comprehensive legal framework” with no timeline in sight.

Consult, work on fresh law

Where, then, do the Government’s actions leave us? It is imperative that the Government soon introduces a fresh data

protection legislation, drawn after proper public consultation Such a law should take into consideration the criticisms that have been raised by civil society as well as the private sector. It should be extensively discussed and debated in Parliament.

Even if the PDP Bill is not the most privacy-respecting law, it provides a certain desirable level of protection to the personal data of individuals. Once enacted, there is always scope for judicial review (based on challenges to provisions that are potentially unconstitutional) and parliamentary amendment (by legislators incorporating feedback on the working of the law). That is why even the Justifiable criticisms around the PDP Bill, 2019 or the JPC’s recommendations do not justify its withdrawal. After all, there is no reason to let perfect be the enemy of good.

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ഭരണഘടന; ജനാധിപത്യം - സാധ്യതകൾ, വെല്ലുവിളികൾ

അഡ്വ. കാളീശ്വരം രാജ്

കക്ഷിരാഷ്ട്രീയത്തിനതീതമായി നിയമവാഴ്ചയെ അംഗീകരിക്കുകയും നിലനിർത്തുകയും ചെയ്യുന്ന ഭരണഘടനാ സംസ്കാരം ഉണ്ടാകണം. വിധേയജിഹ്വകളും പ്രതിവാദങ്ങളും ജനാധിപത്യത്തിന് തുടർച്ചയായി ഇന്ധനം നൽകിക്കൊണ്ടിരിക്കണം. ശക്തമായ പ്രതിപക്ഷം സുധീരമായി വിധേയജിഹ്വകൾ പ്രകടിപ്പിക്കുകയും സമാധാനപരമായി ജനങ്ങൾക്കു വേണ്ടി പ്രക്ഷോഭത്തിലേർപ്പെടുകയും ചെയ്യുന്ന അവസ്ഥ ഉണ്ടാകണം.

സ്വാതന്ത്ര്യത്തിനുശേഷം ഇന്ത്യയുടെ നിയമസംവിധാനവും നീതിന്യായരംഗവും കടന്നുപോയ വഴിത്താരകളെക്കുറിച്ച് അന്വേഷിക്കുന്നവർക്ക് അഭിമാനിക്കാമെന്ന പോലെ ആകുലപ്പെടാനും ഒട്ടേറെയുണ്ട്. ഒരർത്ഥത്തിൽ ഈ അന്വേഷണം നമ്മുടെ ഭരണഘടനയുടെ ഭൂതകാലത്തെയും വർത്തമാന കാലത്തെയും ഭാവികാലത്തെയുംകുറിച്ചുള്ള ചിന്തകൾ കൂടിയായിത്തീരും.

നിയമത്തിലൂടെയും കോടതികളിലൂടെയും മാത്രം സൃഷ്ടിക്കാവുന്ന നീതിയെക്കുറിച്ചല്ല, ഭരണഘടന പറയുന്നത്. സമൂഹികവും സാമ്പത്തികവും രാഷ്ട്രീയവും ആയ നീതിയെക്കുറിച്ചാണ് ഭരണഘടനയുടെ ആമുഖം വിളംബരം

ചെയ്യുന്നത്. അതിനാലാണ് ഇന്ത്യൻ ഭരണഘടന അടിസ്ഥാനപരമായി ഒരു രാഷ്ട്രീയ രേഖയാണെന്നു പറയുന്നത്.

എന്നാൽ സ്വാതന്ത്ര്യസമരം സൃഷ്ടിച്ച മുല്യബോധവും സഹിഷ്ണുതയിൽ അധിഷ്ഠിതമായ സംവാദോന്മുഖതയും ഭരണഘടനാ നിർമ്മാണസഭയിലെ ചർച്ചകളിൽ നിറഞ്ഞുനിന്നു. 1950 ജനുവരി 26-ന് നാം ഒരു സ്വാതന്ത്ര പരമാധികാര റിപ്പബ്ലിക്കായി മാറിയപ്പോൾ വിജയകരമായ ഒരു ജനാധിപത്യ പരീക്ഷണത്തിനുകൂടി നാനിക്കുറിക്കപ്പെട്ടു. നമുക്കൊപ്പം സ്വാതന്ത്ര്യം നേടിയ പല രാജ്യങ്ങളും ഏകാധിപത്യത്തിലേക്കോ പട്ടാളഭരണത്തിലേക്കോ കൃപ്തകൃത്തിയപ്പോഴും ഇന്ത്യയിലെ ജനാധിപത്യ സംവിധാനം

ഏറെക്കുറെ വലിയ പോറലുകളേൽക്കാതെ നിലനിന്നു. ഇത് സാധ്യമായത് നാം ഇതിനുകുന്ന വിധത്തിലുള്ള ഒരു ഭരണഘടന സൃഷ്ടിച്ചുകൊണ്ടു മാത്രമല്ല, അതിന്റെ മൂല്യസംഹിതയും സംവിധാന രൂപങ്ങളും നിലനിർത്താൻ ശ്രമിച്ചതു കൊണ്ടുകൂടിയാണ്.

വെല്ലുവിളിക്കപ്പെട്ട ഭരണഘടനാമൂല്യങ്ങൾ

എന്നാൽ, സ്വാതന്ത്ര്യത്തിനു ശേഷം, പലഘട്ടങ്ങളിലും ഭരണഘടനാ മൂല്യങ്ങൾ വെല്ലുവിളിക്കപ്പെട്ടു. 1951-ൽ ഭരണഘടനയിൽ ആദ്യമായി വരുത്തിയ ഭേദഗതിതന്നെ അഭിപ്രായ സ്വതന്ത്ര്യത്തിന് പരിധികൾ നിശ്ചയിക്കാനുദ്ദേശിച്ചായിരുന്നു വിമർശനമുയർന്നു. മാധ്യമ സ്വാതന്ത്ര്യത്തെ നിഹനിക്കുന്ന രീതിയിൽ പ്രസിദ്ധീകരണങ്ങൾ കണ്ടുകെട്ടുന്നതിനെതിരേ രണ്ട് സുപ്രധാന വിധികൾ സുപ്രീം കോടതി 1959-ൽത്തന്നെ പുറപ്പെടുവിക്കുകയുണ്ടായി. വിചിത്രമെന്നു പറയട്ടെ, അതിലൊരു ഹർജി നൽകിയത് “ക്രോസ് റോഡ്സ്” എന്ന ഇടതുപക്ഷ പ്രസിദ്ധീകരണത്തിനു വേണ്ടി റോമേഷ് മാപ്പറും മറ്റേത് ഹൈന്ദവ രാഷ്ട്രീയത്തിനോട് ആഭിമുഖ്യം പുലർത്തിയ ‘ഓർഗനൈസർ’ എന്ന പ്രസിദ്ധീകരണത്തിന്റെ പ്രസാധകരുമായിരുന്നു. ഈ കേസുകളിലെ വിധികൾ ഭരണാധികാരികൾക്കെതിരായി ശക്തമായ നിലപാടെടുത്തു. ഒപ്പം, ഭരണപരമായ പാളിച്ചകളുടെ പേരിൽ കോൺഗ്രസ്

സർക്കാരിനെതിരേ വലിയ വിമർശനങ്ങളുമുയർന്നു. ഇതാണ് മൗലികാവകാശങ്ങൾ വെട്ടിച്ചുരുക്കാനുള്ള ശ്രമങ്ങൾക്ക് പ്രഥമ കോൺഗ്രസ് സർക്കാരിനെ പ്രേരിപ്പിച്ചത്.

അവകാശങ്ങളുടെ വ്യാപ്തി

പിന്നീടും ഭൂരിപക്ഷവാദം പലതരത്തിലും ഇന്ത്യയുടെ ഭരണഘടനാ സങ്കല്പങ്ങളെ വെല്ലുവിളിക്കുകയുണ്ടായി. പാർലമെന്റിന് എങ്ങനെ വേണമെങ്കിലും ഭരണഘടനയിൽ ഭേദഗതിവരുത്താനുള്ള അധികാരമുണ്ടോ എന്ന മൗലികമായ ചോദ്യമാണ് കേശവാനന്ദഭാരതി കേസിൽ (1973) ഉന്നയിക്കപ്പെട്ടത്. പാർലമെന്റിലെ അംഗബലംകൊണ്ടുമാത്രം ഭരണഘടനയുടെ അടിസ്ഥാനഘടനയിൽ മാറ്റം വരുത്താൻ കഴിയില്ലെന്ന് ഭൂരിപക്ഷ വിധിയിലൂടെ സുപ്രീംകോടതിയുടെ ഭരണഘടനാ ബെഞ്ച് വ്യക്തമാക്കി. മതേതരത്വം, സ്വാതന്ത്ര്യജുഡീഷ്യറി, ഫെഡറലിസം, സ്വാതന്ത്ര്യമായ തിരഞ്ഞെടുപ്പുകൾ, അധികാരവിഭജനം എന്നിങ്ങനെ പലതും ഇന്ത്യൻ ഭരണഘടനയുടെ അടിസ്ഥാന സവിശേഷതകളാണെന്ന് പിന്നീട് വിവിധ കേസുകളിലൂടെ സുപ്രീംകോടതി വ്യക്തമാക്കുകയുണ്ടായി. മൗലികാവകാശങ്ങൾക്ക് പരിമിതികൾ കല്പിച്ച എ.കെ. ഗോപാലൻ കേസിൽ നിന്ന് ബഹുദൂരം മുന്നോട്ടുപോയി കൊണ്ടാണ് മേനകാഗാന്ധി കേസിൽ (1978) സുപ്രീംകോടതി വ്യക്തിസ്വാതന്ത്ര്യം

അടക്കമുള്ള അവകാശങ്ങളുടെ വലുപ്പവും വ്യാപ്തിയും പാരമ്പര്യവും എത്രമാത്രം പ്രധാനപ്പെട്ടതാണെന്ന് വ്യക്തമാക്കിയത്.

അടിയന്തരാവസ്ഥ തുറന്നുവിട്ട ഭൂതം

അടിയന്തരാവസ്ഥക്കാലത്ത് (1975-1977) ഇന്ത്യയിലുണ്ടായ പൗരസ്വാതന്ത്ര്യം നിഷേധം പക്ഷേ, ഇന്ത്യൻ ഭരണഘടനാ മൂല്യങ്ങൾക്കും സ്ഥാപന സങ്കല്പങ്ങൾക്കും വലിയ ആഘാതങ്ങളാണ് ഏൽപ്പിച്ചത്. ഭരണഘടനയുടെ 352-ാം വകുപ്പ് പ്രയോഗിച്ചുകൊണ്ട് ഇതേ ഭരണഘടനയുടെതന്നെ അടിസ്ഥാനവാഗ്ദാനങ്ങളുടെ ലംഘനം നടത്തുകയായിരുന്നു. അന്ന് കോൺഗ്രസ് സർക്കാർ ചെയ്തത്. ഇങ്ങനെ ഭരണഘടനാവ്യവസ്ഥകളെത്തന്നെ ഭരണഘടനാവാഴ്ചയ്ക്കെതിരേ പ്രയോഗിക്കുന്ന സ്ഥിതിവിശേഷത്തെ കുറിച്ച് ഇറ്റാലിയൻ ചിന്തകനായ ജോർജിയോ അംഗ ബൻ വിശദമായിത്തന്നെ വിലയിരുത്തിയിട്ടുണ്ട്. അടിയന്തരാവസ്ഥ മാത്രമല്ല ഈനിലയിൽ വിലയിരുത്തപ്പെടേണ്ടത്. ഭരണഘടനയുടെ 356-ാം വകുപ്പനുസരിച്ച് സിദ്ധിച്ച അധികാരം ദുർവിനിയോഗം ചെയ്തുകൊണ്ട് ജനാധിപത്യപരമായി തിരഞ്ഞെടുക്കപ്പെട്ട (കേരളത്തിലേതടക്കം) സംസ്ഥാന സർക്കാരുകളെ കേന്ദ്രം പരിച്ഛിന്നിച്ചു. കോൺഗ്രസ്സ് സർക്കാർ തുടക്കംകുറിച്ച ഈ അമിതാധികാര പ്രവണത പിൻക്കാലത്ത് ഇതരരാഷ്ട്രീയ മുന്നണികളുടെ സർക്കാരുകളും പിന്തുടർന്നുവെന്നത് മറ്റൊരു ചരിത്രവൈശ്യം

കാലഹരണപ്പെട്ട നിയമങ്ങൾ

ഇക്കാലങ്ങളിലെല്ലാം ഒട്ടേറെ കാലഹരണപ്പെട്ട നിയമങ്ങൾ ഇന്ത്യൻ ശിക്ഷാനിയമത്തിലും മറ്റു ചില പ്രത്യേക നിയമങ്ങളിലും നിലനിന്നു. രാജ്യദ്രോഹ കുറ്റം സംബന്ധിച്ച് ശിക്ഷാനിയമത്തിലെ 124എ വകുപ്പിനെ വിമർശനങ്ങൾക്കും വിധേയമാക്കിയപ്പോൾക്കും ജനാധിപത്യ പരമായ പ്രക്ഷോഭങ്ങൾക്കുമെതിരേ പ്രയോഗിക്കുന്നതിൽ കോൺഗ്രസ് സർക്കാരുകളെപ്പോലെ ഇപ്പോഴത്തെ സർക്കാരും വലിയ ആവേശമാണ് കാണിക്കുന്നത്. ഏറ്റവുമൊടുവിൽ, ഇക്കഴിഞ്ഞ മേയ് 11-ാം തീയതി, ഈ വ്യവസ്ഥയുടെ പ്രയോഗത്തിനെതിരേ സുപ്രീം കോടതിക്ക് ശക്തമായ ഒരു ഇടക്കാല ഉത്തരവിറക്കേണ്ടിവന്നു. ശിക്ഷാനിയമത്തിലെ പലവ്യവസ്ഥകളും കാലഹരണപ്പെട്ടവയാണെന്ന് മുൻ രാഷ്ട്രപതി പ്രണബ് മുഖർജി തന്നെ വിമർശനമുന്നയിച്ചതോർക്കുക.

എന്നാൽ സ്വാതന്ത്ര്യവിരുദ്ധമായ നിയമ വ്യവസ്ഥകൾ ശിക്ഷാനിയമത്തിൽ ഒതുങ്ങിനിന്നില്ല. ദേശീയ സുരക്ഷാ നിയമം (1980), നിയമവിരുദ്ധപ്രവർത്തനം തടയൽ നിയമം (യു.എ.പി.എ.), കള്ളപ്പണം വെളുപ്പിക്കുന്നതിരായ നിയമം (2002) തുടങ്ങിയവയെ ഭരണകൂടം രാഷ്ട്രീയ എതിരാളിക്കെതിരേ യഥേഷ്ടം പ്രയോഗിച്ചു പോന്നു. ഇവയ്ക്ക് പുറമേ ജമ്മുകാശ്മീരിലെ പൊതുരക്ഷാ നിയമം (1978), വടക്കുകിഴക്കൻ സംസ്ഥാനങ്ങളിൽ

പലപ്രദേശങ്ങളിലും ഇപ്പോഴും നിലനിൽക്കുന്ന സായുധസേനകൾക്ക് സവിശേഷാധികാരം നൽകുന്ന നിയമം (1958) എന്നിവയും ഇപ്പോഴും സാധാരണ മനുഷ്യർക്കും ഭരണകൂടത്തിന്റെ വിമർശകർക്കുമെതിരെ പ്രയോഗിക്കപ്പെടുന്ന അവസ്ഥയുണ്ട്. 1958-ലെ സായുധസേനാ നിയമം പൂർണ്ണമായും പിൻവലിക്കണമെന്ന് ജസ്റ്റിസ് ജീവൻ റെഡ്ഡി കമ്മീഷൻ ശുപാർശ ഇപ്പോഴും പൂർണ്ണമായി നടപ്പാക്കപ്പെട്ടിട്ടില്ല. സ്വതന്ത്രാനന്തര ഇന്ത്യയിൽ ടാഡ, പോട്ട പോലുള്ള കരിനിയമങ്ങളുടെ ഇരയായ ആയിരങ്ങൾ വിചാരണ പോലുമില്ലാതെ തടവറയിൽ കഴിഞ്ഞു. സുപ്രീം കോടതിപോലും ഇത്തരം ജനവിരുദ്ധനിയമങ്ങളുടെ ഭരണഘടനാ സാധുത ശരിവെക്കുകയാണ് ചെയ്തതെന്ന് മറ്റൊരു ദുഃഖസത്യം. പിന്നീടുവന്ന സർക്കാരുകൾക്ക് പക്ഷേ, ഈ നിയമം പിൻവലിക്കേണ്ടിവന്നത് അവർക്കെതിരായുയർന്നുവന്ന ജനകീയ പ്രതിഷേധങ്ങളെത്തുടർന്നായിരുന്നു.

ഉയരുന്ന ചോദ്യങ്ങൾ

ചുരുക്കിപ്പറഞ്ഞാൽ ജഡനകീയാഭിപ്രായങ്ങൾക്കും തിരഞ്ഞെടുപ്പു ഫലങ്ങൾക്കും ഇന്ത്യൻ ജനാധിപത്യത്തെയും നിയമവാഴ്ചയെയും അതുവഴി ഭരണഘടനയെയും നിലനിർത്തുന്നതിൽ വലിയൊരു പങ്കുവഹിക്കാനായി. എന്നാൽ, ഇന്നത്തെ സാഹചര്യം എന്താണ്? ഇന്ത്യയിലെ നിയമവാഴ്ചയും

ഭരണഘടനാസംസ്കാരവും ഇപ്പോൾ നേരിടുന്ന പ്രതിസന്ധികൾ എങ്ങനെ യുള്ളതാണ്? ഒരു രാഷ്ട്രമെന്നനിലയിൽ നമ്മുടെ ഭാവി എങ്ങനെയായിരിക്കും? ഇത്തരം ചോദ്യങ്ങൾ ചോദിക്കാനും അവർക്ക് സ്വാതന്ത്രവും സത്യസന്ധവുമായ ഉത്തരം കാണാനുമാണ് ഇന്ത്യയുടെ നിയമചരിത്രവും ഭരണഘടനാചരിത്രവും രാഷ്ട്രീയചരിത്രവും നമ്മെ സഹായിക്കേണ്ടത്.

കഴിഞ്ഞ കുറച്ചുവർഷങ്ങൾ ഇന്ത്യൻ ജനാധിപത്യ സംവിധാനത്തിന് ഒട്ടേറെ അസുഖകരമായ സന്ദേശങ്ങളാണ് നൽകിയത്. മതേതരത്വവും ഫെഡറലിസവും ഇത്രമേൽ വെല്ലുവിളിക്കപ്പെട്ട മറ്റൊരു കാലഘട്ടം രാജ്യചരിത്രത്തിൽ ഉണ്ടായിട്ടില്ല. മതത്തിന്റെ പേരിലുള്ള വിഭജനം ഭരണകൂടത്തിന്റെ രാഷ്ട്രീയ യുദ്ധവും തിരഞ്ഞെടുപ്പു തന്ത്രവുമായി തീർന്നിരിക്കുന്നു. എൺപതുകളിൽ ഭരണകൂടവും സുപ്രീം കോടതി തന്നെയും കാണിച്ച സോഷ്യലിസ്റ്റ് മൂല്യങ്ങൾ, കറകളഞ്ഞ മുതലാളിത്ത ചിന്തകൾക്ക് വഴിമാറിക്കഴിഞ്ഞിരിക്കുന്നു. പൊതുമുതലുകൾ അതിസമ്പന്നർക്ക് തീറെഴുതിക്കൊടുക്കുന്നതിൽ സർവകാല റെക്കോഡാണ് സ്ഥാപിച്ചിരിക്കുന്നത്. ഭരണഘടനയുടെ ആമുഖത്തിലെ സോഷ്യലിസമെന്ന പിൻക്കാലത്ത് ചേർക്കപ്പെട്ട വാക്ക് ഇന്ന് ഏറക്കുറെ അർഥരഹിതമായിത്തീർന്നിരിക്കുന്നു. സമൂഹത്തിന്റെ പൊതുവിഭവങ്ങൾ പൊതുമന്ദയ്ക്കായി പ്രയോഗിക്കണമെന്നും വിഭവങ്ങളും ഉത്പാദനോപാധികളും

ചിലരിൽ മാത്രം കേന്ദ്രീകരിക്കുന്നത് തടയണമെന്നും അസമത്വം അവസാനിപ്പിക്കുക എന്നത് ഭരണകൂടത്തിന്റെ കടമയാണെന്നും മറ്റുമുള്ള ഭരണഘടനയിലെ 4-ാം ഭാഗത്തിലെ നിർദ്ദേശക തത്വങ്ങളെ ഭരണകൂടം തന്നെ നിഷേധിക്കുന്ന അവസ്ഥയുണ്ടായി.

മുനിൽ ഭീഷണികൾ

നിയമനിർമ്മാണസഭകൾക്കകത്തും പുറത്തും സംവാദങ്ങൾ കുറയുന്നു. ഭീതിയുടെ അന്തരീക്ഷം ഇന്ന് രാജ്യത്തെ ഗ്രസിച്ചിരിക്കുന്നു. എൻഫോഴ്സ്മെന്റ് ഡയറക്ടറേറ്റ്, സെൻട്രൽ ബ്യൂറോ ഓഫ് ഇൻവെസ്റ്റിഗേഷൻ എന്നിവതൊട്ട് ഡൽഹി പോലീസ് വരെ കേന്ദ്രത്തിന്റെ കൈയിലെ രാഷ്ട്രീയ ഉപകരണങ്ങൾ മാത്രമായി മാറിയിരിക്കുന്നു. ചില

സംസ്ഥാനങ്ങളിലും പോലീസ്, ഭരിക്കുന്ന രാഷ്ട്രീയമുന്നണിയുടെ കൈയിലെ ചട്ടുകങ്ങൾ മാത്രമായിത്തീർന്നിരിക്കുന്നു. കെട്ടിടം പൊളിക്കലും വ്യാജ എറ്റുമുട്ടലുകളും ഭരണകൂടഭീകരതയുടെ പുതിയ രൂപങ്ങളായിത്തീർന്നിരിക്കുന്നു. അടിയന്തരാവസ്ഥയ്ക്കുശേഷവും നമ്മുടെ ഭരണഘടനാസ്ഥാപനങ്ങൾ തകർന്നു പോയിരുന്നില്ല എന്നകാര്യം ഓർമ്മിക്കുക. അക്കാലത്തുപോലും ഇലക്ടറൽ ബോണ്ടുകളിലൂടെ, കക്ഷിരാഷ്ട്രീയവും അധികാര രാഷ്ട്രീയവും ഇന്നത്തേതു പോലെ ജീർണിച്ചിരുന്നില്ലെന്നതും മറക്കാതിരിക്കുക. ഇക്കാരണത്താലാണ് തിരഞ്ഞെടുപ്പുകളെക്കുറിച്ച് പോലും ശുഭാപ്തിവിശ്വാസം വെച്ചുപുലർത്താൻ പലർക്കും കഴിയാതെ പോകുന്നത്.

(സുപ്രീംകോടതിയിലും കേരള ഹൈക്കോടതിയിലും അഭിഭാഷകനാണ് അഡ്വ. കാളീശ്വരം രാജ്)

**മാത്യുഭൂമി,
15 ആഗസ്റ്റ് 2022.**

HOW HAS THE SC EXPANDED ABORTION RIGHTS?

Sudipta Datta

(What has the judiciary said about reproductive autonomy? What has it remarked on marital rape?)

The story so far:

In September 29, the Supreme Court ruled that single and unmarried women with pregnancies between 20 and 24 weeks are entitled to access the same safe and legal abortion care as married women. Interpreting the Rules framed under the Medical Termination of Pregnancy (MTP) Act, 1971, a Bench led by Justice D. Y. Chandrachud said “the rights of reproductive autonomy, dignity and privacy give an unmarried women the right of choice as to whether or not to bear a child on a similar footing as that of a married woman”. In another judicial recognition of marital rape, which is not recognised as an offence under

the Indian Penal Code, the Court also said sexual assault by a man on his wife can take the form of rape.

Do women in India now have equal abortion rights?

Under the current legal framework., and as the Court too noted, the MTP Act lays out exceptions to the provisions criminalising abortion in Sections 312-318 of the Indian Penal Code. The Court was hearing a case of a 25 year old unmarried women, whose plea to terminate a pregnancy before the completion of 24 weeks was rejected by the Delhi High Court pointing out that the Medical Termination of Pregnancy Rules,

2003, did not extend to unmarried women in a relationship. Taking a “purposive” view of a “beneficial legislation” like the MTP Act, the Court declared that unmarried women be included within the ambit of Rule 3B of the MTP Rules. The MTP (Amendment) Act, 2021, had introduced a key change in Section 3 by extending the upper limit for termination of pregnancy from 20 to 24 weeks. Specifically, Explanation II replaced this point - anguish caused by a pregnancy resulting from a failure of any device or method used by any “married women or her husband” in the unamended Act - to “any woman or her partner”, thus bringing pregnancies which happen outside the institution of marriage within the “protective umbrella of the law”

What did the Supreme Court lean on to make its decision?

The Bench said “constitutional values, such as the right to reproductive autonomy, the right to live a dignified life, the right to equality, and the right to privacy” led it to reinterpret the contours of the MTP Act and the MTP Rules. “In the context of abortion, the right to dignity

entails recognising the competence and authority of every woman to take reproductive decisions, including the decision to terminate the pregnancy,” it said.

What is the situation on the ground?

Women’s rights activists say a lot more needs to be done so that all women feel safe to take a decision on their bodies. India’s abortion laws are moving in a progressive manner, they say, especially in the light of what has happened in countries like the U.S. where the constitutional right to abortion was overturned by the Supreme Court in June. In India, besides patriarchal mindsets and social stigma, unmarried and single women face grater hurdles in exercising a right over their bodies, thus leading to higher risks and complications. Many women are forced to go to quacks when there are unwanted pregnancies, an activist said. As the court noted, unsafe abortions are a leading cause of maternal mortality. The National Family Health Survey 5 (2019) pegs spousal violence (physical and sexual) faced by women in the age group 18-49 years at 29.3%.

What has the court remarked on marital rape?

The court said that the meaning of the words “Sexual assault” or “rape” in Rule 3B(a) includes a husband’s act of sexual assault or rape committed on his wife. “The meaning of rape must therefore be understood as including marital rape, solely for the purposes of the MTP Act and any rules and regulations framed there under. Any other interpretation would have the effect of compelling a woman to give birth to and raise a child with a partner who

inflicts mental and physical harm upon her”. Human Rights experts point out that if a person is guaranteed equality, autonomy and dignity under Articles 14 and 21. Then marital rape must be termed a criminal offence. Though left out of the Criminal Law (Amendment) Act of 2013, the Justice Verma Committee had recommended that the law should specify that a marital relationship cannot be a defence against sexual violation. “A rapist remains a rapist regardless of his relationship with the victim, Justice Verma had concluded.

