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Insights into Editorial: Banks need an autonomy stimulus

01 March 2016

Article Link

Until recently, Indian banks were believed to be performing better compared to their
global counterparts. However, recent reported losses of some Indian banks have
raised concerns.

Global Banks Vs Indian Banks:
Globally bank shares are falling because of an expected fall in bank earnings as
interest rates have become negative. In India, however, interest rates are firmly
positive and also reported bank profits are soft because provisions are being made for weak assets.

- Some of the U.S. banks whose balance sheets were cleaned up are doing better than European banks where only cosmetic liquidity was provided.

What made Indian Banks perform better?

- Caps on external debt reduced fluctuations in Indian interest rates compared to more open emerging markets (Ems).
- Indian restrictions on short-term debt have also reduced chances of large cumulative cycles occurring as corporate bankruptcies create NPAs and stressed banks stop lending.

What’s affecting Indian Banks?

Is it NPAs?

As hyped, it is definitely not NPAs. Moreover, the asset quality problem affects only a part of the banking system, and only a particular type of loan.

- Non-performing assets (NPAs) that have stopped producing income are concentrated in public sector bank (PSB) loans to large corporates. Therefore the problem is limited in size and funds required to restore health are not excessive.

Is it corporate debt?

The sharp rise in emerging markets’ (EMs) corporate debt from 45% of gross domestic product (GDP) in 2005 to 74% in 2014 is a major source of global risk. It also rose in India, but is only 14% of GDP.

- Debt is concentrated in large infrastructure firms, but even so average debt-equity ratios remain at around unity since they are low for other firms.

The story of PSBs in India:

PSBs in India have demonstrated the ability to compete effectively and earn profits in the past. They did unexpectedly well after the 1990s reforms, and even overtook private banks on some parameters.

- They outperformed during and immediately after the global financial crisis.

NPAs fell to 2.4% in 2009-10 from 12.8% in 1991. This indicates that, given the situation now, a similar recovery is possible, even as gaps in reforms are closed.

But, why are they not performing well now?
The problems of PSBs now are partly due to government interference but also to errors of judgment and to external shocks.

- The first two led them to participate much more than private banks in infrastructure financing. This had to be followed in order to encourage development. The onus fell more on them after development banks were shut.
- These institutions did not foresee the governance and administrative problems that delayed projects that were expected to be viable under high growth. Interest rate hikes, following the 2011 inflation peaks, also hit PSBs.
- NPAs were expected to come down as the economy revived. But external shocks and domestic political logjams continue to delay recovery. Capital adequacy regulation should ideally be countercyclical with buffers built up in good times.
- But recovery is taking too long. Moreover, loan growth from PSBs is the slowest, possibly because of a larger share of stressed assets.

**Why Private Banks performed better during this period?**

Private Banks concentrated more on lucrative and less risky retail lending. Hence, their market capitalisation overtook that of listed PSBs in 2011. Also, their diverse strategies reduced risk for the Indian banking sector as a whole.

**Way ahead: What needs to be done now?**

- Now, it is necessary to clean up bank balance sheets. The onus is on the government as the largest shareholder. The Budget has made a contribution towards refinancing PSBs.
- Refinancing must be accompanied by reforms that build proper incentives. These should increase PSBs’ independence, and force promoters to share risk and potential losses, while making it easier to change management and allow equity infusion to keep viable businesses going.
- Consider writing-off loans. If loans are written off, a business can become viable as fresh equity and new promoters are more likely to come in. Banks with clean balance sheets are more willing to lend.
- It is also time for change, for arbitrage-free systems with greater transparency. The government can subsidise industry if it is necessary, but this must be done upfront with the correct share of risk allocated to promoters and minimum discretion.
Reduced political interference is also necessary. The political system has too often taken taxpayers for a ride, with small benefits masking large hidden costs. They have the right to know what they are paying for. The SC has already asked for information on large defaulters. Stronger boards and improved governance mechanisms can ensure that PSBs make independent decisions on purely commercial grounds.

Conclusion:
Tackling a problem at the root bodes well for the future. And ignoring local detail leads to a blind echoing of global fears. Hence, the time is ripe for appropriate changes. Appropriate structural change makes some monetary stimulus feasible, both to reduce the pain and in response to the global slowdown.