**The Hindu,
2nd October 2022.**

NO MORE INDICTMENT UNDER SECTION 66A OF IT ACT: SUPREME COURT

The Hindu Bureau, New Delhi

*In 2015, it found the police powers of Section 66A
too wide with scant respect for individual liberty*

The Supreme Court on Wednesday ordered States and their police forces to stop prosecuting free speech on social media under Section 66A of the Information Technology Act which was declared unconstitutional by the court in a judgment seven years ago.

The court found it both “distressing” and “terrible” that the police had continued to pick out people and prosecute them under the draconian Section regardless of the fact that the highest court in the country had struck down the law as “vague” and “chilling”.

A Bench led by Chief Justice of India U.U. Lalit directed “all Directors General of Police as well as Home Secretaries of the States and competent officers in Union Territories to instruct their entire police force in their respective States/Union Territories not to register any complaint of crime with respect to alleged violation of Section 66A”.

However, the court clarified that this direction would apply only to a charge under Section 66A and not extend to other offences in a case.

Police powers

In March 2015, the Supreme Court had found the police powers of Section 66A too wide with scant respect for individual liberty and free expression the Internet. The order had come on the basis of a petition filed by law student Shreya Singhal, who had highlighted cases

of young people being arrested and charged under the ambiguous provision for their social media posts.

Section 66A had prescribed three years' imprisonment if a social media message caused "annoyance" or was found "grossly offensive". The court had concluded the provision to be vague and worded arbitrarily.

**The Hindu,
13th October 2022.**

‘COURT CAN NOT ISSUE DIRECTION TO FRAME UNIVERSAL CIVIL CODE’

Krishnadas Rajagopal

Citizens belonging to different religions and denominations follow different property and matrimonial laws which is an “affront to the nation’s unity”, the government said in the Supreme Court.

Article 44 (Uniform Civil Code) divests religion from social relations and personal law, it maintained.

The preliminary submissions are part of recent affidavits filed by the Union Law Ministry to petitions, which was filed by advocate Ashwini Kumar Upadhyay, seeking directions from the top court to the government to remove “anomalies” and frame uniform divorce law and uniform guidelines for adoption and guardianship of children.

The government said the power to make laws is exclusively that of the legislature. The court cannot give a “mandamus to Parliament to make certain laws”, “This is a matter of policy for the elected representatives of the people to decide and no direction in this regard can be issued by the court. It is for the

legislature to enact or not enact a piece of legislation”, the Ministry said. It added Mr. Upadhyay’s petition was not maintainable.

The Ministry said it had requested the Law Commission to examine “various issues relating to the Uniform Civil Code (UCC)” and make recommendations considering the sensitivity and in-depth study involved of various personal law governing different communities. The 21st Law Commission had uploaded a consultation paper titled ‘Reform of Family Law subsequently in August 2018.

Elaborating on the common civil code, the government said the Directive Principles of State Policy “creates an obligation up-on the state to endeavour to secure for citizens a uniform civil code throughout the country under Article 44 (of the Constitution).

The Ministry said the purpose of Article 44 was to strengthen the object of the ‘Secular Democratic Republic’ enshrined in the Preamble of the Constitution.

**The Hindu,
19th October 2022.**

THE AMBIGUITY OF RESERVATIONS FOR THE POOR: UNCONSTITUTIONAL OR NOT?

Anup Surendranath

While the constitutional amendment by itself might survive the 'basic structure' test, the hardest test for governments will be the manner in which they give effect to the amendment. the definition of economically weaker sections' will be a major hurdle

On September 27, a Constitution Bench led by CJI U. U. Lalit heard multiple petitions against reservations based solely on economic criteria introduced by the Constitution (103rd) Amendment Act, 2019. After extensive hearings, the Bench reserved its judgment in the case. In this article dated January 22, 2019, Anup Surendranath tackles the idea that EWS reservations are unconstitutional.

The 103rd Constitution Amendment Act introducing special measures and reservations for 'economically weaker sections' (EWS) has been perceived as being obviously unconstitutional. This article is sceptical of such a reading and takes the view that a constitutional challenge to the amendment will take us into unclear constitutional territories. The strongest constitutional challenge might not

be to the amendment itself but to the manner in which governments implement it. There is no foregone conclusion to a potential challenge and we would do well to start identifying the core constitutional questions that arise. To be clear, I am here concerned only with questions that arise within constitutional law.

Special measures

Article 15 stands amended enabling the state to take special measures (not limited to reservations) in favour of EWS generally with an explicit sub-article on admissions to educational institutions with maximum 10% reservations. The amendment to Article 16 allows 10% reservations (and not special measures) for EWS in public employment and does so in a manner that is different from reservations for

Scheduled Caste/Scheduled Tribes and Other Backward Classes. The amendment leaves the definition of ‘economically weaker sections’ to be determined by the state on the basis of ‘family income’ and other economic indicators. Also critical to this amendment is the exclusion of SC/STs, OBCs and other beneficiary groups under Articles 15(4), 15(5) and 16(4) as beneficiaries of the 10% EWS reservation.

A good point to start the constitutional examination is the Supreme Court’s view on reservations based purely on economic criteria. Eight of the nine judges in *Indra Sawhney* (November 1992) held that the Narasimha Rao government’s executive order (and not a constitutional amendment) providing for 10% reservations based purely on economic criteria was unconstitutional. Their reasons included the position that income/property holdings cannot be the basis for exclusion from government jobs, and that the Constitution was primarily concerned with addressing social backwardness.

Basic structure doctrine

However, the decision in *Indra Sawhney* involved testing an executive order against existing constitutional provisions. In the current situation, we are

concerned with a constitutional amendment brought into force using the constituent power of Parliament. The fact that we are not concerned with legislative or executive power means that the amendment will be tested against the ‘basic structure’ and not the constitutional provisions existing before the amendment. The pointed question is whether measures based purely on economic criteria violate the ‘basic structure’ of the Constitution? I do not think it is a sufficient answer to say that ‘backwardness’ in the Constitution can only mean ‘social and educational backwardness’. Citing the Constituent Assembly debates is not going to take the discussion much further either. It is difficult to see an argument that measures purely on economic criteria are per se violative of the ‘basic structure’. We can have our views on whether such EWS reservations will alleviate poverty (and they most certainly will not), but that is not really the nature of ‘basic structure’ enquiry. Providing a justification for these measures as furthering the spirit of substantive equality within the Indian Constitution is not very difficult.

Economic criteria (if seen as poverty) forms the basis for differential treatment by the state in many ways and it would be a stretch to suddenly see it

as constitutionally suspect when it comes to ‘special measures’ and reservations in education and public employment. Poverty inflicts serious disadvantages and the prerogative of the state to use special measures/ reservations as one of the means to address it (however misplaced it might be as a policy) is unlikely to fall foul of the ‘basic structure’ doctrine.

A challenge to the amendment may lie in the context of Article 16 by virtue of shifting the manner in which reservations can be provided in public employment. Under Article 16(4), reservations for backward classes (SC/STs, OBCs) are dependent on beneficiary groups not being ‘adequately represented’ but that has been omitted in the newly inserted Article 16(6) for EWS. The amendment through Article 16(6) ends up making it easier for the state to provide reservations in public employment for EWS than the requirements to provide reservations for ‘backward classes’ under Article 16(4). In a sense that is potentially a normative minefield for the Supreme Court. On the one hand, it is confronted with the reality that ‘backward classes’ like SC/STs and OBCs are disadvantaged along multiple axes and on the other, it is now far more

difficult for the state to provide reservations to these groups compared to the EWS. The response might well be that ‘representation’ is not the aim of EWS reservation and questions of ‘adequacy’ are relevant only in the context of representation claims like those of the backward classes under Article 16(4).

Questions and challenges

In many of the responses to the amendment, breaching the 50% ceiling on reservations has been cited as its greatest weakness. It is hard to see the merit of that argument because the amendment by itself does not push the reservations beyond 50%. While it might be a ground to challenge the subsequent legislative/ executive actions, the amendment itself is secure from this challenge. But even beyond this narrow technical response, the 50% ceiling argument is far from clear. In *Indra Sawhney*, the majority of judges held that the 50% ceiling must be the general rule and a higher proportion may be possible in ‘extraordinary situations’. Fundamentally this argument stems from an unresolved normative tension in *Indra Sawhney*. While committing to the constitutional position that reservations are not an ‘exception’ but a ‘facet’ of

equality, the majority in *Indra Sawhney* also invokes the idea of balancing the equality of opportunity of backward classes ‘against’ the right to equality of everyone else. When governments implement the EWS reservations and push quotas beyond 50%, the Supreme Court will be forced to confront this normative tension. If reservations further equality, what then are the justifications to limit it to 50% when the identified beneficiaries constitute significantly more than 50%? The answer to that question might lie in *Indra Sawhney*’s position that the constitutional imagination is not one of ‘proportional representation’ but one of ‘adequate representation’. However, as discussed above, if abandoning the ‘adequacy’ requirement per se is upheld for EWS reservations, the basis for a 50% ceiling becomes unclear.

While the constitutional amendment by itself might survive the ‘basic structure’ test, the hardest test for governments will be the manner in which they give effect to the amendment. The definition of ‘economically weaker sections’ will be a major hurdle because the political temptation will be to go as broad as possible and include large sections of citizens. But broader the definition, greater will be the constitutional risk. For example, if beneficiaries are defined as all those with family income of less than ₹ 8 lakh per annum, it must necessarily fail constitutional scrutiny. To justify that an individual ‘below poverty line’ and another with a family income ₹ 8 lakh per annum belong to the same group for purposes of affirmative action will involve constitutional jugglery at an unprecedented level. But then, the history of our constitutional jurisprudence has prepared us well for such surprises.

(Anup Surendranath teaches Constitutional Law at the National Law University, Delhi)

**The Hindu,
1st November, 2022.**

CONSIDERING CONSENT

*The law must stay in tune with the times,
and consider ground realities*

As much as the laws of a country must adhere to the principle of justice and fairness, they also need to stay in tune with the times. It was this proviso that the Dharwad Bench of the High Court of Karnataka invoked as it urged the Law Commission of India to have a rethink on the criteria for age of consent, 'taking into consideration the ground realities'. The judges said they were motivated to make this recommendation, having encountered several cases relating to minor girls over the age of 16 years (but below 18 years) having fallen in love and eloped with the boy, and wondered why the consent of the girl in a sexual relationship is not factored in, especially when charges are made out under provisions of the POCSO Act. The Act was enacted to protect children from sexual abuse, and it raised the age of consent for sexual intercourse from 16 to 18 years. In practice, however, studies have noted that

many cases booked under the Act in the adolescent group (16 years and above) have a romantic involvement, including eloping with the intention of getting married, consensually. In almost all instances, police cases are initiated by the parents of the minor girl who has eloped with the lover. Once the sexual act is confirmed, the POCSO Act is slapped on the boy, who may sometimes be a minor, or barely of legal age for marriage, and the consequences of being prosecuted for penetrative sexual assault are life altering, as they are meant to be. While the boys face criminal prosecution, the girls are also sent to government institutions when they protest parents' strong disapproval of the liaison. Activists have charged that this has the potential to wreck the lives of the youngsters involved, and entire families too are felled by this encounter with the law.

There is no doubt that children are vulnerable, and must be protected from forced attempts to sexually assault or groom them with an eye on exploitation. However, the realities of adolescent attraction and the ascertainment of consent, 16 years or above, must be considered pertinent to investigation and prosecution. The High Court judges also asked if it could be presumed that minors have knowledge of

the applicable law. It may be remembered that the Justice J. S. Verma Committee on Amendments to Criminal Law also recommended that the age of consent be reduced to 16, and necessary amendments be made in the POCSO Act. The Law Commission must now train its guns on the actual implementation of the Act, and ensure the POCSO Act, stays true to its broad intent - the protection of children.

**The Hindu,
10th November, 2022.**

A BILL PROTECTING STATE SURVEILLANCE

Anushka Jain & Krishnesh Bapat

The Digital Personal Data Protection Bill fails to fulfil its mandate of protecting the right to privacy of citizens

The Ministry of Electronics and Information Technology released the Digital Personal Data Protection Bill, 2022 on November 18. The journey towards a data protection legislation began in 2011 when the Department of Personnel and Training initiated discussions on the Right to Privacy Bill, 2011. As per an Office Memorandum dated September 29, 2011, the then Attorney General, Goolam Vahanvati, opined that conditions under which the government can carry out “interception of communication” should be spelt out in the Bill. This opinion was also echoed by the Group of Experts on Privacy, headed by Justice A.P. Shah, in 2012. The report of the group emphasised the need to examine the impact of the increased collection of citizen information by the government on the right to privacy. Since then, civil society organisations, lawyers

and politicians have consistently demanded surveillance reform, highlighting how personal data can only be protected when the government’s power to conduct surveillance of citizens is meaningfully regulated. However, like its predecessors, the latest Bill also fails to confront India’s growth into a surveillance society.

The surveillance architecture

The surveillance architecture in India comprises mainly of Section 5(2) of the Indian Telegraph Act, 1885; Section 69 of the Information Technology Act, 2000; and the procedural rules promulgated under them. But this architecture does not meaningfully define the grounds under which, or the manner in which, surveillance may be conducted. It also does not contain safeguards such as ex-ante or ex-post facto independent review of interception directions.

The concentration of power with the executive thus creates a lack of accountability and enables abuse. Evidence for this emerges not only from instances of political surveillance, but also from the slivers of transparency that accidentally emerge from telecom companies. For instance, submissions by Airtel to the Telecommunications Department, as part of the public consultation process for the Indian Telecommunication Bill, reveal that excessive data collection requests are already a reality. Airtel has asked the government to share the costs it incurs to comply with the increasing demands from law enforcement agencies to carry out surveillance.

Apart from outright surveillance, unfettered collection and processing of citizen data for other purposes, such as digital governance, raise concerns. Agitation over the nature of the surveillance architecture was voiced by the Supreme Court in its right to privacy decision in 2017 and by the Justice B.N. Srikrishna Committee in 2018. However, all iterations of the data protection legislation since - the draft Personal Data Protection Bill, 2019, the draft Data Protection Bill, 2021 and the 2022 Bill

have no proposals for surveillance reform. Worse, personal data can be processed even without the person's consent.

Blanket exemptions

Like previous iterations, Clause 18(2) of the 2022 Bill allows the Union government to provide blanket exemptions for selected government agencies. However, this Bill is more egregious than previous iterations as it permits exemption to private sector entities that may include individual companies or a class of them, by assessing the volume and nature of personal data under Clause 18(3). Comparative legal regimes, which, as per the explanatory note, were considered before proposing the Bill, do not contain comparable provisions. Such blanket exemptions to state agencies, let alone private corporations, are absent in foreign legislations. While the existing or proposed legislations in the European Union and in the U.S. permit security agencies to claim exemptions on a case-by-case basis, depending on why they are collecting personal data, they do not contain blanket exemption powers to an entire government entity. Further, other

jurisdictions exercise meaningful oversight over state surveillance. For instance, the Investigatory Powers Tribunal in the U.K. is authorised to hear complaints against misuse of surveillance powers and can impose monetary penalties in case of a breach. Under the new Bill in India, exempted state agencies and private entities will not be within the purview of the Data Protection Board, the body responsible for imposing penalties in case fiduciaries infringe privacy.

Interestingly, the explanatory note accompanying the Bill elaborates on the seven principles it seeks to promote, including transparency, purpose limitation, data minimisation, and preventing the unauthorised collection of personal data. But when matched against the actual provisions, the Bill appears to serve a rhetorical value. This can also be noticed by the government's refusal to share statistical data on the number of surveillance orders issued yearly, thereby hampering any meaningful transparency. Further, in direct violation of purpose

limitation, inter-departmental sharing of data is not only allowed, but encouraged by draft policies such as the draft National Data Governance Framework Policy, 2022, facilitating the creation of comprehensive profiles of citizens. In addition, provisions of other legislation, such as the Criminal Procedure (Identification) Act, 2022, which allows for overzealous collection and storage of biometric data for 75 years, are in direct contrast with the principles of data minimisation and prevention of unauthorised collection of personal data.

The preamble to the 2022 Bill states that the purpose is to protect the personal data of individuals and ensure that personal data is processed only for lawful purposes. Unfortunately, by choosing to protect state surveillance, the new Bill fails to fulfil its mandate of protecting the right to privacy of citizens.

(Anushka Jain is the Policy Counsel at Internet Freedom Foundation, New Delhi & Krishnesh Bapat is the Associate Litigation Counsel at Internet Freedom Foundation, New Delhi)

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THE CONSTITUTION OF INDIA DESERVES BETTER

Gummadidala RangaRao

*Celebrating November 26 as Constitution Day is fine,
but India should not restrict itself to symbolism and
instead look at the substantive issues dealt with by
the Constitution*

The Constitution of India was adopted by the Constituent Assembly on November 26, 1949 for 'We the people of India'. After being unnoticed for long, the day began to be celebrated as Constitution Day since 2015. This day is indeed a historic day for the nation, with the framing of a Constitution for the governance of independent India.

But it is imperative to go beyond the celebrations and look at the substantive issues relating to the primary parchment of the nation. For example, if we pose a question about the level of awareness about the Constitution among 'we the people', the answer may not be encouraging. It is understandable if unlettered people are not aware of the Constitution. But the situation is not much different among the educated sections either, despite the fact that the Constitution is an integral part of our life.

The Constitution has a clear imprint on day-to-day life, though we may not be really conscious of it. If we ask a policeman why he is stopping us, it is because the Constitution has given us that right. The newspaper we read, the TV channels we watch; our travel by bus, train or in our own car every time; getting a passport and flying; taking up a profession we like; eating the food we relish in a restaurant; and buying fashionable outfits in malls - it is the Constitution which made this possible through fundamental rights. The freedom of movement, freedom of expression, freedom to choose a calling of our liking, freedom to buy, sell and carry on any trade, freedom to wear garments of our choice; all these freedoms emanate from the Constitution in the form of fundamental rights. These freedoms were never available to us before we won independence from the British.

When we were on the verge of Independence, our freedom fighters wanted to make a clean break with the past and build a brave new society through the Constitution. Thus, the Constitution declared with the stroke of a pen that all Indians are equal citizens irrespective of caste, creed, colour, gender, estate, education, etc. This is, indeed, heady stuff for a nation steeped in religion, rituals, ignorance and poverty which gave rise to unacceptable inequalities between men and women, the rich and the poor, the literate and the illiterate, and the learned and the , laity. Setting aside all these aberrations, the Constitution put everyone on an even keel, even while providing a level playing field for the weak and the meek.

There is no denying the fact that the law is a weak source to bring about change in human thinking and behaviour. Just because the Constitution declared all Indians as equals, equality does not prevail from the day of such a declaration. But, if we inculcate it in our offspring, social change is distinctly possible. We all teach our children not to tell lies and not to steal. Cannot we teach them to treat their classmates without bias? And, that is what the Constitution

says too. But, we are hardly conscious of the constitutional ideals enshrined in the Preamble.

Explaining the indifference

How do we explain this indifference to the Constitution? We pay great respect to religious books and treat them as sacred doctrines, while we are oblivious to the Constitution which has changed our lives. It is unlikely that even those who are well educated and well-placed have a copy of the Constitution in their houses unless they are advocates. While educated people broadly know that there is a thing like fundamental rights, we are largely unaware of the fundamental duties enshrined in the Constitution. The Constitution is a holistic doctrine. Rights bring responsibilities with them. There is a chapter on Fundamental Duties in Part IVA of the Constitution.

But, how do we know the Constitution unless we have a copy and bother to open it even occasionally? Hardly any parent thinks of gifting the Constitution to their child in their birthday, while every parent wants their offspring to grow up as a responsible adult with mature minds and restrained manners. It is a vague ideal unless we inculcate values such as respect for women,

empathy towards the weak and the meek, and reject dowry, caste and creed as the basis to measure the values of a person. And, where do we find these values? In the Constitution.

Article 15 says: “The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.” How beautiful this sentence would have read had “The state” been replaced by society. Has any parent thought along these lines while raising their child and teaching them good manners and values? The values we teach are essentially damaging to the mind, such as ‘become a doctor or an engineer and get a hefty dowry’.

As part of the curriculum

Unfortunately, there is hardly any focus on the Constitution at the school level, not to speak of tertiary education.

The Constitution should get due recognition across the educational system. Celebrating November 26 as Constitution Day is fine, but we should not restrict ourselves to symbolism. We should look at the substantive issues dealt with by the Constitution, thereby enriching our life.

Our ancient texts teach us that Vasudhaiva Kutumbakam, which means the entire humanity, is one large family. Every man is related to every other person. We should first learn to treat fellow Indians as a fraternity. We will know this only if we care to open the first page of the Constitution. For this we need a copy of the Constitution. And it costs less than a movie ticket these days.

(Gummadidala RangaRao was Director (Research and Information) in the Lok Sabha Secretariat, New Delhi)

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26th November, 2022.**

EWS QUOTA: BEYOND THE SMOKESCREEN

Sathya Narayanan

Why stick to an old approach that is not yielding the desired outcome?

Reservation was introduced as a short-term measure to give opportunities to classes of people who were socially and educationally backward and/ or inadequately represented in education, employment, politics and other spheres. The intent was laudable. Reservation has increased the standard of life for many. But what was supposed to be a short-term measure got extended due to various political and sociological compulsions.

Eliminating the cause

Even after seven decades of reservation, we are not able to claim success in eliminating the cause that required reservation in the first place. In our personal lives and careers, if a solution to a problem doesn't give the expected result within a reasonable time

frame, we reconsider the solution and try to improve it. However, successive governments kept extending the reservation system, hoping for a different outcome. People who benefited from reservation wanted the system to continue for successive generations too. It was clear that the reservation system was being used by them as a self-perpetuating mechanism. As a result, those who really needed reservation were deprived of its benefits.

At the time of Independence, the economy was primarily agrarian and based on traditional commerce. People were largely unskilled. They continued engaging in the professions that their family had practised for generations. However, free school education and industrialisation helped people learn

new skills, which gave them scope to migrate to greener pastures. As cities became cosmopolitan, the class divide became a thing of the past. Employment in the industrial sector became largely skill- based rather than caste-based.

Social and educational backwardness go hand-in- hand with economic weakness. More than 70 years of reservation has brought economic prosperity to a large section of people and given them adequate representation. Ideally, families that have been brought above the poverty line through adequate employment opportunities and other benefits should make way for others who are less fortunate; instead, they oppose extending the system to the economically weaker sections (EWS) of society only because some of the beneficiaries could be from the so-called ‘forward’ communities.

The cause for social in-equality and oppression was somewhat wrongly attributed to a particular faith and the practice of caste system prevalent in those days. In this technology-cum-Information age, the surging middle class population makes the caste system less

prevalent. The economic prosperity seen today has neutralised to a large extent the very reason for social in-justice - the class disparity. However, the caste and reservation system are still being kept alive only so that political parties and those who have benefited from the system so far can continue to milk it.

The government has a constitutional and moral duty to achieve the goal of “social, economic and political justice,” mentioned in the Preamble. The 10% quota for the EWS aims to correct an anomaly in the system that is depriving deserving and qualified people. We need to accept that reservation on the basis of economic criteria is the need of the hour and the stepping stone to achieving economic and social justice.

Misconceptions

Most objections to this come from a misunderstanding that the basic structure of the Constitution has been violated by the EWS amendment, which seeks to empower the privileged sections of society who are neither socially and educationally backward nor inadequately represented. Another misconception is

that the 10% quota in the open category in favour of ‘forward’ communities reduces the availability of seats in the open category for other classes and communities. But the government has clarified that this 10% is in addition to the existing reservation in favour of SEBCs. This means it does not in any way affect reservation up to 50% for SEBCs, OBCs, SCs and STs.

The judgment that sets the basis for this 10% quota said, “If an egalitarian socio-economic order is the goal...,

the deprivations arising from economic disadvantages, including those of discrimination and exclusion, need to be addressed to by the State; and for that matter, every affirmative action has the sanction of our Constitution ...

Opposition to this quota is intended to derail the allround economic development that this government stands for.

(Sathya Narayanan is a social observer and commentator)

**The Hindu,
6th December, 2022.**

A STRONG CASE EXISTS FOR MARRIAGE EQUALITY

Shivani Vij

With the judiciary presenting strong equality-based reasoning in 'Navtej Singh', the exclusion of marriage rights appears difficult for the state to justify

A recent statement by a Member of Parliament that same-sex marriages are against the (so-called) cultural ethos of India has once again stirred up the debate on marriage equality. This is amidst a petition for marriage rights of same-sex couples (under the Special Marriage Act, 1954) pending before the Supreme Court of India. The most obvious hurdle in adjudication seems to be the legitimacy of the institution - i.e., whether courts should intervene in marriage rights or leave it to the wisdom of Parliament. However, another factor that may guide the Court urging it to intervene here is that it previously decriminalised consensual same-sex conduct on the basis of the 'right to equality' and not merely the 'right

to privacy'. The question then is: how difficult is the present challenge to (no) marriage rights?

An aspect to the LGBTQ community's legal battle has been whether the law criminalising sexual conduct has been violative of the right to privacy or the right to equality. In the former, one's sexual orientation and choice of a sexual partner were held intrinsic to privacy and personal liberty. In the latter, equal treatment of same-sex couples with those of heterosexual couples was considered paramount. As argued by lawyer Jonathan Berger, this makes a difference because while a privacy analysis calls for a complete 'hands-off' approach from the state where it should not interfere, an

equality analysis requires the state to take positive steps to ensure equal treatment in all spheres of life. Thus, once equal treatment with heterosexual persons is established, it ought to become simpler to seek sequential rights of equalising age of consent, prohibiting employment discrimination, rights in marriage, adoption etc ..

Comparative law

The European Court of Human Rights, in *Dudgeon vs UK* (1981), struck down the offence of buggery in Northern Ireland as violative of Article 8 of the European Convention on Human Rights because it disproportionately restricted personal and family life. This restriction cast on the most intimate part of personal life could not be justified by any pressing social need. The court thus adopted a privacy approach and did not go into the question of equal treatment under Article 14. It could be argued that this made it difficult for a same sex couple, in *Oliari vs Italy*, to seek marriage rights in Italy. Here, the court reasoned that states could not be obligated to grant marriage equality, provided there was some form

of legal recognition of their rights. Moreover, that many European countries had not yet granted marriage rights and only recognised civil partnerships shaped the court's decision.

On the contrary, a conscious decision by LGBTQ lawyers and activists in South Africa to litigate rights based on 'equality' made sure they won successive battles, beginning with constitutional protection of 'sexual orientation' and judicial recognition of marriage, adoption, etc. Dealing with decriminalisation in *National Coalition for LGBTQ* (1998), Justice Ackermann compared the privacy and equality approaches and opined how the latter was enabling and granted greater protection to homosexual persons. Thus, in *Fourie* (2005), the Constitutional Court rejected the state's argument that the Constitution only protected the right to establish family in private life without state interference and not to marry. Exclusion to marry was considered antithetical to equality and dignity and permitting it would have meant that marriage of a homosexual couple was inferior or of lesser worth. This was constitutionally impermissible.

The U.S. dealt with this quite differently since it decriminalised same-sex relations (*Lawrence vs Texas* 2003) and granted marriage equality (*Obergefell* 2015), both under the due process clause of the Fourteenth Amendment of its Constitution, which prohibits the state from taking away personal liberties without substantive and procedural fairness. The focus was thus on personal liberty.

A decriminalisation

Though belated, India adopted the South African approach in *Navtej Singh* (2018). The top court read down Section 377 IPC and decriminalised consensual sexual conduct on the basis that it created an unreasonable classification for same-sex persons under Article 14, besides being violative of bodily autonomy under Article 21. As per the majority, unequal treatment to homosexual persons meant that they were treated as a separate class of citizens. Any classification that perpetuated stereotypes was violative of Article 15. Further, sexual orientation implicated both negative and positive obligations on the state. Besides non-interference, it called for a

recognition of rights to ensure true fulfilment of same-sex relationships. Previously, even in *NALSA* (2014), the Court acknowledged the importance of sequential rights arising from ‘gender identity’ (employment, health care, education, equal civil and citizenship rights).

Evidently, the Court focused on an all-encompassing meaning of equality in all spheres of life, essential for dignified living to overcome prejudice. With this strong equality-based reasoning, which is a notch higher than mere protection of privacy, the exclusion of marriage rights (under challenge) appears difficult for the state to justify. The foundation of equal treatment thus ought to pave the way for marriage equality in India and not be left to the vagaries of the legislature. This would be significant in the Indian context where marriage holds a special cultural and religious value, a denial of which may reinforce the stigma faced, a same-sex couples. The Court may be the only hope in claiming sequential rights where no active steps have been taken by the Government since the Court’s decision in 2018.

(Shivani Vij is an advocate practising in Delhi)

The Hindu

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Environment

Amendments to Plastic Waste Management Rules, 2016 notified

Omir Kumar

The Ministry of Environment, Forest and Climate Change notified amendments to the Plastic Waste Management Rules, 2016 under the Environment Act, 1986. The Rules lay down standards for manufacturing and selling material (such as bags and packaging material) produced from plastic. The Rules also specify the framework for plastic waste management. Key features of the amendments include:

- **Biodegradable plastics:** The amendments add that before marketing or selling, manufacturers/sellers of biodegradable plastics should obtain a certificate from the Central Pollution Control Board (CPCB).
- Further, biodegradable plastics should conform to standards notified by Bureau of Indian Standards and certified by the CPCB. The amendments define biodegradable plastic as plastic (other than compostable plastic) that undergoes degradation by biological processes without leaving residue harmful to the environment.
- **Environmental compensation:** The amendments add that environmental compensation will be levied on persons not complying with the provisions of the Rules as per guidelines notified by CPCB.
- **Implementations of Rules in UTs:** State Pollution Control Board (SPCB) and Pollution Control Committee (PCC) are responsible for enforcing the Rules in UTs. The amendments adds that the Central Pollution Control Board will also be responsible for enforcing the Rules in UTs.
- **Registration of manufacturers:** Manufacturers of carry bags, recycle plastic bags, or multi layered packaging must obtain registration from the SPCB or the PCC of the UT. The amendments provide that such manufacturers will have to obtain registration from: (i) SPCB/PCC of the UT if operating in one or two states or UTs, or (ii) the CPCB, if operating in more than two states or UTs.

**PRS Legislative Research,
July 2022.**

Draft amendments to the Environment and Forest Acts released

Tanvi Vipra

The Ministry of Environment, Forest and Climate Change released draft amendments to the Indian Forest Act, 1927 (Forest Act) and the Environment (Protection) Act, 1986 (Environment Act). The Forest Act provides for protecting and managing forests. The Environment Act specifies environmental safety requirements by regulating emission of environmental pollutants. The key changes proposed by the draft amendments are-

Amendments to the Forest Act, 1927

The draft amendments seek to decriminalise minor violations, compound smaller offences, and reduce the compliance burden on citizens.

Under the Forest Act, certain activities are prohibited and penalised with a fine up to Rs 500, imprisonment up to six months, or both. These activities include (i) trespassing in a reserved forest, (ii) damaging reserved trees (iii) causing damage due to negligence in felling of trees, and (iii) kindling a fire. The draft amendments decriminalise such activities i.e., the punishment will only attract a fine up to Rs 500.

Amendments to the Environment Act, 1980

- **Decriminalising offences:** Certain activities under the Act are penalised with imprisonment up to five years, fine up to one lakh rupees, or both.

Continuous violation attracts a fine up to Rs 5,000 for each day.

Prohibited activities include:

(i) discharging environmental pollutants in excess of specified standards, (ii) handling hazardous substances without adequate safeguards, and (iii) not allowing central government to investigate an offence. The draft amendments decriminalise offences under the Act and provide a fine ranging from five lakh rupees to five crore rupees. In cases where the damage by the violator is greater than the penalty, they will be required to pay a fine equal to

the damage. A fine ranging from Rs 50,000 to five lakh rupees (each day) will be imposed for continuous violation. Failure to pay the penalties will attract a fine up to Rs 10 crore, imprisonment up to three years, or both.

- **Penalty for government departments:** The draft amendments seek to penalise government departments who violate any provisions of the Act. The punishment includes a fine of up to two lakh rupees for each violation.
- **Adjudicating officer:** The draft amendments add that the central government will appoint an Adjudicating Officer to conduct an inquiry into a violation and impose a penalty. Appeals against the decisions of the Officer will lie with the National Green Tribunal.
- **Environment Fund:** The draft amendments provide that the central government may establish an Environmental (Protection) Fund. Penalties collected under the Act will be credited to the Environment Fund.

**PRS Legislative Research,
July 2022.**

Standing Committee Report Summary Implementation of Metro Rail Projects – An Appraisal

Omir Kumar

The Standing Committee on Housing and Urban Affairs (Chair: Mr. Jagdambika Pal) submitted its report on ‘Implementation of Metro Rail Projects - An Appraisal’, on May 9, 2022. Key observations and recommendations of the Committee include:

• **Low ridership:** Most metro projects (except Delhi and Mumbai line 1) have seen low actual average daily ridership than what is required to breakeven. These metro projects include Bengaluru, Hyderabad, Chennai, Lucknow, and Jaipur. For instance, in 2020-21: (i) Bengaluru metro had an actual average ridership of 0.96 lakh against the required ridership of 18.64 lakh to breakeven, and (ii) Hyderabad metro had an actual ridership of 0.65 lakh against 19 lakh required to break even. The Committee noted that poor performance of metro projects indicates several things such as: (i) lack of first and last mile connectivity, (ii) faulty detailed project reports, and (iii) absence of parking at stations. If metro is to be made a medium of mass transportation, commuters need to be shifted away from using private vehicles. Therefore, the Committee recommended: (i) ensuring ridership estimation (which determines the

selection of the type of metro) is realistic and accurate, and (ii) taking concrete steps to increase the ridership of all metro projects.

• **First and last mile connectivity:** The Metro Rail Policy, 2017 provides that all proposals for metro rails should include proposals for feeder systems. The Committee noted that all metro networks do not have first and last mile connectivity facilities. For instance, Lucknow, Ahmedabad, and Kolkata do not have infrastructure for feeder buses. In the absence of such connectivity, projected ridership may not be achieved. It recommended that approvals for upcoming metro projects should not be given until the detailed project report has provisions for first and last mile connectivity.

• **Law governing metro projects:** The Committee observed that as more cities are taking up metro projects, there is a need to have a comprehensive law for metro projects. Currently, metro projects are governed by three central Acts. The Ministry of Housing and Urban Affairs had stated that it is drafting a Bill to replace the three existing Acts.

- **Unified Metropolitan Transport Authority (UMTA):** State governments are required to constitute UMTAs for managing urban transport. The Committee observed that several states such as Karnataka, Gujarat, and Rajasthan have not constituted UMTAs. It recommended the Ministry to encourage the setting up of UMTAs in states.

- **Less capital-intensive metro networks:** In 2021-22, metro projects accounted for about 43% of the Ministry's budget. The per km cost of constructing metro ranges from Rs 37 crore -1, 126 crore depending on the metro system. The Committee recommended the Ministry to promote MetroLite and MetroNeo systems in smaller cities due to their lesser capital, operation, and maintenance costs. These systems can be constructed at about 25-40% cost of regular metro.

- **Fare fixation committee (FFC):**

Under the Metro Railways (Operation and Maintenance) Act, 2002 the initial fare for a metro project is fixed by the metro administration, thereafter it is fixed by the FFC. The central government constitutes the FFC after receipt of request from the state government metro rail company. The Committee noted that so far four FFCs have been constituted for Delhi metro,

two for Mumbai metro line 1, while FFC for Bangalore is under process. For other metros, initial fare is applicable. The Committee recommended: (i) FFCs should be constituted for metro projects, and (ii) relevant factors affecting the cost of running a metro should be taken into account while fixing fares to ensure affordability.

- **Payment of fare via single card:** The National Common Mobility Card (NCMC), launched in March 2019, allows payment across different modes of public transport throughout India. Payment through a single card attracts customers towards public transport and increases ridership. The Committee noted that NCMC compliant systems have not been installed in Kolkata, Jaipur, Lucknow, Kanpur, Chennai, and Gujarat. It recommended the Ministry to take suitable steps to operationalise NCMC.

- **Sourcing of power from renewables:** Metro networks such as Chennai, Hyderabad, Delhi, and Lucknow are adopting energy conservation measures. For instance, Kochi and Pune metro have planned to meet 60% of their energy requirements from solar power. The Committee recommended the Ministry to encourage mandatory sourcing of power from renewables especially solar, by metro networks.

PRS Legislative Research,
27th July 2022.

Supreme Court strikes down certain Provisions of Benami Property Transactions Act, 1988

Tushar Chakrabarty

The Supreme Court struck down certain provisions of the Prohibition of Benami Property Transactions Act, 1988. Benami transactions include transactions where a property is held by or transferred to a person for which the consideration was paid by another person. The 1988 Act was amended in 2016. Prior to the 2016 amendment, the Act barred persons from entering into a benami transaction, provided for confiscation of benami properties, and a penalty of imprisonment of up to three years or a fine or both. However, it exempted certain transactions such as purchase of property by a person in the name of his wife or unmarried daughter. The 2016 amendment removed this exemption, and retained the penalty. This was deemed to have been applicable for benami transactions entered into between 1988 and 2016. A different penalty was provided for persons entering into benami transactions after the 2016 amendment. The Court was examining whether the 2016 amendments could apply retrospectively.

The Court observed that the unamended Act was devoid of criminal intent on the part of the person entering into benami transactions. It, however, criminalised the act of one person paying consideration for acquisition of property for another person. This created a harsh provision with a strict liability. Also, the criminal provision of the unamended Act along with confiscation proceedings were overly broad and operated without adequate safeguards in place. Thus, the criminal provisions and confiscation proceedings under the unamended Act were found to be unconstitutional. Similarly, the provision for retrospective punishment for benami transactions, as introduced by the 2016 amendment, was also held to be unconstitutional as it violated Article 20 (1) of the Constitution. The Article provides that no person shall be convicted for an offence if a law was not violated at the time of commission of the act. In the light of these observations, the Court ruled that criminal prosecution or confiscation proceedings for transactions prior to the 2016 amendment Act cannot continue and can only be applied prospectively.

**PRS Legislative Research,
August 2022.**

Bill Summary

The Electricity (Amendment) Bill, 2022

Saket Surya

- The Electricity (Amendment) Bill, 2022 was introduced in Lok Sabha on August 8, 2022. The Bill amends the Electricity Act, 2003. The Act regulates the electricity sector in India. It sets up the Central and State Electricity Regulatory Commissions (CERC and SERCs) to regulate inter-state and intra-state matters, respectively. Key provisions under the Bill are:
 - **Multiple discoms in the same area:** The Act provides for multiple distribution licensees (discoms) to operate in the same area of supply. The Act requires discoms to distribute electricity through their own network. The Bill removes this requirement. It adds that a discom must provide non-discriminatory open access to its network to all other discoms operating in the same area, on payment of certain charges. The central government may prescribe the criteria for determining the area of supply.
 - **Power procurement and tariff:** Upon grant of multiple licenses for the same area, the power and associated costs as per the existing power purchase agreements (PPAs) of the existing discoms will be shared between all discoms. To meet any additional power requirements, a discom may enter into additional PPAs after meeting the obligations of existing agreements. Such additional power need not be shared with other discoms. Under the Act, in case of multiple discoms in the same area of supply, the SERC is required to specify the maximum ceiling for tariff. The Bill adds that the SERC will also specify a minimum tariff for such cases.
 - **Cross-subsidy Balancing Fund:** The Bill adds that upon grant of multiple licenses for the same area, the state government will set up a Cross-subsidy Balancing Fund. Cross-subsidy refers to the arrangement of one consumer category subsidising the consumption of another consumer category. Any surplus with a distribution licensee on account of cross-subsidy will be deposited into the fund. The fund will be used to finance deficits in cross-subsidy for other discoms in the same area or any other area.

- The Bill specifies that the above matters related to the operation of multiple discoms in the same area will be regulated in accordance with the rules made by the central government under the Act.
- **License for distribution in multiple states:** As per the Bill, the CERC will grant licenses for distribution of electricity in more than one state.
- **Payment security:** The Bill provides that electricity will not be scheduled or despatched if adequate payment security is not provided by the discom. The central government may prescribe rules regarding payment security.
- **Contract enforcement:** The Bill empowers the CERC and SERCs to adjudicate disputes related to the performance of contracts. These refer to contracts related to the sale, purchase, or transmission of electricity. Further, the Commissions will have powers of a Civil Court.
- **Renewable purchase obligation:** The Act empowers SERCs to specify renewable purchase obligations (RPO) for discoms. RPO refers to the mandate to procure a certain percentage of electricity from renewable sources. The Bill adds that RPO should not be below a minimum percentage prescribed by the central government. Failure to meet RPO will be punishable with a penalty between 25 paise and 50 paise per kilowatt of the shortfall.
- **Selection committee for SERCs:** Under the Act, the Chairperson of the Central Electricity Authority or the Chairperson of the CERC is one of the members of the selection committee to recommend appointments to the SERCs. Under the Bill, instead of this person, the central government will nominate a member to the selection committee. The nominee should not be below the rank of Additional Secretary to the central government.
- **Composition of Commissions and APTEL:** The Bill increases the number of members (including the chairperson) in SERCs from three to four. Further, at least one member in both the CERC and SERCs must be from law background. Under the Act, Appellate Tribunal for Electricity (APTEL) consists of a chairperson and three other members. The Bill instead provides that the APTEL will have three or more members, as may be prescribed by the central government.

PRS Legislative Research,
10th August 2022.

Environment

Report of the Joint Parliamentary Committee on the Biological Diversity (Amendment) Bill, 2021 tabled

Saket Surya

The report of the Joint Parliamentary Committee on the Biological Diversity (Amendment) Bill, 2021 (Chair: Dr. Sanjay Jaiswal) was tabled in Parliament. The Bill was introduced in Lok Sabha in December 2021. The Bill amends the Biological Diversity Act, 2002.

The Act provides for the conservation of biodiversity and sharing of benefits from access to biodiversity and associated knowledge with local communities. Key observations and recommendations of the Committee are as follows:

- **Codified traditional knowledge:**

The Bill exempts access to codified traditional knowledge from benefit-sharing provisions. However, it does not define the term 'codified traditional knowledge'. The Committee observed that most of the traditional knowledge

in the AYUSH system of medicine is codified. It also observed that traditional knowledge registered in the people biodiversity register may also be taken as codified. This may lead to denial of benefit to a majority of local traditional knowledge holders. The register is prepared by the local authorities to document biodiversity as per the provisions of the Act. The Committee recommended that the term be defined in the Bill. It should be defined as the knowledge derived from authoritative books specified in the First Schedule of the Drugs and Cosmetics Act, 1940. The Schedule lists books on Ayurveda, Siddha, and other traditional medicine systems.

- **Cultivated medicinal plants:** The Bill exempts access to cultivated medicinal plants from benefit sharing provisions. It provides that the central government may prescribe a manner of issuing certification of origin for cultivated medicinal plants. The Committee recommended removing

the rule-making power. It instead recommended providing further clarification regarding the issuance of the certificate in the Bill itself.

The Bill should provide that a certificate of origin will be obtained through an entry into the books of the concerned local authorities.

**PRS Legislative Research,
August 2022.**

Battery Waste Management rules, 2022 notified

Mayank Shreshtha

The Ministry of Environment, Forest and Climate Change notified the Battery Waste Management Rules, 2022, under the Environment (Protection) Act, 1986. These rules replace the Batteries (Management and Handling) Rules, 2001 and lay down the standards for management of various types of waste batteries. Waste Battery includes: (i) used/end-of-life battery and its hazardous/non-hazardous components; (ii) battery diverted during the manufacturing process; and (iii) expired or discarded battery. Key features of the Rules are:

- **Extended Producer Responsibility (EPR):** The producers of batteries have to ensure the collection, recycling, and refurbishment of the Waste

Batteries. The EPR targets are specific to the kind of battery (e.g., Lithium-ion, Lead-acid) within each type of battery—portable, automotive, electric, and industrial. EPR mandates the minimum use of domestically recycled materials (e.g., lithium, nickel, cobalt) in a new battery.

- **Responsibilities of consumers:** The Consumers should ensure: (i) discarding waste battery separately from other types of waste, and (ii) dispose waste batteries by giving it to an entity engaged in collection, refurbishment, or recycling.

- **Committee for implementation:**
The central government will constitute a Committee (Chariman, Central Pollution Control Board) to recommend measures to the Ministry of Environment, Forest and Climate Change for implementation of the Rules. The Committee will consist of relevant stakeholders such as members from various Ministries, State and Central Pollution Control Boards, and associations representing various stakeholders such as recyclers and producers.
- **Centralised Online Portal:** The Central Pollution Control Board (CPCB) will create a centralised online portal for the registration and return filing of waste batteries. The online portal will facilitate the generation and exchange of the EPR certificates between the producers and recyclers/refurbishers to meet the producer's obligations.
- **Environmental Compensation:** Environmental Compensation will be levied by CPCB on entities in violation of the Rules.

**PRS Legislative Research,
August 2022.**

The early years of India's Parliament

Chakshu Roy

In May 1952, Members of Parliament (MPs) of the first Lok Sabha assembled to elect its Speaker.

The Congress candidate was GV Mavalankar, who had been in the Speaker's chair since 1946. Opposing him was Shankar Shantaram More, a newcomer to Parliament. The election was a formality as Congress had a comfortable majority in Lok Sabha. More voted for Mavalankar and said, "In the best traditions of Parliament, a gracious custom prevails by which where two candidates are proposed for the Speakership, each candidate votes for the other candidate. I have observed that custom by voting for you.'

Mavalankar was aware of the historic responsibility cast upon him as the first Speaker of our new republic. Replying to the welcome speeches from MPs, he observed, "Parliamentary life has only recently begun in our land and it is yet a tender plant that requires delicate and careful handling - and if I may say so, careful nursing. It is, therefore, the

special responsibility of this Parliament to set up sound and healthy traditions, as, whatever we do now, is more likely to be a precedent for all times to come."

The early years: Assembly's dual role. The evolution of modern legislative institutions in India has an interesting history.

The increasing demand for self-government by Indian leaders necessitated the creation of a bicameral national legislature in 1919. This pre-independence institution had limited powers to hold the colonial administration accountable. It was more a forum for criticising the government and highlighting its shortcomings. This bicameral legislature stopped functioning when the country became independent, and the Constituent Assembly became the legislature for India.

The Assembly then had two choices – to act as a constitution-framing and a law – making body or to separate these roles.

On August 29, 1947, the Constituent Assembly opted to divide these functions. It resolved that “The business of the Assembly as a Constitution-making body should be clearly distinguished from its normal business as the Dominion Legislature, and different days or separate sittings on the same day should be set apart for the two kinds of business.”

As a result, the Constituent Assembly would meet in what is now the Central Hall to draft the Constitution. And on different days, it would convene in the Lok Sabha chamber as the Constituent Assembly (Legislative) to make laws and question Prime Minister Jawaharlal Nehru’s Government. The legislative functioning was presided over by Mavalankar as the Speaker, and Rajendra Prasad chaired the framing of the Constitution. Since Prasad was also a minister, he would reply to questions when the Assembly met in its legislative capacity.

The Constituent Assembly met in its legislative role for the first time in November 1947. It was also a time of misery in the country. Partition had resulted in an influx of refugees, and the nation’s capital and surrounding areas witnessed large-scale riots.

During this time, Mahatma Gandhi came to Delhi with his message for communal harmony. In January of 1948, he decided to go on a fast unto death to contain the violence. Gandhi’s fourth son Devadas was then the editor of the Hindustan Times. The paper reported that the Mahatma’s decision came “as a complete surprise to his colleagues and the members of the Government”. On January 30 1948, Nathuram Godse assassinated Mahatma Gandhi.

The Constituent Assembly (Legislative) was in session that month, and when it convened on February 2, members paid moving tributes to the father of the nation. Speaker Mavalankar started the day’s proceedings by stating, “We are meeting today under the shadow of a double calamity, the sad demise of the tallest leader of our age who has led us from slavery to independence and the reappearance of the cult of political violence in our country.” The Assembly stood silently for a minute when the tributes ended and then adjourned without conducting business.

The Assembly met in its dual roles from the end of 1947 to 1949. In 1948, both avatars of the Assembly met for 104 days. And a year later, members of

the Assembly spent roughly six months in Delhi attending its deliberations. During their time in the national capital, most stayed in refurbished armed forces barracks not far from Parliament. American troops stationed in Delhi during the second world war had occupied them earlier. The complex was renamed Constitution House and became the hub of political activity. Assembly members discussed legislative matters in its dining halls, and the Congress party often used to hold its meetings in the complex.

The Constituent Assembly members worked fervently to complete the Constitution and adopt it in November 1949. Our country's founding document would come into force on January 26, 1950, and with it, the Constituent Assembly's work would end. It would then begin its work as the provisional Parliament.

The first amendment

After the Constitution started working, the courts began comprehensively interpreting the chapter on fundamental rights. These decisions were related to freedom of speech and the citizen's right to carry out any profession. Courts had also struck down zamindari abolition legislation made by state legislatures.

In this background, Prime Minister Nehru introduced the first constitutional amendment bill. With this amendment, the government wanted to limit free speech in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality. It was apprehensive that even though the constitutional provisions gave it the leeway for any schemes of nationalisation, "it was desirable to place the matter beyond doubt by a clarification...". It also wanted to pre-empt any legal challenges towards its attempts to uplift backward classes on the ground that they were discriminatory. And finally, the amendment created a list of laws immune from judicial scrutiny.

The bill met with scathing criticism in the provisional Parliament.

Syama Prasad Mookerjee led the opposition to the amendment. In his speech, he said, "By appealing to the emotions of the Prime Minister I was appealing to all the Members of this House warning them that we are today being asked for the first time to amend our sacred Constitution. It is a great document. It is not a matter which you can take in a light-hearted way. We are anxious - no matter what our individual

views may be on various matters - to retain the foundation of a good and solid Government which can work in the interest of all sections of the people of this country. That I certainly believe is the objective of all of us. Now, if we proceed in a light- hearted way to amend the Constitution, naturally we create a precedent which may lead to very serious consequences. These things, taken each one of them separately, may not mean much. But after all if you take them as a whole and the manner in which you are proceeding, you are doing a great disservice. If there is anything standing in your way you just come and amend the Constitution, utterly ignoring public opinion.”

The amendment would eventually pass, and the country would head into its first general elections a few months later, ending the provisional Parliament’s term.

The first Lok Sabha

The Indian electorate would elect MPs, and the first House of the People would start functioning in the summer of 1952.

Data from the parliament secretariat shows that this first directly elected House was a mix of youth and

experience. Forty-five per cent of MPs were below the age of 45, and the House’s average age was a little over that. It had 35% lawyers and 22% who identified themselves as agriculturists.

The newly elected House did not have its own rules - therefore, Speaker Mavalankar would modify and adopt the procedures of the Constituent Assembly Legislative for its functioning. Initially, the Speaker made changes to the rules and then a committee of MPs was made responsible for it. The two Houses would also stop referring to themselves by their English names in the Constitution, House of the People and Council of States. In 1954, the Hindi terms Lok Sabha and Rajya Sabha came into use.

Constitution Drafting Committee chairman B. R. Ambedkar; former Law Minister Sarat Chandra Bose, Drafting Committee member Kanaiyalal Maneklal Munshi and former deputy Prime minister Vallabhbhai Patel sign a document in the Central Hall. HT Archive.

A new republic would need laws for the different challenges that it would encounter. And to deliberate on these laws and question the Government, both the first and second Lok Sabha would set a scorching pace of functioning.

The directly elected House would average 133 days in its first five years and 115 in the next five. Both these Lok Sabhas passed almost 700 laws during these 10 years. And it was during the term of the second Lok Sabha, that the two Houses disagreed on the provisions of the Dowry Prohibition Bill. It led to the first joint meeting of the two Houses to break the deadlock.

1992 - 2007

During this time, there were also disagreements between the Government and Parliament. When the Government promulgated multiple ordinances [laws signed by the President], Mavalankar reminded Nehru about the role of the first Lok Sabha in establishing traditions. He said, “we, as first Lok Sabha, carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents; and if this Ordinance issuing is not limited by convention, only to extreme and very urgent cases, the result may be that, in future, the Government may go on issuing Ordinances giving the Lok Sabha no option, but to rubber-stamp the Ordinances.”

MPs would use parliamentary tools effectively. During the first Lok Sabha, seven bills brought by MPs who were not ministers became laws. One was a legal proposal piloted by Rae Bareli MP Ferose Gandhi. In addition to his parliamentary responsibilities, he was managing associated with the newspapers National Herald and Navjivan. His bill sought immunity from civil and criminal lawsuits for anyone publishing an accurate account of parliamentary proceedings.