**Insights into Editorial: Budget’s Impact on Renewable Energy**

02 March 2016

[Article Link](#)

This Budget has laid down the roadmap for taking India to the next level of growth. We not only see a clear direction in which the economy is going to be steered but also the key milestones that we need to cross on the way. Finance Minister Shri Arun Jaitley has identified 9 pillars for having a transforming impact on the economy and life of people which were – Agriculture, Rural Sector, Social Sector (healthcare), Education, Infrastructure, Financial Sector, Governance and Ease of Business, Fiscal Discipline, Tax Reform. The Budget was presented in the backdrop of an improving rural sector and infrastructure expansion; which were two of the prominent features of the Finance Minister’s Budget speech.

What’s in it for the Renewable Energy Sector?

The government has allocated an outlay of above Rs.10,000 crore for 2016-17 for the renewable energy sector. This outlay includes **Rs.5,000 crore from the National Clean Energy Fund (NCEF)** with the balance coming from Internal & Extra Budgetary Resource (IEBR).

- A significant part of viability gap funding for solar power projects is intended to be financed out of such cash outlay.
The finance minister, in his speech, also mentioned diversification of sources of power for long-term stability and outlined his endeavour to augment investment in nuclear power generation in the long term. Changes have been proposed in the public-private partnership (PPP) mode to revive development of infrastructure.

On the taxation front, the clean environment cess on coal, lignite and peat has been doubled from Rs.200 per tonne to Rs.400 per tonne; encouraging the use of renewable sources of energy.

Other proposals include extension of benefit of additional depreciation to businesses engaged in the transmission of power and exemption of capital gains arising on account of the appreciation of the rupee against a foreign currency at the time of redemption of rupee-denominated bonds.

The final road map for phasing out of tax incentives has also been rolled out. No profit-linked incentives have been extended to the power sector, or renewable energy in particular.

What has been done so far for the Renewable Energy Sector?

At the UN Climate Change Conference held in Paris in 2015, India put forth its strong commitment towards clean energy and announced its climate change plan, i.e. Intended Nationally Determined Contribution (INDC) setting targets for domestic efforts against climate change.

- Among other initiatives, key targets are 40% power installed capacity from non-fossil-fuel-based energy resources and reducing emissions by 33-35% of its GDP by 2030.
- India’s INDC also sets a target of achieving 175 gigawatts (GW) of installed capacity of renewable energy—including 100GW of solar power and 60GW of wind power.
- India also launched the International Solar Alliance (ISA), a coalition of solar resource-rich countries, to address energy needs and common concerns.
- The Renewable Energy Global Investment Promotion Meet and Expo (RE-INVEST) organized in February 2015, received satisfactory response from global investors. India also signed an MoU with Germany to promote solar energy.
The government has also launched programmes, including the Green Energy Corridors, a nationwide transmission grid dedicated to power generated from renewable energy projects; setting up of 25 solar parks with a capacity of 50MW each; ultra-mega solar power projects scheme; and the viability gap funding scheme for setting up solar power projects by offering project developers capital cost support.

What’s holding India back from achieving the stated renewable energy targets? A challenge remains in the capital funding required for such capacity expansion. With the finance minister deciding to stick to fiscal consolidation and reining in the deficit, India’s ability to further access debt resources is limited, due to an existing high debt ratio.

What else needs to be done to improve the energy sector (Renewable in particular)?

1. **Solve policy lag:**
A lot of financing lined up for the deployment of wind and solar projects is stuck. This is due to lack of clarity at the individual state level on tariffs and policies preventing the execution of power purchase agreements (PPAs) in a time bound manner. This problem should be addressed soon.

   - Also, the renewable transition continues to be mired with litigation, discom financials and policy lag. Stressed projects are today a cause of systemic concern and there is a need to ensure that tribunal rulings are more or less binding and that going to courts is more a matter of exception than de rigueur.

2. **Capital allocation and incentives:**
The extension of the 10-year tax holiday, inclusion of electricity under GST and clarity on domestic content requirement for renewables would help reduce the end cost of electricity to the consumer.