In another celebrated case, in the second Lok Sabha, Congress MPs would use question hour to unearth a financial scam involving the Life Insurance Corporation. Called the Mundhra scam, it would lead to the resignation of Finance Minister T T Krishnamachari. This episode would restore some of the damage done by an MP of the Provincial Parliament, who had accepted money for asking questions.

During the first ten years of Parliament, the debate in the two houses was passionate and mostly decorous. And when things started getting out of hand, the presiding officers would restore order.

In 1957, after an acrimonious debate in Rajya Sabha, certain proceedings of the House had to be deleted, the first Chairman of Rajya Sabha observed, “We want to maintain the good name and dignity of this House. Every one of us is interested in that as much as I am. I do not want it to be said that sometimes these discussions suggest that we are not behaving like serious, responsible Members of Parliament but rather like irresponsible professional agitators. That impression even all members of this House to whatever side they may belong, should avoid. We must be careful and preserve our good name and our dignity.”

It was not only the deliberations in the two Houses that kept MPs busy. In the first two terms of Lok Sabha, several international dignitaries addressed them in the Central Hall. The first one was US Vice President Richard Nixon in 1953. President Dwight D. Eisenhower would engage with MPs at the same venue six years later. Nikita Khrushchev of the USSR would come twice in different capacities.

The first decade of Parliament would set the bar high for future Lok Sabhas. Some of the issues raised and the precedent set are important even now, 70 years later.

(Chakshu Roy is the head of legislative and civic engagement, PRS Legislative Research. The views expressed are personal.)

Hindustan Times
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Cabinet approves PM SHRI Schools

Omir Kumar (omir@prsindia.org)

The Union Cabinet approved PM SHRI (PM Schools for Rising India) Schools, a centrally sponsored scheme. Under the scheme, more than 14,500 schools managed by central, state, and local body governments will be selected and upgraded. Schools would be required to apply through an online portal. The portal will be opened four times a year, once every quarter, for the first two years of PM SHRI.

PM SHRI schools will be provided with several facilities such as: (i) linkage with sector skill councils and local industry, (ii) improved pedagogy with a focus on holistic learning, (iii) school quality assessment framework to measure outcomes, (iv) infrastructural facilities such as solar panels, LED lights, and smart classrooms, and (v) annual school grants. The total cost of the scheme will be Rs 27,360 crore (including central share of Rs 18,128 crore) for the period 2022-23 to 2026-27.

**PRS Legislative Research
September 2022**

Amendments to Juvenile Justice (Care and Protection of Children) Model Rules, 2016 notified

Omira Kumar (omira @prsindia.org)

The Ministry of Women and Child Development notified amendments to the Juvenile Justice (Care and Protection of Children) Model Rules, 2016. Rules have been notified under the Juvenile Justice (Care and Protection of Children) Act, 2015. States may adopt these Rules to implement provisions of the Act. Key amendments include:

- **Membership of Child Welfare Committees (CWCs):** The Rules provide that the Chairperson and members of CWCs should be above 35 years of age. Qualifications of these members include: (i) minimum seven years of experience working with children in various fields such as education, or health, or (ii) practicing professional with a degree in child psychology, or (iii) retired judicial officer. The amendments add a maximum age limit of 65 years for the Chairperson and members. Further, they must have a degree in any relevant field which includes child psychology, law, social work, or special education for

differently abled children. In addition, they should also have relevant work experience which includes involvement in health, education, or welfare activities for children for minimum seven years.

- **Grievances against CWC:** The amendments add that any grievance against the functioning of CWCs may be filed by the affected child (or anyone connected with the child) before the District Magistrate (DM). The grievance shall be disposed of within 30 days.

- **Adoption related reporting:** The CWCs provide data on children declared legally free for adoption and cases pending for decisions to the Central Adoption Resource Authority (CARA). The amendments add that CARA will provide such information on a monthly basis. Such information will also be provided to the DM who, after reviewing the information, shall take measures to expedite the process of adoption of children.

PRS Legislative Research,
September 2022.

Amendments to the IT Rules, 2021 notified

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The Ministry of Electronics and Information Technology notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The 2021 Rules specify due diligence requirements for intermediaries to claim exemption from liability for third-party content. Intermediaries are entities which store or transmit data on behalf of other persons. These include social media sites, e-commerce companies, and internet service providers. Key proposed amendments are:

- **Obligations of intermediaries:**

The 2021 Rules require intermediaries to publish rules and regulations, privacy policy and user agreements for access or usage of its services. The amendments add that these details should be made available in English or any language specified in the Eighth Schedule of the Constitution. The 2021 Rules specify restrictions on the types of content that users are allowed to create, upload, or share. The Rules require intermediaries to inform users about these restrictions. Amendments add that the intermediaries must: (i) ensure compliance with rules and regulations, privacy policy, and user

agreement, and (ii) make reasonable efforts to cause users to not create, upload, or share prohibited content.

- **Appeal mechanism against decisions of grievance officers:**

The 2021 Rules require intermediaries to designate a grievance officer to address complaints regarding violations of the Rules. Amendments provide for a mechanism for appeals against the decisions of grievance officers. The central government will establish one or more Grievance Appellate Committees to hear appeals against the decisions of grievance officers. The Committee will consist of a chairperson and two other members appointed by the central government through a notification. The Committee will be expected to dispose of all appeals within 30 days on a best-effort basis.

- **Expeditious removal of prohibited content:**

The Rules require intermediaries to acknowledge complaints regarding violation of Rules within 24 hours, and dispose of complaints within 15 days. Amendments add that the complaints regarding the removal of specified prohibited content must be addressed within 72 hours.

PRS Legislative Research,
October 2022.

The Anti-Defection Law That Does Not Aid Stability

Chakshu Roy

A part of the Constitution of India goes against its very spirit. It is the Tenth Schedule, that was added by the 52nd Amendment. Passed by Parliament in 1985 to prevent political defections, it is commonly referred to as the anti-defection law. It was meant to prevent legislators elected on one political party's ticket from shifting their allegiance to another. Its purpose was to bring about political stability.

Since then, it has stifled the voices of our elected representatives, severely damaged constitutional offices, and made a mockery of our democracy. The anti-defection law has failed to ensure stable governments for 37 years.

Some recent examples could be cited. No political party secured a clear majority after the 2018 assembly election in Karnataka. B.S. Yediyurappa of Bhartiya Janata Party (BJP) became the chief minister for three days and resigned

as he could not prove his majority. After that, H.D. Kumaraswamy of Janata Dal (United) [JD (U)]- Congress alliance became the chief minister for 13 months. He had to resign after defections and resignations led to his government losing a trust vote in the legislative assembly. It resulted in Yediyurappa returning to the driver's seat for two years.

Madhya Pradesh also went to the polls in 2018. After this election, Kamal Nath of Congress formed a government with the support of independents and other parties. Resignations by Congress members of the legislative assembly (MLAs) brought down his government in about 13 months.

In Maharashtra, after the 2019 state election, the BJP's Devendra Fadnavis became the chief minister for three days. Unable to secure a majority, he resigned, and a coalition of Shiv Sena, Nationalist Congress Party, and Congress

formed a government led by the Sena's Uddhav Thackeray. But a rebellion in the party led to his resignation earlier this year.

The law's applicability is less about providing stability to governments and more about strengthening the hands of the political party leadership in dealing with dissenting legislators.

Even with these failures, there are calls to strengthen the anti-defection law instead of abandoning it. The fundamental question is whether it is legally possible to prevent a party's legislators shifting their loyalty to another.

The phenomenon of legislators defecting from one party to another has an interesting history in India. Between the first general election in 1951 and the fourth in 1967, 542 MLAs changed their political allegiance. In the 12 months between February 1967 and March 1968 alone there were 438 defections.

These numbers are from the first paragraph of the report of the 1968 Y.B. Chavan Committee, which had been set up following a resolution passed in Lok Sabha. A dissent note by Communist

Party of India (CPI) leader Bhupesh Gupta gives some context to these numbers. Gupta stated that the defections till 1967 favoured the Congress party, which dominated the national and the state legislatures. After the fourth general election, Congress suffered electoral losses and, as a result, MLAs were not only defecting and joining it but also deserting its ranks.

The report stated that in addition to money, "the lure of office played a dominant part in decisions of legislators to defect." It pointed out that after the 1967 election, out of 210 defecting legislators in seven states, 116 became ministers in governments that they helped form by their defection.

The framers of our Constitution adopted the Westminster model for independent India. Under this system, the government is accountable to a popularly elected legislature. Therefore, a political party can form a government and stay in power if it has a majority in the legislature. This presents a challenge to a political party in two ways. First, it has to

win enough seats on its own or build a coalition with other parties to form a government. It can also garner the support from individuals who have won the election on their own (independents) to back its government. The second part of the challenge comes after forming the government. The ruling party or Coalition has to keep its legislators together so that its government does not lose its numerical advantage in the legislature.

Enactment of the anti-defection law

After the electoral churn of 1967, political parties agreed that there was a need to reign in their legislators. Desertions and indiscipline in their ranks led to the fall of several governments across the political spectrum. In the 1970s, Congress and later Janata Party attempted to bring a law preventing defections. But the 1985 Congress government, with its 400 members in Lok Sabha (MPs), was able to amend the Constitution and provide a quick legal solution to the political problems faced by parties.

The law did four things:

- 1) It defined what would constitute defections;
- 2) It laid out the requirements for legislators to defect in groups;
- 3) It specified the authority for deciding on cases for defections; and
- 4) It punished legislators for defecting by taking away their seat in the legislature.

According to the law, if a legislator who has won an election on a political party ticket “voluntarily” gives up his or her party membership or votes against the organisation’s wishes in the legislature, the party can proceed against the member under the anti-defection law.

Individuals who win an election independently will come under the purview of the law if they join a political party afterwards. For example, in 2021, Jignesh Mevani, an independent MLA from Gujarat, would have attracted this provision had he formally associated himself with Congress. At that time, he declared that he had joined the political party only in “spirit.”

Any legislator who disagrees with his or her party leadership or its stand on a particular issue can face disqualification proceedings.

The law allows nominated legislators to become part of a political party within six months. If they do so after six months, they also come under the anti-defection law. Last year, nominated Rajya Sabha MP Swapan Dasgupta filed his nomination papers for contesting the West Bengal legislative assembly elections as a BJP candidate. He had to resign his seat in the Rajya Sabha when Trinamool Congress MP Mahua Moitra complained that he would be violating the anti-defection law.

When Parliament made this law, it provided two ways in which a group of legislators could defect without attracting a penalty under the law. The first was that if one-third of the legislators of a political party split from it, and, the second, if two-thirds of a party's legislators merged with another party. In either case, it would not be considered a defection. For example, eight of the 11 Goa Congress MLAs "merged" the Goa Congress Legislature Party with BJP in mid-September.

The law specifies that the presiding officers of legislatures will decide on cases of defections. If they find that a legislator or a group has violated the law, the guilty would lose their seats in the legislature. The constitutional amendment bill's stated purpose was, "The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it."

But the framing of the anti-defection law raises doubts about its noble intention. Let us begin with how the law defines defection.

Failings of the law

According to the provisions of the anti-defection law, if legislators voluntarily give up their membership of a party, they can be accused of defecting from it. The law leaves this phrasing ambiguous without defining it. As a result, any legislator who disagrees with his or her party leadership or its stand on a particular issue can face disqualification proceedings. Courts have interpreted this provision liberally. Thus, the law covers a legislator's actions inside and outside the legislature.

This state of affairs gives political parties immense power to stamp out internal dissent by threatening its MPs and MLAs with disqualification from the legislature. Lawmakers who do not see eye to eye with the party's leadership risk losing their seat in the legislature for voicing their opinion. This chokes the voices of our elected representatives on critical issues as they would rather not risk losing their seats for disagreeing with their party's leadership.

It raises the question of whether our representatives are responsible only to their political organisation. Or do they also have some responsibility for voicing the opinion of the people who elected them?

[The anti-defection law] gives political parties immense power to stamp out internal dissent by threatening its MPs and MLAs with disqualification from the legislature.

Legislators disagreeing with their political party will not always destabilise a government. For example, if an opposition MLA disagrees with his or her political party, it will not impact the

government. Similarly, Rajya Sabha MPs and Members of Legislative Councils in states have no role in forming a government or its continuance. But the anti-defection law is applicable to them as well. This makes it clear that the law's applicability is less about providing stability to governments and more about strengthening the hands of the political party leadership in dealing with dissenting legislators.

During the making of the anti-defection law, the then government had justified the exception for one-third splits and two-thirds mergers as providing dissent mechanisms for protecting legislators who banded against their political party. But in the first 15 years of the law, it became evident that political parties were using the one-third split provision to break their rivals and engineer wholesale defections. Its most successful use was in Goa, where between 1990 and 2000, there were seven different chief ministers, some serving multiple times and only two completing more than two years in office.

Attempts at reform

The Law Commission of India, in its 170th report on Electoral Reforms submitted in 1999, had recommended the deletion of both the split and merger provisions. Acting on the commission's report, Parliament deleted the split clause in 2003 by passing the Ninety-first Amendment to the Constitution. This amendment's statement of objects and reasons admitted that the anti-defection law "has also been criticised on the ground that it allows bulk defections while declaring individual defections as illegal. The provisions for exemption from disqualification in case of splits as provided in paragraph 3 of the Tenth Schedule to the Constitution of India has, in particular, come under severe criticism on account of its destabilising effect on the Government."

During the debate on this constitutional amendment, two Rajya Sabha MPs also urged deleting the merger provision. Telugu Desam MP Ravula Chandra Sekar Reddy stated, "Let this legislation be extended and made applicable to mergers as well since, in my opinion, merger is a hiatus and a

respectable name for defection. They would have fought the election on a particular plan and manifesto. By merging the parties, they will be defeating the mandate of the people. If you want to cleanse politics, we should prohibit this type of mergers also."

Legislators disagreeing with their political party will not always destabilise a government.

As mentioned, the law commission had also championed the merger provision's deletion. It had observed the clause would lead to "several complications and unnecessary disputes." Its prediction has been proved correct in the tussle between the Uddhav Thackeray and the Eknath Shinde factions. The Shinde faction has two-thirds of the Shiv Sena MLAs with them and wants to be recognised as the real Shiv Sena. The contention of the Thackeray camp is that the rank and file of the party is with them and therefore the two-thirds merger provision is not applicable in this case. The last Chief Justice of India, N.V. Ramana, in August of 2022 referred the matter regarding the interpretation of different aspects of the anti-defection law to a constitution bench of the Supreme Court.

Speaker's role

The anti-defection law has also brought the non-partisan constitutional office of the speakers of legislatures into disrepute. The law makes the speakers the deciding authority in defection proceedings. The thinking was that giving such responsibility to the speaker would speed up the adjudication process. During the debate on the law, some MPs pointed out that involving speakers in defection proceedings would drag their office into unnecessary controversies.

Speakers usually belong to a ruling party or coalition. Over the years, their actions in defection proceedings have strengthened the belief that they act as party members rather than impartial adjudicators. For example, roughly two years after the passing of the anti-defection law, there was a struggle in the ruling All India Anna Dravida Munnetra Kazhagam (AIADMK) for the control of the party. It took place after the death of Tamil Nadu Chief Minister M.G. Ramachandran in 1987. The speaker belonged to one faction of the party and instantly disqualified 27 rival MLAs during a confidence vote on the legislature's floor.

The conduct of speakers has also come under criticism from courts when they have inordinately delayed defection proceedings. In the last Andhra Pradesh and Telangana legislative assembly, the speakers did not decide defection proceedings till the expiry of the term of the legislature. In 2017, a Manipur MLA elected on a Congress ticket became a minister in the BJP government. The speaker delayed the defection proceedings against the MLA for more than three years. It was the apex court's intervention that led to the disqualification of the MLA. The court recommended that speakers must decide on cases of defection within three months.

A bench comprising Justices R.F. Nariman and S. Ravindra Bhat urged that "Parliament may seriously consider amending the Constitution to substitute the Speaker of the Lok Sabha and Legislative Assemblies as arbiter of disputes concerning disqualification which arise under the Tenth Schedule with a permanent Tribunal headed by a retired Supreme Court Judge or a retired Chief Justice of a High Court, or some other outside independent mechanism, to ensure

that such disputes are decided both swiftly and impartially, thus giving real teeth to the provisions contained in the Tenth Schedule, which are so vital in the proper functioning of our democracy.”

The Dinesh Goswami Committee on Electoral Reforms in 1990 also recommended divesting speakers of the responsibility of deciding on defections. The National Commission to Review the Working of the Constitution (NCRWC) made a similar suggestion. The frequent battles over government formation or saving a government using the anti-defection law have subverted the speaker’s office. Therefore, there is no guarantee that other constitutional offices would not get compromised deciding these political questions.

Over the years, [the speakers’] actions in defection proceedings have strengthened the belief that they act as party members rather than impartial adjudicators.

Another suggestion that is often made to tighten the anti-defection law is to not count the vote cast by a defector legislator while deciding the fate of a

government. This was a suggestion that was made by the NCRWC. It is an idea that Pakistan is also considering. Earlier this year, the president of Pakistan referred four questions related to defections to the country’s supreme court for its opinion. One of them is not counting the votes of defecting legislators. The provisions clamping down on defections in Pakistan differ from ours. Article 63A of the Pakistani Constitution restricts the scope of defection to two areas. First, it becomes applicable when a legislator resigns from a political party. The second is when legislators vote contrary to their party’s wishes on a vote of confidence or the budget. Defection cases in Pakistan are decided by the leadership of a political party. The Pakistan Supreme Court has held that the votes of a defecting legislator should not be counted while deciding the fate of a government.

But this solution is also problematic. In our constitutional scheme of things, a government can be thrown out, if the opposition can rally a majority of legislators to vote against the government. If the votes of a dissenting legislator are not counted during

a no confidence motion, it would mean that every government, whether it enjoys the confidence of the legislature or not, will artificially stay in power for the full five years.

So, in India the recommendations over the years to tighten the anti-defection law are to prohibit both individual and group defections; to entrust an independent authority to decide defection cases promptly; and to not count the votes of defecting legislators trying to topple a government. All these recommendations are worth considering if they guarantee stable governments. Yet, our experience with political parties has been that they are adept at bypassing laws. For example, stringent laws prevent convicted individuals from fighting elections. But political parties simply replace them with other individuals who can win elections even though they have criminal antecedents, as long as they can contest elections .

[D]efections are a political problem that need to be dealt by political parties; it is not a legal lacuna that needs to be addressed.

Similarly, there is more than one way to topple a government. For example, in Karnataka and Madhya Pradesh, legislators were able to topple the government by not defecting but by resigning their legislative seats and reducing the number supporting the government. They then contested elections on the ticket of the party that benefitted from their resignation and joined it. In such cases, there is not much a stringent anti-defection law can do.

Conclusions

This essay began with asking the question if it is legally possible to stop elected representatives from defecting to another party. The 1968 Chavan committee on defections did not think so. Eminent constitutional experts on this committee like M.C. Setalvad, C. K. Daphtary in their report to the main committee stated that: “While the search for legal and constitutional curbs on political defections has undoubtedly its value, the more lasting solution to the problem can only come from the adherence of political parties to a basic political morality and the observance by them of certain proprieties and

decencies of public life.” Their observations stem from the fact that defections are a political problem that need to be dealt by political parties; it is not a legal lacuna that needs to be addressed.

Take the United States and the United Kingdom, which do not have an anti-defection law. In both these countries, legislators regularly vote against their party line. The difference is that in these democracies, parties use inner-party deliberative and dissuading mechanisms to reign in their members. For example, 10 Republican congressmen and seven senators voted with their Democratic colleagues in support of impeaching US President Donald Trump. No party whip could force them to vote to support the president. One of them was Congresswoman Liz Cheney. Since she defied the party line, her party removed her from her leadership position in the House of Representatives. Earlier this year, Trump endorsed a rival candidate to oppose her re-election.

In India, the question of legislators not adhering to party discipline is a political issue, one between them and their political party. If political parties want to have members who toe the party line, their leadership must work harder to promote internal party democracy, dialogue, and avenues for growth of its members. The real question would be why the Constitution should come to the rescue of political parties that cannot keep their members together. This question becomes critically important because the anti-defection law continues to compromise the effective functioning of our legislatures.

Chakshu Roy heads the legislative and civic engagement initiatives at PRS Legislative Research. He anchors programmes to strengthen the capacity of legislators at the centre and state-level, and has trained journalist groups about tracking the functioning of the parliament and state assemblies.

**The Indian Forum,
5th October 2022.**

Supreme Court upholds reservation for economically weaker sections

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In January 2019, Parliament passed the Constitution (One Hundred and Third Amendment) Act, 2019. It empowered the central government to provide 10% reservation to economically weaker sections (EWS) in public employment and educational institutions. The Ministry of Social Justice and Empowerment identifies the eligibility for EWS as a person whose gross annual family income is less than eight lakh rupees or who owns agricultural or residential property less than the limits prescribed by the ministry. The amendment was challenged on the grounds that it violates the basic structure of the constitution in three ways: (i) economic criteria being the basis for providing reservations, (ii) Scheduled Castes (SCs), Scheduled Tribes (STs), and the non-creamy layer of Other Backward Classes (OBCs) being excluded from the definition of EWS, and (iii) that an additional 10% reservation breaches the 50% reservation ceiling limit decided by the Supreme Court. The basic structure doctrine refers to the judicial principle that basic features of the Constitution cannot be

amended or struck down by Parliament. Equality is a key feature of the basic structure doctrine.

The Supreme Court upheld the amendment, stating that reservation on the basis of economic criteria does not violate the basic structure of the Constitution. It observed that excluding SCs, STs, and OBCs from the scope of EWS does not violate the principles of non-discrimination and non-exclusion. The Court ruled that the Constitution already has existing special provisions for reservation for SCs, STs, and OBCs. People belonging to the EWS category form another separate disadvantaged group, and hence EWS reservation did not need to include other disadvantaged groups to be considered reasonable. The Court also held that an additional 10% reservation for EWS did not breach the reservation ceiling limit of 50% as: (i) the limit is not inflexible, and (ii) only applies to reservations for SCs, STs and OBCs.

**PRS Legislative Research,
November 2022.**

Energy Conservation (Amendment) Bill, 2022 passed by Parliament

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The Energy Conservation (Amendment) Bill, 2022 was passed by Parliament. The Bill amends the Energy Conservation Act, 2001. The Act promotes energy efficiency and conservation. It provides for the regulation of energy consumption by equipment, appliances, buildings, and industries. Key features of the Bill are:

- **Obligation to use non-fossil sources of energy:** The Act empowers the central government to specify energy consumption standards. The Bill adds that the government may require the designated consumers to meet a minimum share of energy consumption from non-fossil sources. Different consumption thresholds may be specified for different non-fossil sources and consumer categories. Designated consumers include: (i) industries such as mining, steel, cement, textile, chemicals, and petrochemicals, (ii) transport sector including Railways,

and (iii) commercial buildings, as specified in the schedule. Failure to meet the obligation for use of energy from non fossil sources will be punishable with a penalty of up to Rs 10 lakh. It will also attract an additional penalty of up to twice the price of oil equivalent of energy consumed above the prescribed norm.

- **Carbon trading:** The Bill empowers the central government to specify a carbon credit trading scheme. Carbon credit implies a trade able permit to produce a specified amount of carbon emissions. The central government or any authorised agency may issue carbon credit certificates to entities registered under and compliant with the scheme. The entities will be entitled to purchase or sell the certificate. Any other person may also purchase a carbon credit certificate on a voluntary basis.

- **Energy conservation code for buildings:** amends this to provide for an ‘energy conservation and sustainable building code’. This new code will provide norms for energy efficiency and conservation, use of renewable energy, and other requirements for green buildings.

The Act empowers the central government to specify energy conservation code for buildings. The code prescribes energy consumption standards in terms of area. The Bill

**PRS Legislative Research,
December 2022.**

Anti-Maritime Piracy Bill, 2019 passed by Parliament

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The Anti-Maritime Piracy Bill, 2019 was passed by Parliament. The Bill enables the prosecution of maritime piracy and serves to ratify the 1982 United Nations Convention on the Law of the Sea (UNCLOS), to which India is a signatory. The Bill, as passed, included recommendations made by the Standing Committee on External Affairs, which had examined it. The key features of the Bill, as passed, include:

Territorial jurisdiction: The Bill will apply to high seas, which refers to the area outside India's territorial waters. Territorial waters extend to 12 nautical miles from India's coastline. The high seas include India's Exclusive Economic Zone, which is the area in which India has exclusive rights to economic activities, i.e., up to 200 nautical miles from the coastline.

Piracy: The Bill defines piracy as any illegal act of violence, detention, or destruction committed for private ends, committed on the high seas. The definition covers acts of piracy committed by any person or the crew or passengers of a private ship. Victims of piracy include any other ship or any person or property on board such ship. It also includes voluntary participation in the operation of a ship that is being used for piracy.

Offences and penalties: Committing piracy will be punishable with (i) imprisonment which may extend to imprisonment for life, or fine, or both, or (ii) death or imprisonment for life, if the act or attempt of piracy includes attempted murder, or causes death.

PRS Legislative Research,
December 2022.

RESUME OF BUSINESS OF THE 257TH SESSION OF THE RAJYASABHA

Sathya Narayanan

The Monsoon (257th) Session of the Rajya Sabha was held from 18th July to 08th August, 2022, amidst prevailing COVID-19 pandemic complying with COVID related protocols/procedures. The Session which commenced on the 18th July, 2022 was originally scheduled to conclude on 12th August, 2022. However, it was adjourned sine die four days (two sittings) ahead of schedule on 8th August, 2022.

2. During the Session, the Rajya Sabha held a total of 16 sittings against the scheduled 18 sittings. The House sat for approximately 38 hours 36 minutes. There were disruptions on a number of occasions resulting in the loss of 43 hours and 42 minutes. However, the House sat late beyond the scheduled time for 2 hours and 19 minutes to complete legislative and other important business. The overall productivity of the House stood at 46.62%.

3. Two significant developments took place during the Session. Members of the House discharged their

constitutional obligation in the elections for the two highest constitutional offices of the country i.e. the President of India on 18th July, 2022 and the Vice-President of India on 06th August, 2022. Shrimati Droupadi Murmu was declared elected as the 15th President of India on 21st July, 2022. On 25th July, 2022, she was administered oath of office by the then Chief Justice of India, Justice N. V. Ramana at a function held in the Central Hall of Parliament House. Shri Jagdeep Dhankhar was elected as the 14th Vice-President of India on 06th August, 2022. On 11th August, 2022, he was administered oath of office of the Vice-President by Hon'ble President of India, Shrimati Droupadi Murmu at a brief ceremony held in the Rashtrapati Bhavan.

4. On the first day of the Session, i.e. on 18th July, 2022, Hon'ble Chairman made an announcement regarding the re-nomination of Shri Piyush Goyal, Minister of Commerce and

Industry; Minister of Consumer Affairs, Food and Public Distribution; and Minister of Textiles as the Leader of the House in the Rajya Sabha. On the same day, 27 newly elected/re-elected/nominated. Members made/subscribed oath/affirmation and took their seats in the House. While newly elected/ re-elected/nominated Members were taking the oath, Hon'ble Chairman intervened to remind the Members about the procedure to be followed as well as the respect to be accorded to the Chair while taking oath. Hon'ble Chairman observed:

Members, who have taken the oath, are supposed to go back to their respective seats. As per the procedure, rules and regulations and also respect, nobody is supposed to stand and show his back to the Chair. Whoever is in the Chair, it is a different matter. So, please keep this in mind. Meeting and greeting can be done afterwards.

4.1 Upon the conclusion of the oath-taking by the newly elected/ re-elected/ nominated Members, Hon'ble Chairman advised the Members to adhere to the prescribed format while taking oath. Hon'ble Chairman observed:

Hon. Members, while taking the oath, one should read the prescribed form. Any deviation will make their oath invalid... Other things and all what people are saying, other than this, will not be part of the record. This is number one. And, secondly, it will invalidate your oath. If somebody questions, then it will be a problem also.

Please keep this in mind and also follow my advice. Members can come here, take oath, sit, sign the register and then offer Namaskaram and go back to their respective seats. Even going around the Chairman is not allowed because of the COVID only, otherwise, I have no problem. As I told earlier, one can meet afterwards, and then greet and also spend time with others, including their leaders, etc. This practice has to be followed by all.

4.2 On the same day, i.e. 18th July, 2022, Hon'ble Chairman made references to the passing away of three former Members namely, Shri Kishore Kumar Mohanty, Shri Robert Kharshiing, Shri K. K. Veerappan; and Pandit Shivkumar Sharma, a legendary Hindustani classical musician and Santoor

player. The House observed silence with all the Members standing as a mark of respect to the memory of the departed.

4.3 On 18th July, 2022, itself while making his opening remarks Hon'ble Chairman reminisced about the past 5 years since his assumption of the office of Vice-President of India and Chairman, Rajya Sabha. He observed: *We are all coming together after over three months since the Budget Session that concluded on 7th April this year. I have always cherished such coming together in our collective quest for doing our bit for making India of the dreams and aspirations of 140 crore people. Such coming together this time has a particular significance as it is the last such privilege for me.*

Hon'ble Chairman while reflecting on his tenure as the Presiding Officer of the Rajya Sabha stated: *Since my assumption of office five years ago, we have so far gathered together for 13 full Sessions and this is the 14th such Session. This journey of five years has been a quite learning experience for me. Dealing with about 245 Members of this august House, from over*

30 political parties, with different minds, inclinations and political ideologies, is quite revealing and even a testing experience. I tried to do the best of my ability to draw the best out of all of you and, as a collective effort, since the underlying unifying force was the interest of the nation, fulfilling the aspirations of the people and also the federal interest of the States, that this Council of States was required to sub-serve. The credit for the positives, if any, would go to all of you. And, if my best efforts, in spite of that, are short of expectations, I would not hesitate to take the responsibility for the same. Highlighting the performance and activities of the august House during his tenure of 5 years, the Hon'ble Chairman observed:

I would like to give you all a detailed factual account of perspective of the functioning of this august House during the last five years till 10th of next month-my last day in office ... During the last 13 Sessions, 141 of the 248 scheduled full sittings, accounting 57 per cent of the total sittings, were

disrupted partly or fully. All of you would agree that this could have been better, given our mission for the nation. And, we must always try to fulfill the mission with passion for the sake of the nation. Better late than never. It is time to be different and better.

While reminding the Members that the 257th Session was being held during the 75th year of India's Independence, Hon'ble Chairman appealed to the Members to give their best performance and make the Session memorable given its significance. Reiterating his expectations for the 257th Session, Hon'ble Chairman observed:

I would like to remind all of you that this is the last Session in the 75th year of our hard fought Independence and is being celebrated across the country. As in the case of all 13 Sessions that I presided over, I would like to fervently appeal to all of you to give out your best performance to make this Session a memorable one, particularly in the context of its significance.

I expect this Session to set the right tone for functioning of this august House for the next 25 years of Amrit

Kaal - a critical period to take India to entirely new plane by the time our nation rejoices the centenary of its Independence. I would expect all of you to be propelled by the spirit of New India @100, so that our nation makes up for the missed time and opportunities. This spirit shall also inspire other stakeholders, particularly so as our nation is set to become the most populous in the world; or, the next most populous in the world.

Highlighting the performance and activities of the Parliamentary Committees during the inter-session period and complimenting the Chairmen and Members of these Committees for their good work, Hon'ble Chairman observed:

I am happy to share that the average duration of sittings of the Department-Related Parliamentary Committees has been over two hours and average attendance has been over 46 per cent.

5. On the same day, ie. 18th July, 2022, Hon'ble Chairman announced in the House that the Panel of Vice-Chairmen had been re-constituted w.e.f 16th July, 2022, with six Members, namely, Shri Bhubaneswar Kalita; Ms. Indu Bala Goswami; Dr. L. Hanumanthaiah; Shri Tiruchi Siva;

Shri V. Vijayasai Reddy; and Dr. Sasmit Patra. Further, the Hon'ble Chairman on 20th July, 2021, announced in the House that two more Members, namely, Shri Sukhendu Sekhar Ray and Shrimati Vandana Chavan were also nominated w.e.f that day. It was further announced that these eight Members would be in the Panel for the current Session only.

6. On 25th July, 2022, as decided by the Hon'ble Chairman, the House met at 2.00 p.m. instead of 11.00 a.m. in order to facilitate the Members to attend the swearing-in ceremony of the newly elected President of India, Shrimati Droupadi Murmu, which took place on Monday the 25th July, 2022 in the Central Hall of the Parliament House.

7. On 26th July, 2022, during the Question Hour when Members began protesting and displaying placards inside the House, Hon'ble Deputy Chairman, made the following observations requesting the Members not to come to the Well of the House and obstruct the Chair:

Hon'ble Members, please don't show the placards in the House as you know it is against the well-established

parliamentary customs and conventions. Please don't do it. Hon 'ble Chairman had also asked you this morning not to show the placards particularly in front of the Chair thereby obstructing the smooth running of the House by the Chair. You may recall that on the direction of the Hon 'ble Chairman this parliamentary custom and convention was brought to the notice of all the Members through a Parliamentary Bulletin on 21st July, 2022. I, therefore, once again request you not to display any placards in the chamber. Please don't force me to name you.

8. On 28th July, 2022, Hon'ble Chairman made an observation regarding video recording of proceedings of the House by some Members on their mobile phones. Hon'ble Chairman observed:

Hon. Members, it was brought to my notice that some Members, in spite of clear instructions and warning, have tried to film the proceedings of the House and then give it to others. Such actions are totally prohibited. If anybody is found in possession of such things, he will be found guilty and action will be taken against him.

9. On 1st August, 2022, after the Minister had moved the Indian Antarctic Bill, 2022, some Members raised objections that the division on the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Amendment Bill, 2022 demanded by the Members was not allowed by the Chair. Responding to the Members' objections, the Vice-Chairman observed:

You cannot demand a division from the Well of the House. You should have requested your colleagues to maintain order. All of them were in the Well of the House But when the House is not in order, when all of you are in the Well of the House in a disorderly manner, how can I allow a division?

10. On 4th August, 2022, after Papers were laid on the Table, Hon'ble Chairman informed the House that he had received notices under Rule 267 (Suspension of Rules) from some Members including Shri Mallikarjun Kharge, Leader of Opposition on alleged misuse of agencies like CBI by the Central Government and said that he had

not admitted the notices. Following this, there were interruptions/protests in the House. In this regard, on 5th August, 2022, Hon'ble Chairman made an observation stating that there was a wrong notion among the Members that they have privilege against the action of the investigating agencies when the House is in Session. Clarifying the intent of the parliamentary privileges vis-a-vis the criminal matters, the Hon'ble Chairman observed:

Hon'ble Members, going by what has happened in the last few days, I want to clarify one thing that there is a wrong notion among the Members that they have a privilege from action by agencies while the Session is on. I have given it a serious thought. I examined all the precedents and I remember my own ruling given earlier. Under Article 105 of the Constitution, Members of Parliament enjoy certain privileges so that they can perform their parliamentary duties without let or hindrance. One of the privileges is that a Member of Parliament cannot be arrested in a civil case, 40 days before the

commencement of the Session or Committee meeting and 40 days thereafter. This privilege is already incorporated under Section 135A of the Civil Procedure Code, 1908. However, in criminal matters, Members of Parliament are not on a different footing than a common citizen. It means that a Member of Parliament does not enjoy any immunity from being arrested in a criminal case during the Session or otherwise. There have been a number of rulings by Presiding Officers. I would like to draw the attention of the House to one ruling given in 1966 by Dr. Zakir Husain. It was said, "Members of Parliament do enjoy certain privileges so that they can perform their duties. One such privilege is freedom from arrest when the Parliament is in Session. This privilege of freedom from arrest is limited only to civil cases and has not been allowed to interfere in the administration of criminal proceedings." Members may also recall that I made an observation earlier, and, in the observation, I said, "No Member should avoid appearing before any investigating agency, when she or he is

called upon to do so, by citing reason of House duty. As law-makers, it is our bounden duty to respect the law and legal procedures. It applies to all, in all cases, because you can only inform that the House is in Session, seeking further date but you cannot avoid the enforcement agencies or the law enforcing agencies' summons or notices. This has to be taken note by all. "In a landmark case, K. 'Anandan Nambiar and Another, the Supreme Court of India held that the true constitutional position is that so far as valid order of detention is concerned, a Member of Parliament can claim no special status higher than that of an ordinary citizen and is as much liable to be arrested, detained or questioned even during the Session. The Supreme Court in a recent case, State of Kerala Vs K. Ajith and Others, observed that "privileges and immunities are not gateways to claim exemptions from the general law of the land, particularly as in this case, the criminal law which governs the action of every citizen. "There are so many rulings like that. So, let there be clarity in the minds of Hon'ble Members.

Farewell to Hon'ble Chairman, Rajya Sabha: 11. On 8th August, 2022, the Zero Hour and Question Hour were dispensed with as announced by the Deputy Chairman in the House on 5th August, 2022, and agreed to by the House, in order to bid farewell to the outgoing Hon'ble Chairman, Rajya Sabha, Shri M. Venkaiah Naidu. Shri Narendra Modi, Prime Minister of India and thirty-five Members offered their good wishes to Shri Naidu, on completion of his term in the Office of the Chairman of the Rajya Sabha, w.e.f 10th August, 2022. After thanking the Prime Minister and the Members of the House, Hon'ble Chairman observed:

We are the largest parliamentary democracy in the world. We are very fortunate that our forefathers, the Constitution-makers and the great freedom fighters have given their life and their best to the country and gave us the great Constitution and this parliamentary democratic system. Nobody has forced it

on us. We have taken it on ourselves. In a parliamentary democracy, we have the Parliament means the Upper House and the Lower House; then we have Legislative Assemblies and the Legislative Councils, wherever they are; and then we have the local bodies, the panchayati raj institutions. These three tiers are very important. In this, we being the Upper House, the House of Elders, we have a greater responsibility. The entire world is watching India. India is on the rise. India is on the move. Keeping that in mind, I only appeal to the Members of the Rajya Sabha and to those who are going to come to this House in future, to maintain decency, dignity and decorum so that the image and respect of the House is maintained and people will be receptive to us, to hear us and also to follow our advice. This is my advice to all of you.

11.1 On the same day, ie. 8th August, 2022, a function to bid farewell to Shri M. Venkaiah Naidu, Vice-President of India and Hon'ble Chairman, Rajya Sabha was held in the G.M.C. Balayogi Auditorium, Parliament Library Building. During the function, Hon'ble Deputy Chairman presented a farewell address to the outgoing Chairman on behalf of the Members of Rajya Sabha. Hon'ble Prime Minister also spoke on the occasion. The function was also attended by the Hon'ble Speaker of Lok Sabha, Shri Om Birla; Members of the Council of Ministers; Leader of the House (Rajya Sabha), Shri Piyush Goyal; Leader of the Opposition (Rajya Sabha), Shri Mallikarjun Kharge; Minister of Parliamentary Affairs, Shri Pralhad Joshi; and the Members of both Rajya Sabha and Lok Sabha. Speaking on the occasion, Shri Naidu said that these last five years have been the most eventful, enlightening and energizing years of his life. Highlighting India's celebration of 75 years of independence, Shri Naidu said that India has come a long way in these years but there are still many formidable obstacles to progress that must be

identified and removed. He further stated that there is a need to ensure equitable access of all the citizens to resources and opportunities to study, work and grow into an enlightened, empowered individual. Shri Naidu requested Members to follow 3Ds-Dignity, Decency and Debate and do not resort to the fourth D - Disruption. A chronicle on the tenure of Shri M. Venkaiah Naidu titled '*Interacting-Involving-Inspiring*' was also released by the Hon'ble Prime Minister.

Legislative Business

12. In the sphere of legislative business, 5 Government bills were passed by the House. A total of 9 hours and 30 minutes were spent on the discussion of these Bills in which 68 Members participated. The details of these Bills are as follows:

(i) The Indian Antarctic Bill, 2022, was introduced in the Lok Sabha on 01st April, 2022, and was passed by that House on 22nd July, 2022. The Bill was passed by the Rajya Sabha on 01st August,

2022. The Bill as passed by both Houses of Parliament received the assent of the President on 06th August, 2022 and became Act No. 13 of 2022.

(ii) **The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Amendment Bill, 2022**, was introduced in the Lok Sabha on 05th April, 2022, and was passed by that House on 06th April, 2022. The Bill was passed by the Rajya Sabha on 01st August, 2022. The Bill as passed by both Houses of Parliament received the assent of the President on 06th August, 2022, and became Act No. 14 of 2022.

(iii) **The National Anti-Doping Bill, 2022** was introduced in the Lok Sabha on 17th December, 2021, and was passed by that House on 27th July, 2022. The Bill was passed by the Rajya Sabha on 03rd August, 2022. The Bill as

passed by both Houses of Parliament received the assent of the President on 12th August, 2022 and became Act No. 15 of 2022.

(iv) **The Family Courts (Amendment) Bill, 2022**, was introduced in the Lok Sabha on 18th July, 2022, and was passed by that House on 26th July, 2022. The Bill was passed by the Rajya Sabha on 04th August, 2022. The Bill as passed by both Houses of Parliament received the assent of the President on 12th August, 2022 and became Act No. 16 of 2022; and

(v) **The Central Universities (Amendment) Bill, 2022**, was introduced in the Lok Sabha on 01st August, 2022, and was passed by that House on 03rd August, 2022. The Bill was passed by the Rajya Sabha on 08th August, 2022. The Bill as passed by both Houses of Parliament received the assent of the President on 16th August, 2022, and became Act No. 17 of 2022.

Other Obituary References

13. During the Session, the Chairman also made references to the passing away of His Excellency

Shri Shinzo Abe, former Prime Minister of Japan; His Highness Sheikh Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates and the Ruler of Abu Dhabi; His Excellency Shri Mwai Kibaki, Third President of Kenya. The House observed silence as a mark of respect to the memory of the departed.

References/ Felicitations by the Chair

14. During the Session, the Chair offered felicitations to Shri Neeraj Chopra for winning Silver Medal in the Javelin Throw at the 'World Athletics Championships, 2022' held at Eugene, Oregon, United States of America.

14.1 During the Session, the Chairman also made references to the victims of terrorist attacks at (i) St. Francis Xavier Catholic Church in Ondo State of Nigeria on 5th June, 2022, in which 40 persons were reportedly killed and many injured; and (ii) Gurdwara Dashmesh Pita Sahib Sri Gobind Singh Sahib Ji in Kabul, Afghanistan on 18th of June, 2022, resulting in the loss of two innocent lives. A reference was also made in the House to a massive earthquake in northeast Afghanistan on 22nd of June, 2022, in which 1100 persons reportedly

lost their lives, 2000 were injured and nearly 10,000 have been rendered homeless. The Chair also made a reference to the Twenty-third Anniversary of the Kargil Vijay Diwas.

Resignation by Members

15. During the Session, the Chairman informed the House about the resignations tendered by 2 elected Members of the House, namely, Shri Subhash Chandra Singh, representing the State of Odisha (resigned w.e.f. 21st April, 2022) and Dr. Mnik Saha, representing the State of Tripura (resigned w.e.f. 4th July, 2022) and their acceptance by him.

Suspension of Members

16. On the motions moved by Shri V. Muraleedharan, Minister of State in the Ministry of External Affairs and in the Ministry of Parliamentary Affairs and adopted by the House on three consecutive days, ie., on 26th 27th and 28th July, 2022, twenty-three (23) Members were suspended from the services of the House for the remainder of that week under Rule 256 of the Rules of Procedure and Conduct of

Business in the Council of States (Rajya Sabha). As per the aforesaid rule, the Chairman may name a Member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof. A Member so named by the Chairman is suspended on a motion moved and adopted by the House from the service of the House for a period not exceeding the remainder of the Session.

Oath/Affirmation of newly elected/nominated Members

17. During the Session, 29 Members namely, Shri Masthan Rao Beeda, Shri V. Vijayasai Reddy, Dr. Faiyaz Ahmad, Shrimati Misha Bharti, Shri Khiru Mahto, Shri Shambhu Sharan Patel, Shrimati Ranjeet Ranjan, Shri Rajeev Shukla, Shrimati Mahua Maji, Shri Aditya Prasad, Shri Jaggesh, Shri Praful Patel, Shri Imran Pratapgarhi, Shri Sanjay Raut, Dr. Sasmit Patra, Shri Sandeep Kumar Pathak, Shri Vikramjit Singh Sahney, Shri Harbhajan Singh, Shri Pramod Kumar, Shri Randeep Singh Surjewala, Shri P. Chidambaram, Shri R. Girirajan, Shri S. Kalyana sundaram, Shri K. R. N. Rajeshkumar, Shri C. V. Shanmugam, Shri Javed Ali Khan,

Shri Kapil Sibal, Shri Krishan Lal Panwar, Shri Kartik Sharma newly elected/re-elected from the States of Andhra Pradesh, Bihar, Chhattisgarh, Haryana, Jharkhand, Karnataka, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh made/subscribed oath/affirmation and took their seats in the House.

17.1 Besides, four Nominated Members namely, Shri V. Vijayendra Prasad, Shrimati Pilavullakandy Thekkeyaparambil Usha, Dr. Dharmasthala Veerendra Heggade and Shri Ilaiyaraaja also made/subscribed oath/affirmation and took their seats in the House.

Statistical Information

18. During the Session, 235 Starred Questions and 2475 Unstarred Questions were admitted and answered. Of these, 61 Starred Questions were orally answered. Question Hour could not be taken up for 7 days due to adjournment and continuous disruptions in the House. Question Hour was dispensed with on 8th August, 2022, in order to bid farewell to the Hon'ble Chairman, Rajya Sabha. As per the direction of the Chairman, submission

of physical notices of Questions was discontinued and such notices were received only electronically through e-Notices Portal. Further, the existing manual draw of lots for determining the *inter-se* priority of Members for Starred Questions List was replaced with the computerised draw of lots. It is pertinent to mention that a separate computerised ballot for the List of Unstarred Questions is already in existence.

19. In all, 43 hours and 42 minutes were lost due to protests by Opposition Members over issues like price rise; inflation; Agnipath scheme of the Indian Armed Forces; detention of sitting Members during Parliament Session; alleged misuse of the Enforcement Directorate, CBI; etc.

20. 60 Special Mentions on matters of public importance were made/laid during the Session and 25 matters were raised with the permission of the Chair (Zero Hour Submissions). As per the orders of the Chairman, Rajya Sabha, the lists of matters to be raised with permission of the Chair (Zero Hour Submissions) and Special Mentions notices permitted by the Chairman on

matters of public importance which could not be taken up due to continuous disruptions in the proceedings of the House were included in the Parliamentary Bulletin Part-I for the day w.e.f. 29th July, 2021.

21. A discussion under Rule 176 (Short Duration Discussion) was raised by Shri Elamaram Kareem on 02nd August, 2022, on the issue of 'Rising prices of essential items' Thirty-three Members participated in the discussion which lasted for 4 hours and 34 minutes. Shrimati Nirmala Sitharaman, Minister of Finance; and Minister of Corporate Affairs, replied to the discussion on the same day and the discussion was concluded.

22. As regards the Private Members' Business, 27 Private Members' Bills were introduced. One Private Members' Bill, namely, the Right to Health Bill, 2022, was moved by Prof. Manoj Kumar Jha on 22nd July, 2022. The discussion on the said Bill took place on 22nd July and 5th August, 2022. 16 Members participated in the discussion on the Bill. Dr. Mansukh Mandaviya, Minister of Health and Family

Welfare; and Minister of Chemicals and Fertilizers, intervened in the discussion. The discussion was not concluded.

23. During the Session, 81 Reports/Statements of various Parliamentary Committees including those of the Department-related Parliamentary Standing Committees were presented or laid on the Table of the House including the Report of the Joint Committee on the Biological Diversity (Amendment) Bill, 2021, and Records of Evidence tendered before the Committee; and Report of the Joint Committee on Offices of Profit.

24. In pursuance of the Direction of the Hon'ble Chairman, Rajya Sabha and Hon'ble Speaker, Lok Sabha issued in September, 2004, 44 Statements were laid on the Table of the House on the status of implementation of recommendations contained in the Reports of the Department-related Parliamentary Standing Committees.

25. During the Session, some important papers/ reports, namely, Report of the National Human Rights Commission (NHRC), New Delhi, for the year 2019-20; Fifty-eighth Report of the Central Vigilance Commission (CVC), New Delhi, for the year ending on 31st of

December, 2021; Report of the National Commission for Scheduled Castes (NCSC), New Delhi, for the years 2018-19 and 2019-20; 38th Progress Report on the Action Taken pursuant to the recommendations of the Joint Parliamentary Committee (JPC) on Stock Market Scam and matters relating thereto, July 2022; Report of the State Bank of India, Mumbai, for the year 2021- 22; Report on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, for the year 2020; Report on the Working of the Protection of Civil Rights Act, 1955, for the year 2020; Statement of Market Borrowings by Central Government, during the year 2021-22; first time reports like, Report of the India Post Payments Bank (IPPB), New Delhi, for the years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21; along with 16 CAG Reports were laid on the Table of the House.

Orientation/Training Programme for Members

26. A two-day Orientation Programme for the newly elected/ nominated Members of Rajya Sabha was organised on 30th and 31st July, 2022.

The programme was inaugurated by the Hon'ble Chairman, Rajya Sabha on 30th July, 2022. The programme was designed to provide an opportunity to the newly elected Members to familiarize themselves with various aspects of parliamentary practice and procedure with special reference to Rajya Sabha. It consisted of separate sessions on specific topics, such as importance of Question Hour, raising matters of public importance, parliamentary privileges, law making process, committee system, etc. conducted by eminent Parliamentarians and others, which was followed by discussions. In all, 22 Members attended the programme.

27. During the Session, a Refresher Course on IT Skills for MPs of Rajya Sabha and their P As/ PSs was organised by the Secretariat, in coordination with the NIC on 28th and 29th July, 2022, from 10.00 a.m. to 11:00 a.m. in Online mode; and on 2nd and 3rd August, 2022, from 11.00 a.m. to 02:00 p.m in the Parliament House. NIC officials provided assistance to the Members on various features and

applications including Members' Portal - features; e-Notices facility; Information on Rajya Sabha Websites; Search facility on Rajya Sabha Debates Portal; Two- factor authentication using KAVACH for accessing Sansad e-mail services; and configuration and usage of 'NIC Sansad' Wi-Fi, etc.

Procedural Developments

28. During the Session, new procedural developments took place with respect to submission of Questions (both Starred and Unstarred) on the direction of Hon'ble Chairman, A summary of the Directions from the Chairman under Rule 266 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) on 13th June, 2022, circulated for the information of the Members vide Parliamentary Bulletin Part-II dated 16th June, 2022, is as follows:

- i. The submission of physical Notices of questions to be discontinued and Members should submit the Notices of questions through the e-Notices' Portal only;

ii. The manual draw of lots for determining the *inter-se* priority of Members for drawing up of the Oral (Starred) Questions List was discontinued and there shall be computerized draw of lots for both Oral (Starred) and Written (Unstarred) Questions Lists;

iii. Members can give not more than seven notices of Questions, both Oral (Starred) and Written (Unstarred) combined, for anyone day of sitting;

iv. Not more than five Questions, both Oral (Starred) and Written (Unstarred) combined, by one Member shall be placed on the lists of Questions for any one day; and

v. Notices of Questions of Members, which could not be put down in the List of Questions on any sittings shall lapse on the prorogation of the Session and will be returned to the Members electronically.

Valedictory Address

29. Hon'ble Chairman made by the Valedictory remarks at the conclusion of the Session on 08th August, 2022. Hon'ble Chairman thanked the Members for the Co-operation extended by them in the overall conduct of the proceedings of the House. He observed:

I once again thank the hon. Prime Minister, hon. Deputy Chairman, the Leader of The Opposition, the Leader of the House and Leaders of various parties/Groups and all the hon. Members for offering their good wishes on completion of my tenure as the Chairman of this august House. I thank the leader of the Opposition, the leaders of various parties and Groups and the hon. Members for the cooperation extended by them in the overall conduct of proceedings and functioning of the House.

30. The 257th Session of the Rajya Sabha was adjourned sine die on 8th August, 2022, and was prorogued by the President of India on 17th August, 2022.

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RESUME OF BUSINESS OF THE 9TH SESSION OF THE 17TH LOKSABHA

The Ninth Session of the Seventeenth Lok Sabha commenced on 18 July 2022 and concluded on 8 August 2022. On the day of the commencement of the session, election to the Office of President of India was held. Election to the Office of Vice-President of India was held on 6 August 2022. Members of the Electoral College for Presidential election as per followed practice voted at the Parliament House, New Delhi and in each of the 30 places of poll in State/Union Territory Legislative Assemblies. Shri P.C. Mody, Secretary-General of Rajya Sabha, was the Returning Officer for election to the Office of the President. After counting of votes on 21 July 2022, Shrimati Droupadi Murmu was declared elected as the President of India and was sworn in by the Hon'ble Chief Justice of India, Shri N.V. Ramana on 25 July, at a solemn function held in the Central Hall of Parliament House.

As the Secretary-General of Lok Sabha, I had the honour to serve as the Returning Officer in the election to the

Office of the Vice-President of India held on 6 August. Shri Jagdeep Dhankhar was declared elected to the Office of Vice President of India. On 11 August 2022, the President of India, Smt. Droupadi Murmu administered the oath of Office of Vice President of India to Shri Jagdeep Dhankhar at a swearing-in-ceremony held at Rashtrapati Bhawan.

Earlier, a function was held in the Central Hall of Parliament House on 23 July to bid farewell to the outgoing President, Shri Ram Nath Kovind. Hon'ble Speaker, Lok Sabha, Shri Om Birla presented a Farewell Address on behalf of the Members of Parliament, placing on record their respectful and affectionate tributes. On the occasion, a Memento and a Signature Book signed by Members of Parliament were gifted to Shri Ram Nath Kovind.

Hon'ble Speaker, Lok Sabha, Shri Om Birla hosted Vice President and Chairman of Rajya Sabha, Shri M. Venkaiah Naidu and Vice President-elect Shri Jagdeep Dhankhar at his residence on 9 August 2022. On the occasion,

the two Presiding Officers of Parliament, Shri Naidu and Shri Birla, shared insights and experiences on issues of parliamentary and national interest with Vice President-elect Shri Jagdeep Dhankhar. The Speaker of Lok Sabha, Shri Om Birla and other dignitaries graced a function on 8 August 2022 to bid farewell to the outgoing Vice President of India and Chairman, Rajya Sabha, Shri M. Venkaiah Naidu at the Balayogi Auditorium, Parliament House Complex.

The Ninth Session of the Seventeenth Lok Sabha had a total of 16 sittings spread over 44 hours 38 minutes. The House sat late for over 4 hours 43 minutes to complete the listed business, however, only 48 per cent productivity could be achieved during the Ninth Session on account of forced adjournments.

Necessary safety and security measures were adopted during the Ninth Session in view of the risks associated with COVID-19 pandemic, which included seating arrangements for the Members in the Lok Sabha Chamber and its Galleries (except Press Gallery); Sensor based Sanitizer Dispensing Machines and Paper/Personal item sanitizing machines; water dispensers

along with disposable paper glasses; use of masks; arrangement for Member's attendance through Mobile Application; COVID vaccination and RT-PCR testing facilities, etc.

On the first day of the Session, three newly elected Members, namely, Shri Ghanshyam Singh Lodhi (Rampur, Uttar Pradesh), Shri Dinesh Lal Yadav "Nirahua" (Azamgarh, Uttar Pradesh), and Shri Shatrughan Prasad Sinha (Asansol, West Bengal) took the oath and signed the Roll of Members.

During the Ninth Session, the House witnessed disruptions and adjournments on numerous occasions on issues such as price rise, flood situation in Telangana, imposition of GST on certain commodities, etc. The Hon'ble Speaker, Shri Om Birla made continuous efforts for the smooth conduct of the proceedings and consistently appealed to the Members to maintain decorum in the House. He made several observations on the continuing disruptions in the House. On 1 August 2022, the Hon'ble Speaker appealed to the members and observed:

Hon'ble Members, the incidents that took place in this House during the past few days have

hurt the sentiments of all of us. My sentiments have also been hurt and the people of the country have been under shock witnessing these incidents....

I urge you to facilitate discussion and debate, there may be agreement or disagreement, but if there are different opinions on any issue then we should discuss it in the House. The House should function ... All our Hon. Members of all the parties want this. I, on my part, always make efforts to ensure that all the Honourable Members get sufficient time and ample opportunity to put forth their view points ... I always wish that there should be no interruptions in the House. I always have this feeling that the House should not be adjourned even for a minute so that a news item should not be published in the newspapers that crores of rupees are being spent on the proceedings of Parliament and Parliament is not functioning.

At present, we are celebrating the *Amrit Mahotsav* of our independence, popularly termed as *Amrit Kaal*, Let us discuss the problems and issues in this *Amrit Kaal*. In a democracy, solutions to these problems have always been found through discussion and debate. After independence, we have solved the most serious problems through this Parliament ... During the last 75 years, we have transformed the country through public welfare. I hope that during this *Amrit Kaal* there will be in-depth churning and the Amrit that will come out of it, will be instrumental in carrying out the maximum amount of work for the welfare of people.

I request you all once again to maintain dignity and decorum in the House so that the dignity of the House may remain intact...

I would now like to dwell on the important business and deliberations during the Session, details of which can be perused in the Lok Sabha debates:-

Short Duration Discussion under Rule 193: The House held two short-duration discussions under Rule 193.

On 1ST August 2022, Shri Manish Tewari raised a discussion on price rise in which 32 Members participated. The discussion lasted for 6 hours and 25 minutes and concluded with the reply of the Minister of Finance and Corporate Affairs, Smt. Nirmala Sitharaman.

A discussion on the need to promote sports in India and steps taken by the Government, which was initiated by Shri Gaurav Gogoi on the 31 March 2022, continued on 3 August 2022 in which 7 Members participated. The discussion lasted for 3 hours and 13 minutes but was not concluded .

Questions: During the Session, 46 Starred Questions were orally answered on the floor of the House out of 319 admitted Starred Questions. The written replies to remaining Starred Questions, along with 3672 Unstarred Questions, were laid on the Table of the House.

Matters of Urgent Public Importance: The Hon'ble Members made use of Rule 377 to raise 319 matters besides, 98 matters of urgent public importance which were raised by Members during Zero Hour.

Statements made by Ministers and Papers laid on the Table of the House: As many as 47 Statements were made by Ministers on various important subjects including 2 Statements on correcting replies and 3 Statements by the Hon'ble Minister of Parliamentary Affairs regarding Government business. During the Session, as many as 1641 Papers were laid on the Table by the Ministers concerned.

Legislative Business:

Government Bills: During the Session, 6 Government Bills were introduced and in all, 7 Bills were passed. Some of the important Bills passed are - The National Anti-Doping Bill, 2022; The Wild Life (Protection) Amendment Bill, 2022; The Central Universities (Amendment) Bill, 2022; and The Energy Conservation (Amendment) Bill, 2022. One Bill, The Personal Data Protection Bill, 2019, was withdrawn by leave of the House.

Legislative Business (Private Member): As many as 92 Bills on different subjects were introduced by private Members on 5 August 2022. The discussion on the Compulsory Voting Bill, 2019 moved by Shri Janardan Singh 'Sigrwal' on 12 July 2019 and further

discussed during the Second, Seventh and Eighth Sessions, was continued on 5 August 2022 but was withdrawn by leave of the House the same day. The discussion on the Representation of the People (Amendment) Bill, 2019 (Insertion of new section 29AA) moved by Shri Gopal Chinayya Shetty, was taken up on 5 August 2022.

Committee e-Reports: During the Session, 41 Reports of Parliamentary Standing Committees were presented to the House. All these Reports are available on Lok Sabha homepage (www.loksabha.nic.in).

Obituary References: During the Session, the Speaker made references to the passing away of H.E. Mr. Shinzo Abe, former Prime Minister of Japan; H.H. Sheikh Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates and the Ruler of Abu Dhabi; and H.E. Mr. Mwai Kibaki, Third President of Kenya.

The Speaker made references to the passing away of nine former Members of the Lok Sabha, viz., Sarvashri Rabindar Kumar Rana, T. Basheer, Nawal Kishore Rai, Sukh Ram, Hussain Dalwai, Sivaji Patnaik, Chakra

Dhari Singh, Harivansh Sahai, and Shri Bhim Prasad Dahal.

Other References: The Speaker, on behalf of the House, paid homage to the martyrs of Kargil War on the 23rd Anniversary of the Kargil Vijay Diwas. He made reference to the 80th anniversary of the 'Quit India' Movement under the leadership of Mahatma Gandhi; and to the 77th anniversary of the dropping of atom bombs on the Japanese cities of Hiroshima and Nagasaki on 6th and 9th August 1945, respectively.

Congratulatory References: The Speaker congratulated all Members of Lok Sabha on the occasion of a full House on 18 July 2022. On the same day he also made reference to achievement of major landmark of 200 crore COVID vaccinations in the country.

The Speaker, on behalf of the House, further congratulated Smt. Droupadi Murmu, on taking oath as President of India on 25 July 2022. He congratulated Shri Neeraj Chopra for winning India's first ever Silver medal in World Athletics Championship in Javelin Throw. On 1 August, the Speaker also congratulated Ms. Saikhom Mirabai Chanu, Shri Jeremy Lalrinnunga and Shri Achinta Sheuli for winning

Gold Medals; Shri Sanket Sargar and Ms. Bindyarani Devi for winning Silver medals; and Shri Gururaja Poojary for winning Bronze Medal in the Birmingham Commonwealth Games, 2022. He also congratulated the Sports contingent of India on their outstanding feat in the Commonwealth Games, 2022.

Parliamentary Delegation: On 27 July 2022, a Parliamentary Delegation from Mozambique, led by H.E. Ms. Esperanca Bias, Speaker of the Assembly of the Republic of Mozambique graced the Special Box of the Lok Sabha. Welcoming the distinguished guests, the Lok Sabha Speaker extended the greetings of the House to the Delegation.

Suspension of Members'

On 25 July 2022, a Motion was moved by the Minister of Parliamentary Affairs and Minister of Coal and Minister of Mines under Rule 374 for suspension of four Members for remainder period of the Monsoon session on grounds of gross misconduct and repeatedly displaying placards in front of the Chair. The motion to the effect was put to vote and adopted, following which the four Members were placed under suspension from the service of the House.

Motion for revocation of Suspension of Members

On 1 August 2022, Hon'ble Speaker made an observation and appealed to Members to uphold Parliamentary traditions and emphasized the need to maintain the dignity of the House. Thereafter, the Minister of Parliamentary Affairs and Minister of Coal and Minister of Mines moved a resolution regarding revocation of suspension of the four Members, suspended on 25 July 2022, with immediate effect. The motion was put to vote and adopted.

Parliamentary Events and Activities

Capacity Building Programmes for Members of Parliament and State Legislatures

Briefing Sessions on Legislative Bills:

Briefing Sessions are organized on important Legislative Business of the House for the benefit of Members of Parliament. During the Monsoon Session, 4 such Briefing Sessions were organized which was also made available in online mode through NIC webcast for the benefit of Member (Link: <https://>

webcast.gov.in/parliament/). All Information and briefs on the bills including legislative notes were shared (both in English as well as Hindi) with Hon'ble MPs, offline and online through Member's Portal. All such material is also uploaded on http://parliament.india.nic.in/reference_notes.aspx.

Parliamentary Research and Information Support to Members (PRISM): As per past practice PRISM provided Round-the-Clock research and information support to Members of Parliament through a team of dedicated officers with the help of email and WhatsApp (9711623767). Since its creation in January 2021, PRISM has attended to more than 1600 queries of Members and provided more than 170 notes/speeches/write-ups to Members on various issues.

Online Training Programme for Personal Staff of MPs: The Parliamentary Research & Training Institute for Democracies (PRIDE), Lok Sabha Secretariat, organised online training programme for Personal Staff (PAs/PSs) of Members of Parliament on: Submission of Online Notices on 7, 14 July and 20 September 2022; and Member's Portal

on 22 July 2022. As usual PRIDE also organized various capacity building programmes for the officers and staff of the Lok Sabha, Rajya Sabha and State Legislatures.

Orientation Programme for Members of Manipur Legislative Assembly: An Orientation Programme was organized by PRIDE, Lok Sabha Secretariat for the newly elected Members of the Manipur Legislative Assembly on 6 and 7 June 2022 at PRIDE, Parliament House Complex. Inaugurating the Programme on 6 June, the Speaker, Lok Sabha stressed on discipline and dignity in the House as an essential part of the conduct of people's representatives. The programme was attended by 19 Members of the Manipur Legislative Assembly.

Yoga Day Celebration in Parliament House: Hon'ble Speaker, Lok Sabha, Shri Om Birla, led the 8th International Day of Yoga celebration in Parliament Complex on 21 June 2022. Members of Parliament and other dignitaries attended the event. Shri Birla addressed the participants on the occasion and said that Yoga was an extraordinary gift to the world from India.

Online Interactive Session on ‘Food for Health: Yogic perspective on Healthy Diet’: An online Session by Dr. Ami Desai, eminent yoga instructor, was organized by PRIDE on 21 June 2022, for Hon’ble Members of Parliament, officials of Lok Sabha and Rajya Sabha Secretariat on celebration of International Day of Yoga.

Awareness Session on World Hepatitis Day: An awareness programme was organized by the Lok Sabha Secretariat, jointly with Institute of Liver and Biliary Sciences (ILBS), in Parliament House Complex on World Hepatitis Day (28 July). Members of Parliament and other dignitaries attended the programme. Addressing the gathering, the Speaker, Lok Sabha highlighted India’s commitment to eliminate Hepatitis by 2030, and stressed on people’s involvement and awareness as key to the fight against the deadly disease. On the occasion, the Vice President of India, Shri Venkaiah Naidu administered an oath to MPs and others present to reaffirm our resolve to eliminate Hepatitis from our country. Earlier in the day, Shri Birla inaugurated a Liver Health check up Camp for Members in Parliament House Complex.

Parliamentary Outreach/ Exchanges and Events

Unveiling of the National Emblem on top of the New Parliament Building: On 11 July 2022, the Prime Minister of India, Shri Narendra Modi unveiled the National Emblem on the the New Parliament Building. Hon’ble Speaker, Lok Sabha and other dignitaries graced the occasion. The National Emblem which is made of bronze is 21 ft. in height and weighs 9500 kilograms.

Meeting of Presiding Officers of Legislative Bodies in India: A meeting of Presiding Officers of Legislative Bodies in India chaired by Hon’ble Speaker, Lok Sabha was held in Parliament House Complex on 15 July 2022. The Deputy Chairman, Rajya Sabha and Presiding Officers from 17 States and UTs Legislatures participated in the meeting. On the occasion, the Speaker, Lok Sabha, Shri Om Birla addressed the Presiding Officers and stressed on upholding the dignity and decorum of the House. Issues including strengthening of anti-defection law, instituting awards to outstanding legislators and minimum number of sittings of legislatures were deliberated at the meeting.

Call on Lok Sabha Speaker: H.E. Mr. Nguyen Van Nen, Member of the Politburo of the Communist Party of Vietnam and Party Secretary of the Ho Chi Minh City called on Hon'ble Speaker, Lok Sabha, at the Parliament House on 21 June 2022. During the meeting, Shri Om Birla recalled his recent visit to Vietnam and said that Ho Chi Minh City is a symbol of Vietnam's growing prosperity, economic success and modernization.

Indian Parliamentary Delegation to 65th Common wealth Parliamentary Conference: An Indian Parliamentary Delegation led by Hon'ble Speaker, Lok Sabha and consisting of six Members of Parliament (two from Rajya Sabha and 4 from Lok Sabha) and Secretary General, Lok Sabha attended the 65th CPA Conference held in Halifax, Canada from 20 to 26 August 2022. The Delegation also included 20 Presiding Officers 1 MLA and 1 MLC from State Legislatures.

During the Conference, the Speaker Lok Sabha participated as a key note speaker in a Workshop on "*A People's Parliament: Accessibility through Innovation*". All 7 Workshops

saw robust participation from Presiding Officers and MPs. A significant achievement of Indian delegation was the election of Shri Anurag Sharma, MP, Lok Sabha and member of the CPA International Executive Committee (ExCo) as CPA Treasurer for a 3 years term. With this elevation Shri Sharma will be chairing the finance Sub-committee meeting of the CPA ExCo and will be member of the Audit Sub-Committee and CPA Co-ordinating Committee.

On the sidelines of the Conference, the Speaker Lok Sabha held several bilateral Parliamentary dialogues with his counterparts-H.E. Hon Sue Lines, President of Senate of Australia (24.08.22); H.E. Mr. George J. Furey, Speaker of the Senate and H.E. Mr. Anthony Rota, Speaker, House of Commons, Canada (25.08.22)- on the sidelines of the Conference.

Parliamentary Delegation to Suriname and Mexico: After the 65th CPC, the Speaker, Lok Sabha led the first ever Speaker led Parliamentary Delegation to Suriname. The Delegation called on the President of Suriname H.E. Mr. Chandrikaparsad Santokhi on 29 August

2022. On 31 August 2022, the Speaker addressed Members of the Suriname National Assembly and also called on the Speaker of National Assembly of Suriname, Mr. Marinus Bee.

As part of bilateral parliamentary engagement, Hon. Speaker inaugurated a Friendship Garden with his counterpart in Mexico at the Parliament of Mexico during his visit to the country. The Speaker unveiled a bust of freedom fighter Dr. Pandurang Khankhoje in Chapingo University in Mexico on 2 September 2022. Later, the Speaker called on President of the Chamber of Deputies of the Mexican Parliament, H.E. Mr. Santiago Creel and a Parliamentary bilateral meeting was held where the two leaders discussed ways to further strengthen relationships between the parliaments of the two countries. On 3rd September 2022, Shri Birla unveiled a statue of Swami Vivekananda at the Autonomous University of State of Hidalgo—the first statue of Swami Vivekananda in Latin America. He also interacted with students, who had gathered in large number at the function for unveiling the statue.

During the brief transits through The Hague, Toronto, Boston and Paris, the Indian Parliamentary Delegation interacted with Indian students and prominent members of the Indian diaspora and friends of India and exchanged views and ideas on various issues. On 21/22 August 2022, the Speaker, Lok Sabha met with the President of Senate of Netherlands, H.E. Prof. (Dr.) Jan Anthonie Bruijn at a reception hosted by the Indian Ambassador to the The Netherlands. The Speaker met members of the Indian community in Toronto on 22 August en route to Halifax. The Speaker also met and interacted with the members of the Indian community in Halifax on 26 August 2022; at Boston on 27 August 2022; and at Paris on 4 September 2022. At Boston, the Speaker also visited Harvard University and the Massachusetts Institute of Technology and interacted with faculty and students.

The Ninth Session of the Seventeenth Lok Sabha was adjourned sine die on 8 August 2022 after playing of the National Song. The House was prorogued by the President of India on 17 August 2022.



RESUME OF WORK DONE DURING THE FIRST SESSION OF THE TWELFTH MANIPUR LEGISLATIVE ASSEMBLY

1. SUMMONING OF THE SESSION

Hon'ble Governor of Manipur, La. Ganesan summoned the Members of the Manipur Legislative Assembly to meet for its First Session on Thursday, the 24th March, 2022 vide Order dated 22nd March, 2022. .

2. DURATION OF THE SESSION

The First Session of the Twelfth Manipur Legislative Assembly commenced on 24th March, 2022 and was adjourned *sine die* on 26th March, 2022. During the session, altogether 3 (three) sittings were held on the following days :-

24th, 25th and 26th March, 2022.

3. ANNOUNCEMENT BY THE SECRETARY

On 24th March, 2022, the Secretary, Manipur Legislative Assembly announced the Order of the Governor, Manipur dated 22nd March, 2022 regarding date and time being fixed for

holding the election of Speaker, Manipur Legislative Assembly.

4. ELECTION OF SPEAKER

Shri Thokchom Satyabrata Singh, MLA, Singh was unanimously elected as the Speaker of the Manipur Legislative Assembly on 24th March, 2022.

5. ADDRESS BY THE GOVERNOR

La. Ganesan, Hon'ble Governor of Manipur delivered the inaugural address to the members of the Twelfth Manipur Legislative Assembly on Thursday, the 24th March, 2022 and the same was laid on the Table of the House. (See Appendix-I)

6. MOTION OF THANKS

Dr. Sapam Ranjan Singh, Hon'ble MLA moved the Motion of Thanks to the Governor's Address and was seconded by Shri Thounaojam Basanta Kumar Singh, Hon'ble MLA on 24th March, 2022.

7. OBITUARY REFERENCE

On 24th March, 2022, Hon'ble Members condoled the demises of the following :-

- (i) Shri Leitanthem Tomba Singh, former Member of the Manipur Legislative Assembly from 31- Thoubal Assembly Constituency.
- (ii) Shri A. Aza, former Member of the Manipur Legislative Assembly from 45-Chingai (ST) Assembly Constituency.
- (iii) Shri Wahengbam Angou Singh, former Member of the Manipur Legislative Assembly and Rajya Sabha from 2I-Naoriya Pakhanglakpa Assembly Constituency.
- (iv) Shri Mayengbam Manihar Singh, former Member of the Manipur Legislative Assembly from 36-Wabgai Assembly Constituency.
- (v) Shri Athuibo Daimai, former Member of the Electoral College, 1952-57 the Manipur Territorial Council, 1957-62 and 1st Manipur Territorial Assembly, 1962-67 from Aimol Assembly Constituency.

The House stood in silence for 2 (two) minutes as a mark of respect to the departed souls.

8. PRESENTATION OF COMMITTEE REPORT

Shri N. Biren Singh, Chief Minister laid the first report of the Business Advisory Committee, 12th Manipur Legislative Assembly on the first day of the session, ie. the 24th March, 2022. The report was adopted.

9. INTIMATION OF GOVERNOR'S ASSENT TO BILLS

The Secretary, Manipur Legislative Assembly intimated the House on the Governor's assent to the following bills:

- (i) The Lainingthou Sanamahi Temple (Second Amendment) Bill, 2021 (Bill No. 19 of 2021)
-assented on 9th September, 2021.
- (ii) The Manipur Conservation of Paddy land and Wetland (second Amendment) Bill, 2021 (Bill No. 24 of 2021)
- assented on 9th September, 2021.
- (iii) The Manipur Fiscal Responsibility and Budget Management (third Amendment) Bill, 2021 (Bill No. 20 of 2021)
- assented on 9th September, 2021.

- (iv) The Manipur Goods and Services Tax (Fourth Amendment) Bill, 2021 (Bill No. 21 of 2021)
- assented on 9th September, 2021.
- (v) The Manipur Legislature (Removal of Disqualifications) (Sixth Amendment) Bill, 2021 (Bill No. 18 of 2021)
- assented on 9th September, 2021.
- (vi) The Manipur (courts) (Second Amendment) Bill, 2021 (Bill No. 23 of 2021)
- assented on 9th September, 2021

10. CALLING ATTENTION

During the session, a Calling Attention notice was received from Shri K. Ranjit Singh, MLA and was listed on 26th March, 2022. The member drew the attention of Hon'ble Chief Minister (in-charge of Home) on the inconveniences faced by the public due to the indefinite bandh/blockade of NH-2 called by Southern Angami Public Organization (SAPO). Chief Minister made a statement in this regard.

11. LAYING OF PAPERS

Shri N. Biren Singh, Hon'ble Chief Minister laid the following papers/reports: -

- (i) Annual Report of Manipur Information Commission for the year 2018-2019 and 2019-2020
-laid on 24th March, 2022.
- (ii) Annual Report on Manipur Lokayukta, 2020-21
-laid on 24th March, 2022.
- (iii) Report No.2 of 2021- Report of the Comptroller and Auditor General of India on "Social Economic (Other than Public Sector Undertakings), Economic (public Sector Undertakings), Revenue and General Sectors" for the year ended 31st March, 2019.
-laid on 25th March, 2022
- (iv) Finance Account (Volume-I) 2019-20, Government of Manipur
-laid on 25th March, 2022
- (v) Finance Account (Volume-II) 2019-20, Government of Manipur
-laid on 25th March, 2022.
- (vi) Appropriation Account 2019-20, Government of Manipur.
- (vii) State Finances Audit Report (Report No. 3 of 2021) for the year 2019-20
-laid on 25th March, 2022.

- (viii) The Manipur Building and Other Construction Workers (Regulation of Employment and Conditions Service Amendment) Rules, 2020
-laid on 25th March, 2022.
- (ix) 49th Annual Administrative Report of the Manipur Public Service Commission
-laid on 25th March, 2022.
- (x) The Manipur Nursing Council Rules, 2008
-laid on 26th March, 2022.

12. INTIMATION BY THE SECRETARY.

On 25th March, 2022, the Secretary, Manipur Legislative Assembly intimated the House that “the report of the House Committee to enquire into the fraudulent withdrawal of money in the Department of TA & Hills Development, Government of Manipur “had been submitted to the Hon’ble Speaker, 11th Manipur Legislative Assembly on 30th December, 2021 as the House was not-in session, and further added that as the 11th Assembly got dissolved before the report could be presented, the report was laid on the table of the House.

13. FINANCIAL BUSINESS

- (i) Shri N. Biren Singh, Chief Minister presented the Supplementary Demands for Grants, 2021-22 on 24th March, 2022.
- (ii) Shri N. Biren Singh, Chief Minister presented the Budget Estimates, 2022-23 on 24th March, 2022.
- (iii) Shri N. Biren Singh, Chief Minister moved the motion for Vote on Account, 2022-23 on 24th March, 2022.
- (iv) General Discussion and Voting on Demands for Supplementary Grants, 2021-22 was held on 25th March, 2022. All the supplementary demands were passed unanimously by the House.
- (v) Shri Thongam Biswajit Singh, Hon’ble Minister moved for passing the Vote on Account, 2022 on 25th March, 2022. It was passed by the House.

14. LEGISLATIVE BUSINESS

On 25th March, 2022, Shri Thongam Biswajit Singh, Hon’ble Minister introduced the following Bills

- (i) The Manipur Appropriation (No.1) Bill, 2022.

- (ii) The Manipur Appropriation (No. 2) Bill, 2022.

The Bills were passed by the House on 28th March 2022.

15. PROROGATION

The Hon'ble Governor of Manipur La. Ganesan prorogued the first session of the Twelfth Manipur Legislative Assembly on 28th April, 2022.

Appendix –I

Hon'ble Speaker and Hon'ble Members

1. I warmly welcome you all to the first session of the 12th Manipur Legislative Assembly.
2. I thank the 'Almighty for showing His blessing for the peaceful way the election was conducted, particularly the people of Manipur who exercised their voting right to the maximum of 89 percent. I also appreciate the Election Commission of India for doing their duty in a good manner.
3. I also take this opportunity to congratulate the newly elected august Members of the House on winning the

people's mandate. I extend my "best wishes to all, as you take up the responsibilities entrusted upon you. I am hopeful that individually and collectively, you will uphold the values enshrined in the Constitution of India.

Covid-19 pandemic and health care

4. Hon'ble Members, the pandemic continued to present challenges during last year. Nevertheless the proactive efforts of the Government to accelerate Vaccination programme against COVID-19 went a long way to facilitate opening up of economy and in picking up the pace of developmental works.

5. During the second wave of the pandemic, there was increased demand for medical oxygen. Stock of 'D' type oxygen cylinders was increased from just 25 to 6,328 within two months. 24 PSA Oxygen Generation Plants were commissioned in the past one year alone covering all 16 districts. 2 Liquid Medical Oxygen Storage Plants with capacity of 10 KL at JNIMS and 20 KL at Veterinary Complex, Porompat were commissioned. A 3rd LMO Plant of 20 KL is also ready to be commissioned

at COVID Hospital, kiyamgei. About 480 ventilators, 3,145 Oxygen Concentrators and 20,000 Pulse Oximeters were used.

6. 4,651 beds and 209 ICU beds were set up in hospitals and 29 Covid Care Centres. A 200 bedded COVID Hospital costing Rs. 36.8 crores was inaugurated. Home isolation facilities were also provided with medicines and pulse oximeters. Community Home isolation Centres were set up for those lacking proper home isolation facilities in their homes.

7. More than 10 lakh COVID testings have been done in the past one year. 6 RT-PCR machines have been installed in 2 Government Medical Colleges and 4 private facilities taking daily RT-PCR testing capacity to 4600.

8. Whole Genome Sequencing (WGS) are being done regularly to identify COVID Variants. Institute of Bio-resources and Sustainable Development, Imphal alone tested nearly 2,000 samples for identifying COVID variants. More than 4,200 samples were sent for genome sequencing outside the State.

9. In the past one year, 5 families of Healthcare workers who died due to COVID-19 while performing duties were compensated with Rs. 50 lakh per family under PM Garib Kalyan Package.

10. Under “Chief Minister GI Hakshel Gi Tengbang”, till date more than 5.2 lakh beneficiaries have been enrolled. In the past year, 30,414 cashless hospitalisation had been provided at a cost of Rs. 31.32 crore. Under Ayushman Bharat-Prime Minister Jan Aarogya Yojana, over 3.96 lakh beneficiaries have been enrolled. Under the scheme, 19,403 cashless treatments had been provided costing Rs. 23.87 crore during last year.

11. District hospitals Tamenglong and Ukhrul have now been upgraded to 100 bedded hospitals. Trauma Care Centre at Bishnupur was inaugurated. Foundation stone was laid for 150 bedded Cancer Hospital at JNIMS.

12. To ensure uninterrupted Care and support services to people living with HIV during the pandemic, ARV dispensing was decentralized. Viral load camps were organised and link ART Centre were opened.

Law and Order and Justice Delivery

13. Hon'ble Members My Government continued to strengthen and improve the security' scenario of the State.

14. During 2021, in counter-insurgency measures, Security Forces arrested 234 Extremists and neutralized 15 Extremists. 14 persons were detained under NSA and 20 UG cadres surrendered. Security Forces also recovered 167 arms, 3,115 assorted ammunition, 253 IEDs. 27 Lathod bombs and 360 numbers of Detonators

15. My Government also continued its "War on Drugs". During 2021, massive seizures were made, including 87 Kilograms of Heroin, 1,320 Kilograms of Brown Sugar, 505 Kilograms and 80 litres of Opium, nearly 10 lakh tablets and over 64 Kg of WY (Amphetamine). 42 cases were registered and 20 disposed under ND & PS Act. 3,424 acres of illicit poppy cultivation were destroyed.

16. During the year 2021, 3,156 FIR cases were registered and 2,143 criminal cases were disposed of Sensitive cases relating to crime against women and children were top priority.

17. Hon'ble Members, to remember our brave police, the Manipur Police Monument at 1st Bn. Manipur Rifles Complex was completed and inaugurated.

18. To strengthen, the Police administration, Maram Police Station at Senapati was established. Police Outposts were established at Luichong Maiphei, Oinam Sawombung. Bashikhong, Kajipat, and a VDF post at Kongba Irong. About Rs.15.71 crore were released to ordinance factories for procurement of weapons for the newly raised 10th and 11th IRBs.

19. Existing Emergency No. "100" for Police and Railways was successfully integrated with Emergency Response Support System. About 1.4 lakh calls were received, out of which 664 were registered as actionable cases.

20. During the year, about Rs. 1.08 crore were paid as compensation and relief to families of victims of extremist action under Manipur Victims Compensation Scheme.

21. Hon'ble Members, under Scheme for Development or Infrastructure for Judiciary, one Annexe Court building of Bishnupur Court Complex was inaugurated for housing the Family Court and the District Legal Services Authority,

of Bishnupur. Foundation stones were laid for construction of District Court complexes in Kakching, Senapati and Noney

22. Due to the, Pandemic the Courts conducted most of its proceedings through Video Conferencing. As part of its digitisation effort, 45 lakh pages of Case Records were scanned and verified. My Government also installed CCTV cameras in 34 courts.

Finance and Planning

23. Hon'ble Members, despite the challenges in resource mobilization in view of the Pandemic, my Government ensured that Government Expenditure was increased or at least maintained at the pre-pandemic level. There was increase in total expenditure from Rs.17,165 crore in FY 2019-20 to Rs. 22,465 crore in FY 2020-21.

24. My Government significantly increased funding for the Health Sector. The total expenditure of the Health & Family Welfare Department was Rs. 2,097 crore during FY 2020-21, out of which, 55% was for creation of capital assets

25. Manipur was the first State in the country to migrate to the new SNA Model of PFMS. Due to efforts of my Government the total flow of funds in the form of Centrally Sponsored Schemes, Externally Aided Projects, Ministry of DONER projects, etc. in FY 2020-21 was Rs. 4,182 crore, marking a Significant 31% increase from previous year.

26. Hon'ble Members, my Government has been giving strong emphasis on capital expenditure due to its multiplier effect on the economy. During FY 2020-21, the expenditure on capital outlay was Rs. 2,439 crore which is an increase of 111% over the previous year. My Government is on track to exceed the capital outlay of FY 2020-21 within this FY 2021-22.

27. Various projects with funding from North Eastern Council are being taken up. Improvement of Bishnupur - Nungba Road and Water supply projects at Ramrei in Ukhrul and Top Dusera in Imphal East have been completed. Water supply project for Tamukhong in Imphal East is nearing completion. Construction

of mini-stadium at Parbung has been completed and another at Senapati Public ground is in progress. Five projects in Agriculture and allied sector and one project in irrigation and watershed sector amounting to Rs. 36.19 crore are in pipeline.

28. Under Border Area Development Programme, during 2021-22, eight works were completed which include residential quarters for teachers and health functionaries, Suspension bridge and hostel for students.

29. Under Pradhan Mantri Krishi Sinchayee Watershed Yojana, various structures for water harvesting and irrigation were taken up during the year. 31 Self-Help Groups have been constituted and 66 villagers received benefits. 13 projects covering 58,690 hectares has been approved for Manipur under Watershed Development Component 2.0 of PMKSY .

30. With assistance of Rs. 1,792 crore under Non-Lapsable Central Pool of Resources, 175 projects were taken up, out of which 152 are now completed

31. Under North East Special Infrastructure Development Schemes, 14 projects worth over Rs. 317 crore were sanctioned.

32. 'Under Hill Area Development Program (HADP) being implemented in Tamenglong and Noney districts, out of 41 projects worth over Rs. 98 crore, 16 projects are physically completed.

33. Since the launch of StartUp Scheme in 2017-18, over 5,772 beneficiaries have been sanctioned over Rs. 108.05 crore under various categories of which subsidy component is Rs. 56.28 crore. Start Up Manipur was added to promote Greenfield ventures from marginalised sections of society. A sub-category under Idea stage was also added to address the issues faced by small business due to pandemic.

34. Since 2017-18, 19 Transit Accommodation for Doctors and Teachers, which were taken up under One Time Special Assistance of Central Plan Scheme at a cost of over Rs. 59 crore in hill districts were completed.

Tribal Affairs, Minorities and SC & OBC Welfare

35. Hon'ble Members, my Government provided assistance to 1,708 ST families under various family-oriented programme and to 100 tribal women organisations for carrying out various activities. 1,196 ST families were provided GCI sheets roofing for their dwelling house. Altogether,

51,488 ST students were extended Pre and Post-Matric Scholarships. During 2021-2022, 115 tribal youths benefitted under Skill Development programme.

36. Tribal Boys' Hostel with 150 inmate capacity is under construction at Adimjati Sikhsha AShram Complex and is targeted for completion soon.

37. As a part of infrastructure development under Autonomous District Councils in health sector, PSA Oxygen Generator Plants with 200 cylinder per day capacity were installed in 6 District Hospitals in hill districts. 6 Advance Life Support Ambulances and 12 Basic Life Support Ambulances were procured for use in hill districts under the 15th FC grants.

38. My Government is committed to the welfare of Minorities, OBC and SC Communities in the State.

39. 4 hostels for SC students and 4 hostels for OBC students are being constructed with a total project cost of Rs. 28.00 crore under Babu Jagjivan Ram Chhatrawas Yojana and scheme for Construction of OBC Boys and Girls Hostel.

40. Under Pradhan Mantri Adarsh Gram Yojana (PMAGY), Rs. 3.328 crores was released for taking up various developmental works for 16 SC Villages from Bishnupur, ImphaJ West, Jiribam and Thoubal.

41. Under Scholarship Schemes for Minorities, OBCs, SCs and Economically Backward Classes (EBC), 87,555' students were given scholarships during 2020-21 amounting to Rs. 54.20 crore.

42. Under Prime Minister's Jan Vikas Karyakram (PMJVK), development of 8 Sports Complexes, 3 Hunar Hubs, Infrastructure Development for Shirui Festival and Augmentation of Luwangpokpa Multi-Sports Complex (formerly Luwangpokpa Cricket Stadium) for total project cost of about Rs. 172 crore was approved by Government of India during the current Financial Year. Foundation Stones of 72 projects were laid and 64 Projects were also inaugurated during the year.

43. HAJ House is being constructed at a unit cost of Rs. 10 crore at Lilong in Thoubal District under the scheme for Special Assistance to State for Capital Expenditure during 2021-22.

Food Security

44. Under the National Food Security Act, automation of all Fair Price Shops in the State and 100% Aadhaar seeding of all ration cards in the State was achieved. State Commission and District Consumer Fora are functioning to safeguard the rights of beneficiaries.

45. Under Prime Minister Garib Kalyan Anna Yojana (PMGKAY), additional rice of 5 kg per person per month was provided free of cost to all beneficiaries under Antyodaya and Priority Households to ameliorate the hardships caused by Corona virus.

46. Hon'ble Members, under Ujjwala 1.0, a total of 1.59 lakhs families were provided free LPG connection. Under Ujjwala 2.0, another 19,084 beneficiaries have been benefited till date.

Education

47. Hon'ble Members, my Government continued to make efforts to improve the overall education sector in the State.

48. School Fagathansi Mission was implemented to improve Government schools by filling up infrastructural gaps. 7 High Schools were upgraded to Higher

Secondary Schools to cater to the increasing demand for more Government Higher Secondary Schools.

49. 3,280 schools have been covered under the PM-Poshan Scheme providing dry-ration to nearly 1.7 lakh students on all working days of the year.

50. Under the Merit Scholarship Scheme, Rs 6000/- per student has been awarded to 537 nos of Class X passed students and Rs 12000/- per student has been awarded to 146 nos. of Class XII passed students.

51. In the wake of restrictions imposed by COVID-19 pandemic, web-based digital platform named Moodle Learning Management System was introduced in 45 Government and Government Aided Colleges of Manipur for teaching and learning interventions.

52. Under Chief Minister's College Maheiroi's E-Support Scheme, mobile handsets were distributed to meritorious college students belonging to the lower income groups to equip the students for digital learning.

53. My Government also launched a scheme called University and Higher Education Digital Support Scheme to

provide digital devices for effective learning and e-office roll out in colleges of Manipur.

54. Manipur Technical University has started offering MBA course from academic session 2021-22.

Power Sector

55. Hon'ble Members, my Government is committed to ensure quality and reliable power supply in the state.

56. With commissioning of 400 kV D/C transmission lines between "Silchar-Imphal" and "Imphal-New Kohima-New Mariani at its rated voltage, the Available Transmission Capacity (ATC) of interstate transmission has been enhanced considerably to about 2,000 MW to cater to the power requirement of the State for the next 10 to 15 years.

57. In the past year, one 400/132KV Sub-station at Thoubal and eight 33/11 KV sub-stations were operationlised.

58. Under North Eastern Region Power System Improvement Project (NERPSIP), stringing of 2nd circuit of Yalngapokpi - Kongba - Thoubal Kakching 132 kV line and augmentation of 132/33 kV Sub-Station at Kongba with additional 20 MVA were completed.

59. Construction of 132 kV link transmission line for optimum evacuation of power from 400/132 kV Sub-Station Thoubal to 132 kV Sub-Stations at Kongba, Yaingangpokpi and Hundung were completed.

60. Installation of Automated Demand Management Scheme (ADMS) for real time management of power supply at 11kV level was completed at four Power Sub-stations.

61. At present, 26 (Twenty six) new 33/11 kV sub-stations and 2 (Two) new 132/33 kV sub-stations are under construction. 132 kV Ring Main double circuit of the State and crucial 33 kV transmission lines supplying power to Imphal area are being replaced with High Temperature Low Sag (HTLS) conductors to double the transmission capacities of the lines during the next five years at an estimated cost of about Rs. 411 crore.

62. Under DDUGJY New and IPDS Schemes, 179 Distribution Transformers, 67 kms. of HT 11 kV lines and 671 kms. of LT Ariel Bunch Cables have been put in place n the last one year.

63. Under UJALA Scheme, 4,18,484 LED bulbs have been sold at subsidised rate till date.

64. For lighting important areas in the state, 62 High Masts have been installed and installation of 1,140 nos. of 8 metre tall LED Street Lights are in full swing.

65. The AT & C loss. for 2021-22 is 20.43% against a target for reduction to 15% by 2024-25. To reduce AT & C loss, 3.78 lakh Prepaid energy meters has been installed against a consumer base of 5.02 lakh in FY 2021-22.

66. Under Off-grid and Decentralized SPV programme, installation of 8,850 LED Solar Street Lighting Systems at various locations were completed in last one year.

67. 60,664 LED Solar Study Lamps were also distributed to school going children.

68. Under Integrated Rural Energy Programme, 98 Solar Street Lighting Systems were installed during the year.

Agriculture & Allied Activities and Natural Resources

69. Hon'ble Members, under the Pradhan Mantri Kisan Samman Nidhi Yojana (PM KISAN) scheme, 6.19 lakh farmers have been enrolled. So far, over Rs. 501 crores have been released.

70. The cropping intensity has improved. For the year 2021-22, it is estimated to be 157.14% against 148.08% during 2020-21.

71. Under Pradhan Mantri Krishi Sinchayee Yojana - Per Drop More Crop, subsidies were given through DBT for 3,088 numbers of water pump sets for providing supplementary irrigation to an area of 3,088 hectares. Further, construction of 285 water harvesting facilities and 55 irrigation channels, etc. created irrigation potential for an area of 450 hectares.

72. Under Sub Mission on Agriculture Mechanization, subsidies were provided for purchase of 747 machinery such as Tractors, Reapers, Power Tillers, Rotavators, Threshers and Mini Rice Mills. Support was also provided under the scheme for setting up Farm Machinery Bank to 254 projects.

73. Under RKVY- RAFTAAR, "Training Hall Cum Farmers Hostel", three 150 MT Capacity Fertilizer Godowns and 3 Agro Market sheds were constructed. Subsidies were also provided to 4,131 farmers for purchase of plant protection equipments.

74. Under National Food Security Mission, 29.92 Metric tonnes of certified seeds of Cereal Crops, coarse cereals and Pulses were distributed during the year and an area of 2819.28 hectares were brought under demonstration for transfer of latest crop production technology.

75. Under Soil Health Card and Soil Health Management, Mini Soil Testing Laboratories were set up at the District Head Quarters of Imphal West, Imphal East, Thoubal, Bishnupur and Churhandpur. 2 Village level Soil Testing Laboratories were also established at Imphal East and Bishnupur. 400 soil samples were tested during the year, based on which, promotion of micro nutrients for an area of 15,000 hectares were initiated.

76. During 2021-2022, 2,734 farmers benefitted under Pradhan Mantri Fasal Bima Yojana (PMFBY).

77. Under “Mission Organic Value Chain Development of North Eastern Region (MOVCDNER)”, area under Organic Cultivation of Black Scented Rice was increased by 475 % to 11,500 hectares during 2020-2021 over the previous year.

101 MT of Clean Black Scented Rice was exported to national and international buyers.

78. During 2021-22, 30 Farmer Producer Companies comprising of 500 farmers were formed to produce nine high value organic crops. Various marketing initiatives were taken up including branding under “Organic Manipur”, opening organic outlets at Pune and Bangalore and exporting organic black aromatic rice of the State outside the country. Geographical Indication (GI) tag was obtained for Tamenglong Orange and Sirarakhong Chilli. Contract farming of Calendula and Red clover flowers has resulted in diversification of income.

79. Under the Mission for Integrated Development of Horticulture (MIDH), area expansion for 4,754 hectares for fruits and 5,920 hectares for vegetables was achieved. 3,000 bee boxes and 600 bee keeping equipments were distributed. Subsidy was provided to farmers for procurement of 1,614 numbers of Manual Sprayers, Power Tillers and Tractors. Further, 133 numbers of Pack Houses, Primary Processing Units, Integrated Pack Houses, Pre - cooling Units, Cold Rooms and Ripening Chambers were constructed under Post Harvest Management.

80. Under Pradhan Mantri Krishi Sinchayee Yojana (PMKSY), an area of 1,143 hectares was covered with Micro - irrigation for horticultural crops. 1,323 diesel pumps were distributed, 53 water harvesting ponds and 44 irrigation channels were constructed during the year 2021-22.

81. Plantation in over 3,149 hectares of forest areas under various schemes were taken up. During Vanamahotsava Festival, 2021, around 20.96 lakh seedlings were distributed free of cost. Another, 23.61 lakh seedlings have been raised for distribution during 2022-23. High density plantation of economically important bamboo species has been taken up on over 330 hectares of land.

82. Efforts continue to be made to ensure long term survival of Manipur Brow Antlered Deer (Sangai) and protection of Amur falcon. Under Pradhan Mantri Van Dhan Yojana, 139 Van Dhan Vikas Kendras consisting of 3,320 SHGs with 41,908 tribal beneficiaries have been created across 14 districts. 56 Haat bazaars were also constructed.

83. Digital Survey and Inventorization of wetlands for conservation and protection is completed. Projects with Central

Government funding like Rejuvenation and Conservation of Nambul River and Conservation of Yaral Pat Wetland are in progress. Government of India has sanctioned a Project for Integrated Management Plan of Utra Pat Wetland for amount of Rs. 11.90 crore and work will be started soon. Nursery for indigenous plants is being raised.

Pisciculture, Veterinary & Animal Husbandry

84. Hon'ble Members, the total consumption of fish in Manipur is estimated at 56,000 MT per annum. The State could produce barely 30,000 MT in 2016. With persistent efforts, the production capacity has been increased to 36,000 MT per annum during the past 5 years, thereby helping in reducing imports from outside the State.

85. Under Pradhan Mantri Matsya Sampada Yojna (PMMSY), 145 hectares of ponds, 100 units of cages, 20 units of Bio floc, 8 units of hatcheries and input support for 220 hectares are being developed during 2021-22. Further, 2,338 fishermen were enrolled for insurance during 2021-22 under the scheme.

86. Under National Fisheries Development Board (NFDB), 5 breeding units for locally important fish species are being developed. 20 cages and 12 pens were installed with financial assistance under Loktak Livelihood mission.

87. Under National Animal Disease Control Programme. Calfhood Brucella Vaccination Programme was launched with a target of vaccinating 43,669 bovines in the State.

88. Construction of 59 Veterinary Dispensaries and 25 Veterinary Hospitals have been completed under Scheme of Establishment of State Veterinary Hospitals and Dispensaries.

89. 82,000 tons of milk, 27,000 metric tons of meat and 1,080 lakh eggs were produced during the year. Cattlefeed plant having a capacity to produce 3 MT of cattle feed per hour was set up at Porompat. Poultry Breeding Farm, Ningthoukhong with a capacity of 10,000 parent stock and having a target of producing 60,000 day-old low input technology chicks per month was inaugurated.

90. Under National livestock Mission, 32 units of High Genetic Germplasm Parent Breed of Hampshire Pig were imported from UK with a target to produce 50 pure breed piglets for distribution to piggery farmers.

Water Resources and Management

91. Hon'ble Members, providing assured irrigation is critical for accelerating growth in agriculture sector with about 2.3 lakh hectares of net cultivable area. 5 (five) irrigation projects are being revived to create an ultimate revised irrigation potential of 36,300 hectares, water supply of 4.00 MGD (Million Gallons per Day) and 2.25 MW of power.

92. My Government has taken up renovation and modernization works of the Loktak lift Irrigation Project with a total cost of Rs. 89.69 crore.

93. Rs.311 crore has been sanctioned for rehabilitation improvement and for comprehensive and sustainable operations of Singda Dam, Khuga Dam, Khoupum Dam, Imphal Barrage and Sekmai Barrage.

94. Good progress has been made on the three major multipurpose projects, namely, Khuga Multipurpose Project, Thoubal Multipurpose Project and Dolaithabi Barrage Project. The Headwork components of Dolaithabi Barrage Project and Thoubal Multipurpose Project and water transmission Component of Thoubal Multipurpose Project have been inaugurated, achieving irrigation potential of 46,746 hectares and water supply of 15.00 Million Gallons per Day.

95. To improve the extent, quality and accessibility of water resources information, State Hydrological Data Centre under National Hydrology Project was inaugurated.

96. Under Pradhah Mantri Krishi Sinchai Yojana- Her Khet Ko Pani, 70% and 90% physical progress has been achieved in setting up 375 Surface Minor Irrigation schemes and 550 wells respectively. An irrigation potential of 11,698 hectares will be created upon completion.

Water Supply

97. For improving Water Supply system in Imphal area, Phase-III of “Integrated Water Supply for Imphal Planning Area” costing Rs. 990.46 crore is being

taken up under NDB funding and targeted for completion by December, 2022. Water Supply Scheme for 25 other towns is also being targeted for completion by 2023.

98. Construction of Water Treatment Plant with a capacity of 45 million litres per day at Chingkheiching is completed and trial run is going on. It will meet the water demand upto 2031.

99. The Imphal Sewerage Project Phase-I was inaugurated.

100. Under Jal Jeevan Mission, functional household tap connection has been provided to nearly 2.9 lakh households, covering 63.60% of target so far.

Connectivity (Works and Transport)

101. Honb’le Speaker and Honb’le Members, two works sanctioned under NEC, namely, construction of Inter State Truck Terminus at Sekmai and Improvement of road from Mualdak to Kolhen diversion road via Munlui were completed during the year.

102. Strengthening work for a length of 47.67 km of National Highways with a project cost of Rs. 235.31 crores was completed during the year. Rehabilitation of Sansak-Tengnoupal (NH-102 A) for a

length of 130.00 Km was completed. Construction of double lane Lokchao Bridge on NH-102 on Imphal-Moreh Section is being completed.

103. Improvement of Koirengai - Sekmai Road under NLCPR at a cost of Rs. 16.4 Crore has been completed.

104. Improvement and construction of roads measuring 177.60 km are being taken up under Central Road Infrastructure Fund. 11 road and bridge works with a total cost of Rs.93.63 crore were sanctioned during 2020-21 under Rural Infrastructure Development Fund (RIDF).

105. Construction of Imphal- Kangchup Tamenglong Road of 103 Kms under implementation with assistance from ADB for about Rs. 1,400 Crore (Rupees One Thousand Four Hundred Crore) is targeted for completion by June, 2023.

106. With funding from HUDCO, the completion of the remaining work of Civil Secretariat Complex at Mantripukhri and construction of VVIP State Guest House-“Shanglen” are being taken up.

107. Passenger helicopter service under RCSUDAN 2.0 Scheme is targeted for implementation during 2022-23 connecting Jiribam, Tamenglo 19, Morch, Thanlon and Parbung.

108. Under Nirbhaya Scheme, Rs. 5.496 crore has been released to develop a Monitoring Centre to implement tracking and monitoring of public transport vehicles for safety of women and children.

109. As part of Ease of Business, e-Challan system, online permit system, Dealer Point Registration System and online application and payment system for issue of Driving License were implemented.

Urban Planning and Development

110. Hon'ble Members, under the PM-SVANidhi Scheme, 8,461 street vendors have been provided working capital loan to resume their livelihoods during the pandemic.

111. Under Swachh Bharat Mission (Urban), till date a total of 37,837 Individual Household Latrine and 510 seats of public toilets were constructed. In the Swachh Survekshan 2021, Urban Local Bodies of Kakching and Jiribam were awarded as best citizen feedback and the cleanest city in the North East Zone respectively.

112. Under the Pradhan Mantri Awas Yojana (Urban) - Housing for All Mission, 55,804 (Fifty five thousand eight hundred and four) houses have been

approved till now. A total of about Rs. 249 crore (Rupees Two hundred forty nine crore) was released to beneficiaries.

113. Under Deendayal Antyoda Yojana-National Urban Livelihood Mission (DAY-NULM), about 2,783 women Self Help Groups (SHGs) consisting of 28,170 women were formed. Their products were introduced to the global market through online e-commerce portals.

114. Under the Imphal Smart City Mission, development of Kangla Nongpok Torban and Thangal Larnbi were inaugurated. Till date, projects amounting to about Rs. 166 crore have been completed and projects worth about Rs. 112 crore are in various stages of construction.

115. Management of Solid Waste on Regional Basis (Cluster-B) in Manipur (Civil works) was taken up during the year and completed. The scheme has provided better management of solid waste for Urban Local Bodies.

116. Under Atal Mission for Rejuvenation & Urban Transformation (AMRUT), laying of 348 km of pipelines is completed in Imphal Municipal

Corporation area. Tap connection has been provided to more than 80% of households. Installation of Domestic Smart Water Meters in Imphal Municipal Corporation area is in good progress. The Online Municipal Service (OMS) for all 27 towns of Manipur was launched under Ease of Doing Business. Three Services namely Registration of Birth, Registration of Death and Booking of De-sludging Tanks were launched in the 1st phase.

Rural Development

117. Hon'ble Members, Gram Panchayats of Keinou and Top Dusara and Imphal West ZiHa Parishad were awarded with the Deen Dayal Upadhyay Panchayat Sashakti Karan Puraskar, 2021. Mayenglamjao Gram Panchayat bagged the Nanaji Deshmukh Rashtriya Gram Sabha Puraskar, 2021 and Luwangsangbam Gram Panchayat bagged the Gram Panchayat Development Plan Award, 2021. Keinou Gram Panchayat was also awarded with Child-friendly Gram Panchayat Award, 2021.

118. 9,716 houses were completed against a target of 9,740 under Phase-I of Pradhan Mantri Awaas Yojana - Gramin. Under Phase-II, 4,012 have

been completed out of a total target of 8,900 houses. For 2020-21, out of a total target of 15,842 beneficiaries, 15,047 beneficiaries have been sanctioned housing units.

119. Under Pradhan Mantri Gram Sadak Yojana-I and II, construction of road length of 430 km have been completed during the year. Till date, construction for 9,178 km length of road against the sanctioned length of 11,673 km. has been completed, providing connectivity to 602 habitations.

120. Under Mahatma Gandhi National Rural Employment Generation Scheme, the average of days of employment provided during FY 2020-21 and FY 2021-22 exceeded the national average by 8.88 and 6.39 days respectively. Under the scheme, the State has been able to achieve 74.30% expenditure in Natural Resources Management compared to National average of 68.42%.

121. Under Rashtriya Gram Swaraj Abhiyan (RGSA), construction of 10 (ten) Pancharat Ghars have been approved and works are in progress.

122. Under Manipur State Rural Livelihood Mission, more than 30,404 poor rural women household were mobilised into 3,274 Self Help Groups. 185 Village Level Federation and 10 Cluster Level Federations were formed.

123. 3,803 beneficiaries have been given skill training and 1,573 beneficiaries given placements under Deen Dayal Upadhyaya Grameen Kaushalya Yojana.

Social Welfare

124. Hon'ble Members, "Chief Minister's Widow Pension Scheme" was introduced to provide monthly pension to 10,000 widows at the rate of Rs. 500 per month. A Top - Up of Rs. 200 per month was also provided to existing 8,043 widow pensioners of National Widow Pension Scheme who were getting Rs.300 per month earlier. Similarly a Top - Up of Rs.200 per month was provided to existing 1,006 pensioners of National Disability Pension Scheme.

125. Over 56,027 pregnant women and lactating mothers have been enrolled as beneficiaries under "Pradhan Mantri Matru Vandana Yojana " SHEME till date.

126. One Stop Centres are functional in all districts and 24X7 toll free Women Helpline '181' [one-eight-one] successfully disposed 589 cases. A toll free helpline for aged people was also opened for providing information and guidance on legal, financial, health and social issues to elders.

127. The number of beneficiaries under the Manipur Old Age Pension Scheme was increased from 66,738 to 82,738 by providing additional fund of Rs. 3.84 crore for 16,000 additional beneficiaries.

128. Under “ Chief Ministergi Shotharabasingi Tengbang”, financial assistance @ Rs.1,000 per month was provided to 343 homeless aged persons . Care Giver Allowance was provided to 5,641 Persons with Disabilities having High Support Need. Scholarship and Free Travel Concession , Unemployment Allowance and Marriage Incentive Award were also provided to 2,419 beneficiaries.

129. Under ADIP scheme, aid and appliance were provided for 1,003 persons with disabilities and 5,154 assistive devices to senior citizens under Rastriya Vayoshree Yojna (RVY).

130. “Chief Minister’s COVID - 19 Affected Livelihood Support Scheme” was introduced to provide one time financial assistance of Rs.5,000 per identified eligible household.

131. Chief Ministergi Angangi Tengbang (CM’s Bal Seva) was also introduced to provide financial and rehabilitative support to children who became orphans due to COVID - 19.

132. Honorarium for ASHA workers have been enhanced by Rs.1000 per month. Likewise monthly honorarium for Anganwadi Workers and Mini Anganwadi Workers have been enhanced by Rs. 1000 and that of Anganwadi Helpers by Rs.600.

Labour Welfare, Employment Generation and Entrepreneurship

133. Hon’ ble Members , under Pradhan Mantri Kaushal Vikas Yojna 3.0, 2,955 beneficiaries have been enrolled for training programmes to address skill gaps.

134. Skill development training program are also being implemented for Persons with Disabilities under Chief Ministergi Shotharabasingi Tengbang.

135. Under scheme for Enhancing Skill Development Infrastructure (ESDI), Government ITIs at Sekmai and Kangpokpi were completed and inaugurated 2 new ITIs at Pherzaw and Noney District are under construction.

136. All 2,893 claims, complaints or applications under different Labour Laws have been disposed .

137. Details of un-organized workers are being registered on e-SHRAM Portal for creation of a comprehensive National Database. Against a total target of registering 8.66 lakhs for the State, 43.03 % has been completed.

138. For the year 2021-22, 29,126 Labour card holders were provided COVID-19 assistance amounting to Rs.2.91 crore. Maternal, educational, medical and accidental benefits amounting to over Rs.30.96 crore were extended to 21, 238 Labour Card holders.

Textiles, Commerce and Industries

139. Hon'ble Members, considering the hardship faced by the MSME sector due to the Covid-19 pandemic , rent payable totalling more than Rs. 16 lakh for work sheds in three Industrial Estates were waived.

140. Construction of Industrial Estate at Ukhrul is completed. Further, establishment of industrial estates in Imphal East and Senapati districts at a total project cost of about Rs. 21.93 crore has also been sanctioned.

141. Mega Food Park for Manipur State is being set up at Yaithibi Khunou. The Mega Food Park aims at establishing 8 (eight) Primary Processing Centre (PPC) at Imphal East, Bishnupur, Churachandpur, Pherzawl, Chandel, Noney, Jiribam and Ukhrul districts.

142. Under Prime Minister Formalization of Micro Food Processing Enterprises Scheme, loans to 120 individuals were sanctioned during the year for promotion of Food Processing Industries.

143. In order to enhance mineral exploration activities and achieve sustainable mining, “ The Manipur Mineral Policy, 2021” was notified.

144. Traditional arts and crafts are being promoted under the Mission for Economic Empowerment of Traditional Artisans and Craftsmen (MEETAC). Initiatives have been made to increase online visibility of Manipur products through online portals.

145. To generate employment and augment the sector, my Government started production of locally manufactured readymade garment and school uniform. Local plants, trees and herbs were also identified for production of large vegetable dyes in Manipur with the aim of producing higher and organic dye cloth.

Tourism

146. Hon'ble Members, Tourism is one of the industry which can become the backbone of the State's economy. To boost the sector, various Tourism Infrastructures were completed during the year. These include Cheiraoching Eco Tourism Project, Integrated Tourists Circuit Imphal-Tamel, Integrated Tourists Destination at Longa Koireng and Longmai, Development of Spiritual Circuit - Shree Govindajee Temple, Shree Kaina Temple - Shree Bangsibudon Temple, Shree Gopinath Temple and Shree Bijoy Govindajee Temple under Swadesh Darshan Scheme.

147. Development of North East Circuit: Imphal and Khongjom Prbject under the Swadesh Darshan Scheme was also completed. As part of development for Heritage Site for INA Head Quarter at Moirang, a fifty meter tall national flag was installed.

Sports

148. Hon'ble Members, to motivate sports persons and honour Olympians of the State, my Government started the, construction of 'Manipur Olympian Park'. The park will stand as testimony to Manipur as the 'Powerhouse of Sports'.

149. Under Khelo India Scheme, football fields and RCC galleries at Hiyangthang and Hao Ground were completed. Construction of football fields and RCC galleries has been started at 8 blocks.

150. Government of India has sanctioned 16 Khelo India Centres which would be opened across 16 districts of Manipur. Under Khelo India Centre of Excellence, disciplines of Archery, Hockey and Weight-lifting were selected and procuring of kits and manpower are in progress.

Arts and Culture

151. Hon'ble Members, to nature, propagate and preserve the cultural heritage of Manipur, various works were taken up during the year. Memorial Complex of Exile Heroes of Anglo - Manipuri War, 1891 at BT Park was inaugurated. 31 Tribal Museums were constructed across Manipur. Bronze statues of Thangal General and Chirai

Thangal were constructed at Mayangkhang in Kangpokpi District. Sanamahi Temple Annexure Building for the Devotees of Iainingthou Sanamahi Temple at a cost of Rs.5.00 crore was inaugurated. Improvement and Development of Govindajee Temple was successfully completed at a cost of Rs. 23.32 crore.

152. Under the “Chief Ministergi Artiste Singgi Tengbangh” scheme, 440 artistes have been benefited with monthly pension assistance of Rs.4000 for Awardees and Rs.2500 for Non-Awardees. Also, 54 artistes have been recommended for assistance in training and productions and 314 students assisted for purchase of equipment and instruments. 3 Awardees have been honoured.

GAD

153. Construction of 3rd Manipur Bhawan at Dwarka in New Delhi has started. After many years, the plot at Manipur Rajbari in Shillong was taken over by my Government on lease for 30 years.

154. To facilitate full implementation of e-Office in Manipur Secretariat and various Directorates, 1,966 computers, 141 laptops, 265 scanners and 1,966 UPS

units were procured. Further, as a special incentive, Six Maruti Ciaz cars and ten Tata Harrier SUV vehicles were procured for Deputy Commissioners of districts.

Relief & Disaster Management

155. Hon’ble Members, my Government sanctioned Rs.18.59 crore from State Disaster Response Fund for taking up various containment measures for COVID-19 in the state. Further, a sum of Rs.12.00 crore was also sanctioned for payment of ex-gratia to the next of kin of the deceased due to COVID-19 in the State.

156. Manipur is located in Seismic Zone-V. To reduce vulnerability to natural disasters by taking appropriate mitigating measures and strengthening capacity to plan and respond, the National Seismic Risk Mitigation Programme (NSRMP) is being implemented.

Administrative Reforms

157. Cash Incentive Award of Rs.1.00 lakh each were given to 26 youths who had successfully cleared Civil Services Preliminary and Mains Examinations, NDA and CDS entrance examination. Implementation of Chief Minister’s Scholarship Scheme for Civil Services

**RESUME OF BUSINESS TRANSACTED DURING
THE FIRST SESSION OF THE EIGHTEENTH
UTTARPRADESH LEGISLATIVE ASSEMBLY**

The First Session / House of 18th Legislative Assembly of Uttar Pradesh, 2022 was summoned on 23rd May, 2022 and the House was adjourned sine die after its sitting on 31st May, 2022. Total 08 (Eight) sittings were held in this session of Legislative Assembly.

The Session has been prorogued by Hon'ble Governor with immediate effect on 20 Jun, 2022.

**(1) Motion of thanks on the
Hon'ble Governor's address**

Both the Houses of Uttar Pradesh Legislature were addressed by the Hon'ble Governor on 23rd May, 2022. Motion of thanks on The Hon'ble Governor's Address was introduced to the House on 24th May, 2022. The motion got discussed in the House on 24th, 25th, 26th & 27th May, 2022 and was adopted by the House on 27th May, 2022.

(2) Legislative Affairs

(a.) The Following Ordinances were laid on 23rd May, 2022 on the table of the House in the first Session of 18th Legislative Assembly of Uttar Pradesh, 2022:-

1. The Bhatkhande State Sanskriti Vishwavidyalaya Ordinance, 2022

2. The Uttar Pradesh State university (Amendment) Ordinance, 2022

3. The Uttar Pradesh Industrial Area Development (Amendment) Ordinance, 2022

4. The Uttar Pradesh Private University (Amendment) Ordinance, 2022

(b) The Following bills were introduced, considered and passed in the First session, 2022 of 18th Legislative Assembly of Uttar Pradesh.

Sl. No.	Name of Bill	Date of Introduce	Date of passed
1.	The Bhatkhande Sanskriti Vishwavidya Bill, 2022	23/05/2022	27/05/2022
2.	The Uttar Pradesh Private University (Amendment) Bill, 2022	24/05/2022	27/05/2022
3.	The Uttar Pradesh Industrial Area Development (Amendment) Bill, 2022	28/05/2022	30/05/2022
4.	The Uttar Pradesh State University (Amendment) Bill, 2022	28/05/2022	30/05/2022
5.	The Uttar Pradesh Private University (Second Amendment) Bill, 2022	28/05/2022	30/05/2022
6.	The Uttar pradesh Appropriation Bill, 2022	31/05/2022	31/05/2022

c) Acts

The following Passed Bills by Uttar Pradesh Legislature were permitted and enacted by Hon'ble Governor/ President and the information has been given to the House and these are now Acts of 2021:-

- 1 The Uttar Pradesh Appropriation (Second Supplementary 2021-2022) Bill, 2021

2. The Uttar Pradesh Appropriation (Vote On Account) Bill, 2021
3. The Uttar Pradesh Industrial Peace (Timely Payment of Wages) (Amendment) Bill, 2021
4. The Uttar Pradesh Advocates Welfare Fund (Amendment) Bill, 2021
5. The Uttar Pradesh Sheera Niyantaran (Second Amendment) Bill, 2021

**RESUME OF BUSINESS TRANSACTED DURING
THE SECOND SESSION OF THE FIFTH
UTTARAKHAND LEGISLATIVE ASSEMBLY**

I take this opportunity to apprise you briefly of the business transacted during the Second session of the year 2022 of Fifth Uttarakhand Legislative Assembly which commenced at 11:00 hours with the reciting of National Song on 14th June, 2022 and concluded on 17th June, 2022. During the session, the main business transacted by the House was Presentation, Consideration and Passing of the Budget for the year 2022-23 along with some other important Bills. There were four sittings in all and the average attendance of Hon'ble Members during the session was 95.35%.

During the session, the House paid tribute to Late Shri Ram Parsad Tamta, former Member of Uttarakhand Legislative Assembly. Hon'ble Chief Minister, the Leader of House and several members paid obituary references to the departed soul.

Hon'ble Chief Minister presented the Budget for the Financial Year 2022-23 on 14th June, 2022. The General Discussion on the Budget took place on 15th and 16th June, 2022 and the House discussed, voted and passed the Demands for grants on 16th and 17th June, 2022. The Appropriation Bill was introduced, discussed and passed on 17th June, 2022.

During the Session, Notices of 573 questions including Starred, un-Starred Questions and Short Notice Questions were received. Out of these, 190 were admitted as Starred Questions and 339 as un-Starred Questions, 14 questions were received as Short Notice Questions. A total of 230 Questions were answered. Out of this 61 were starred, 165 Unstarred and 04 were Short Notice Questions.

Under Rule 300 of the Rules of Procedure and Conduct of Business of Uttarakhand Legislative Assembly, 76 notices of drawing attention were

received , and 26 notices were admitted for drawing attention-32 notices were received under Rule 58, out of which 14 were admitted. 54 notices were received under Rule 53, out of which 06 were admitted and 20 notices were admitted for drawing attention. 04 notices were received under Rule 310 which were heard under Rule 58 on admissibility.

On 14th June, 2022 the Secretary, Legislative Assembly announced that the following Bill passed by the House has received the assent of the Hon'ble Governor and has become Act of 2022 of the State of Uttarakhand as follows :

Sl. No.	Name	Date	Assent	Act No. of Year 2022
		Passed by House	by Hon'ble Governor	
1	Uttarakhand Appropriation (Vote on Account) Bill, 2022	30.03.2022	30.03.2022	04

During the session, following papers were laid on the Table of the House : -

1. Action Taken Report on notices under Rule 300 of Rules of Procedure and Conduct of Business of Uttarakhand Legislative Assembly in accordance with Direction no 14 (3) of Direction issued by the speaker, Uttarakhand Legislative Assembly

2. Annual / Special Report of Human rights protection Commission of Uttarakhand (2012-18) (2018-19)

3. Economic Survey Report of the year 2020-21 (volume 1) .

4. The report of Comptroller and Auditor General of India on the State Finance of Uttarakhand Government for Financial Year ending 31st March 2021 and Audit Report No. 1 of year 2022

**RESUME OF BUSINESS TRANSACTED
DURING THE FOURTEENTH SESSION OF
THE FIFTH CHHATTISGARH LEGISLATIVE
ASSEMBLY**

I take this opportunity to apprise you in brief about the business transacted during the Fourteenth Session of the Fifth Chhattisgarh Legislative Assembly. The Session Commenced from 20th July, 2022 and concluded on 27th July, 2022. During this period the House had overall six sittings in which the House transacted business for 37 hours and 10 minutes.

As per the convention in the Chhattisgarh Legislative Assembly, the first sitting on 20th July, 2022 opened with the playing of National Song “Vande Mataram.....” and thereafter State song “Arpa pairi ke dhar.....” and thereafter House condoled the sad demise of Shri Chakradhari Singh, former Member of Loksabha and Shri Bhajan Singh Nirankari, Former-Member of Chhattisgarh Legislative Assembly.

Panel of Chairman

Hon’ble Speaker nominated the following members to serve in the Panel of Chairman :-

1. Shri Satya Narayan Sharma.
2. Shri Dhanendra Sahu.
3. Shri Devendra Bahadur Singh.
4. Shri Shivratan Sharma.
5. Shri Lakheshwar Baghel.

Legislative Business (Bills)

On 20th July, 2022 Secretary laid details of the following bills assented to by the Governor of Chhattisgarh State on the Table of the House :-

- (i) The Chhattisgarh Appropriation (No-1) Bill, 2022.
- (ii) The Chhattisgarh Appropriation (No-2) Bill, 2022.
- (iii) The Chhattisgarh Anadhikrit Vikas ka Niyamitikara (Amendment) Bill, 2022.
- (iv) The Chhattisgarh Land Revenue Code (Amendment) Bill, 2022.

During the Session following Bills were introduced, considered and passed by the House :-

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| <ul style="list-style-type: none"> (i) The Chhattisgarh Vidhan Mandal Neta Pratipaksha (Vetan tatha bhatta) (Amendment) Bill, 2022. (ii) The Chhattisgarh Appropriation (No-3) Bill, 2022. (iii) The Chhattisgarh Vidhan Sabha Sadasya Vetan, Bhatta Tatha Pension (Amendment) Bill, 2022. (iv) The Chhattisgarh Mantri (Vetan tatha bhatta) (Amendment) Bill, 2022. (v) The Chhattisgarh Upkar (Amendment) Bill, 2022. (vi) The Chhattisgarh Land Revenue Code (Amendment) Bill, 2022. (vii) The Chhattisgarh Private Universities (Establishment and operation) (Amendment) Bill, 2022. (viii) The Chhattisgarh Adim Jan Jatiyon Ka Sanrakshan (Vrakshon me hit) (Amendment) Bill, 2022. (ix) The Chhattisgarh Swami Vivekanand Technical University (Amendment) Bill, 2022. | <ul style="list-style-type: none"> (x) The Chhattisgarh Adhyaksha Tatha Upadhyaksha (Vetan tatha Bhatta) (Amendment) Bill, 2022. (xi) The Chhattisgarh Vidut Shulk (Amendment) Bill, 2022. (xii) The Chhattisgarh Bhu-Jal (Pravandhan aur viniyaman) (Amendment) Bill, 2022. (xiii) The Chhattisgarh Shahakari Society (Amendment) Bill, 2022. |
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Financial Business

First Supplementary Grants for the financial year 2022-2023 was presented in the House by Shri Bhupesh Baghel, Chief Minister and also Finance Minister on 21st July, 2022. Entire First Supplementary Grants for the financial year 2022-2023 was passed in a consolidated form by the House on 22nd July, 2022 and thereafter the Chhattisgarh Appropriation (No.-3) Bill, 2022 was introduced, considered and passed.

Earlier, General discussion on the First Supplementary Grants for the financial year 2022-2023 was held. The Appropriation (No.-3) Bill, 2022 (Rs. 2,904,41,70,571-Two Thousand Nine Hundred Four Crore, Fourty One

Lakhs, Seventy Thousand, Five Hundred and Seventy one Rupees) was passed by the House on 22nd July, 2022.

Petitions

As regard petitions, 89 Notices of the Petitions were received, out of which 38 Notices of the Petitions were admitted and 11 members Petitions were presented in the House. 43 Notices of the Petition were disallowed, 08 notices however lapsed.

Reports of the Committee

During the Session under reference 01 report of the Business Advisory Committee, 01 report of the Committee on Private Member's Bills and Resolutions, 09 reports of the Committee on Public Accounts were presented to the House.

03 Notifications and 14 Reports of various department of the Government, Performance Report of The Comptroller and Auditor General of India on Implementation of 74th Constitutional Amendment Act in Chhattisgarh, Appropriation Accounts 2020-21, Finance Accounts 2020-21 (Volume-1 and 2) was laid on the Table of the House.

Adjournment Motion

In all 89 notices for adjournment motions were received during the session. Out of these 75 Notices of the adjournment motion were disallowed, of these 14 (same subject) notices were admitted and discussed (calling Attention Notices), formed part of proceedings.

Calling Attention Notices

Under rule 138 as many as 252 Calling Attention notices were received out of which 76 notices were admitted, in 10 notices the Government was directed to give statement and subsequently the statement was given in the House. 21 notices of Calling Attention were converted into Zero Hour notices Under rule-267-A, 155-notices of Calling Attention were disallowed.

01 notice of Half-an-hour discussion were received admitted and discussed in the House.

Private Member's Resolutions.

11 notices of Private Members Resolutions were received, 06 notices were admitted, 05 notices were rejected, 02 notices were Presented, discussed and Passed (Unanimously) on the House.

Government Resolutions

01 notice of Government Resolutions were received and 01 notice discussed on the floor of the House and Passed (Unanimously) on the House.

No-Confidence Motion.

During the Session on 21st July, 2022 Opposition Leader Presented rules 143 of Rules of Procedure of Conduct of Business of Chhattisgarh Legislative Assembly Motion of No- Confidence in Council of Ministers.

Hon'ble Speaker fixed a time for the above discussion 12.00 to 5.30 PM on 27th July, 2022. The Motion of No-Confidence rejected after above, 12 hours and 32 minutes of discussion in the house.

Questions

During the Session under the reference as many as 894 notices of Questions were received out of which 814 (404 Starred + 410 Unstarred) Questions were admitted. Out of the admitted Questions, only 51 were actually answered or deemed to have been answered in the House with the following break-up:-

On the last day of the session Hon'ble Speaker in which statistical information regarding the business conducted during the session was readout. Hon'ble Speaker thanks the Leader of the House, Leader of the Opposition, Members and one and all for their co-operation in conducting the business of the House and then adjourned the House sine-die on 27th July, 2022.

Questions	Received	Admitted	Answered
Starred	459	404	51
Unstarred	435	410	-
Total	894	814	51

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***RESUME OF BUSINESS TRANSACTED
DURING THE FIFTEENTH SESSION OF
THE THIRTEENTH HIMACHAL PRADESH
LEGISLATIVE ASSEMBLY***

It is great pleasure for me to apprise you briefly about the business transacted in the Monsoon Session of Himachal Pradesh Legislative Assembly which commenced on the 10th August to 13th August, 2022. The Session ended with a happy note as maximum time of it was devoted to fruitful discussions both by the Treasury and Opposition benches. It was the Fifteenth Session of the Thirteenth Himachal Pradesh Vidhan Sabha which lasted for 22 hours and 40 minutes. The Session commenced with established convention of playing of the National Anthem. This, being the Monsoon Session, major business before the House was presentation, consideration and passing of the Government Bills. On the 10th of August, 2022, the opening day of the Session commenced at 11.00 A.M., the House paid tributes to Late Sarvshree Sukh Ram, Roop Singh Chauhan, Mast Ram and Shri Parveen Sharma, former Members of Himachal

Pradesh Legislative Assembly. The Leader of the House, Leader of Opposition and Members including the Hon'ble Speaker, made obituary references to the departed souls. After the obituary references the Congress party had moved a No Confidence Motion under Rule- 278 of the Rules of Procedure and Conduct of Business of Himachal Pradesh Vidhan Sabha.

The Hon'ble Speaker accepted the notice. The debate on the notice started at 11.00AM on 11th August, 2022. The Hon'ble Chief Minister gave a reply on the debate. All questions which were fixed for the day were deemed to be laid on the Table of the House.

The Question Hour remained lively throughout the Session. In all, 228 notices of Starred Questions were received, out of which 174 notices were admitted for reply. Similarly, 139 notices for written answer were received and

116 notices were admitted for written answer besides 12 notices of Starred Questions were converted as Un-Starred. The Govt. apprised the House of the latest position of 17 issues of special mentions under Rule-324. 5 notice of Calling Attention to the matters of urgent public importance under Rule-62 were discussed. Three motions under Rule-130 were also discussed. 60 documents relating to Annual Administrative Reports, Annual Accounts/Audited Reports of various Autonomous Bodies/Corporations of the State Government and Recruitment & Promotion Rules of various Departments/Corporations were laid on the Table of the House. 78 Reports of the House Committees were presented and laid on the Table of the House.

A copy each of the Bills passed by the House during the fourteenth Session of the Thirteenth Vidhan Sabha and assented to by the Governor were laid on the Table of the House by the Secretary, H.P. Legislative Assembly and transacting important Legislative Business, the following Bills were introduced, considered and passed by the Legislative Assembly during the Session:-

- 1 The Himachal Pradesh Tenancy and Land Reforms(Amendment) Bill, 2022 (Bill No.6 of 2022);
2. The Himachal Pradesh Appropriation (No. 3) Bill, 2022(Bill No.7 of 2022);
3. The Himachal Pradesh Payment of Income Tax on Salaries and Allowances of Certain Categories Bill, 2022 (Bill No.8 of 2022);
4. The Himachal Pradesh Ground Water (Regulation and Control of Development and Management) Amendment Bill, (Bill No. No.9 of 2022);
5. The Himachal Pradesh Municipal (Amendment) Bill, 2022 (Bill o. 10 of 2022);
6. The Himachal Pradesh Municipal Corporation (Second Amendment) Bill, 2022 (Bill No. 11 of 2022);
7. The Himachal Pradesh Town and Country Planning (Amendment) Bill, 2022 (Bill No. 12 of 2022);

8. The Himachal Pradesh Courts (Amendment) Bill, 2022 (Bill No. 13 of 2022) The Opposition staged walkouts on various issues and also joined the debates without much loss of time.

9. The Himachal Pradesh Fiscal Responsibility and Budget Management (Amendment) Bill, 2022 (Bill No. 14 of 2022); and Before adjourning the House sine-die, the Hon'ble Speaker expressed his thanks to the Hon'ble Chief Minister, Ministers and Hon'ble Members for their outstanding sincere co-operation for the smooth conduct of the Business of the House.

10. The Himachal Pradesh Freedom of Religion (Amendment) Bill, 2022 (Bill No. 15 of 2022) The House was adjourned sine-die by the Hon'ble Speaker Shri Vipin Singh Parmar on 13th August, 2022 after playing of the National Song and prorogued by the Hon'ble Governor of Himachal Pradesh on the same day.

In order to keep the House informed, the Hon'ble Chief Minister and other Ministers made the Suo Motu statements on various important issues in the House during the Session.





RESEARCH SECTION

KERALA LEGISLATURE SECRETARIAT