   - UDAY (Ujwal Discom Assurance Yojana) has the potential to transform the discom landscape but needs clear visibility on capital allocations and time bound focus on separation of content and carriage if the one off projected gains are to be sustained over a longer time frame.

   - Incentives and rebates should be given to the consumers to make solar an attractive and viable option. The solar rooftop industry will certainly need better
non-recourse financing options by increasing power sector exposure limits of domestic banks.

3. **Need government reforms:**
The government needs to design reforms in terms of pushing the initiative of biomass plants and more in 2016. Countries like Japan and India have identified a huge opportunity to further the energy cooperation across the energy value chain. The government needs to design reforms in terms of pushing the initiative.

4. **Push for solar power generation:**
Also, the need of the hour is to create an effective ecosystem to enhance solar power generation capacity across India. While talking about rooftop solar in specific, extension of tax holidays, waiver of electricity duty and banking charge for solar rooftops, activating Renewable Energy Certificates (REC) benefits for rooftop projects and captive projects will certainly motivate more rooftop installations to come-up in cities and towns.

5. **Other reforms:**
Enforcement of net metering guidelines across states and renewable purchase obligations, strengthening of grid infrastructure to accommodate intermittent solar power, and promoting storage solutions by way of incentives, subsidies etc.

**Conclusion:**
The recent budget appears to be focusing more on administrative issues within the limits of fiscal prudence, like providing a legal framework for dispute resolution in PPP projects and measures to curb litigation in order to promote a non-adversarial tax regime. However, in order to provide a fillip to the sector, especially in view of the ambitious targets for capacity enhancement set by the government, it should consider implementing the above mentioned reforms.
Insights into Editorial: Why the WTO is right in the solar panel dispute

03 March 2016

Article Link

A World Trade Organization (WTO) panel has ruled against India in a dispute raised by the US over the country’s solar power programme, requiring the government to offer a level playing field to both foreign and domestic manufacturers of solar panels.

- The panel found that the domestic content requirement imposed under India’s national solar programme is inconsistent with its treaty obligations under the global trading regime.
- This is the second case that India has lost to the US at the WTO. In June 2015, the WTO’s appellate body upheld an earlier ruling against an Indian ban on poultry meat and eggs supplied by American producers. The ban had been imposed to prevent an outbreak of avian influenza.

What’s the issue?

It all started with the announcement of India’s national solar programme, which was launched in 2010. This programme aims to “establish India as a global leader in solar energy, by creating the policy conditions for its diffusion across the country as quickly as possible”.

- To incentivise the production of solar energy within the country, the government under the programme agrees to enter into long-term power purchase agreements with solar power producers, effectively “guaranteeing” the sale of the energy produced and the price that such a solar power producer could obtain.
- Thereafter, it would sell such energy through distribution utilities to the ultimate consumer. However, a solar power producer, to be eligible to participate under the programme, is required compulsorily to use certain domestically sourced inputs, namely solar cells and modules for certain types of solar projects.
- In other words, unless a solar power producer satisfies this domestic content requirement, the government will not ‘guarantee’ the purchase of the energy produced.
- In 2013, the U.S. brought a complaint before the WTO arguing that this domestic content requirement clause imposed under India’s national solar programme is in violation of the global trading rules.
Specifically, it said, India has violated its “national treatment” obligation by unfavourably discriminating against imported solar cells and modules. Thus, indicating a clear violation trade commitment.

How India defends its move?
India principally relied on the ‘government procurement’ justification, which permits countries to deviate from their national treatment obligation provided that the measure was related to “the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or use in production of goods for commercial sale”.

India also argued that the measure was justified under the general exceptions since it was necessary to secure compliance with its domestic and international law obligations relating to ecologically sustainable development and climate change.

What the WTO Panel says?
However, after a detailed examination, the panel concluded that India, by imposing a mandatory domestic content requirement, had violated its national treatment obligation.

In so far as the government procurement derogation was concerned, the panel found that the product being subject to the domestic content requirement was solar cells and modules, but the product that was ultimately procured or purchased by the government was electricity. The domestic content requirement was therefore not an instance of “government procurement”.

Besides, the panel also found that since India failed to point out any specific obligation having direct effect in India or forming part of its domestic legal system, which obligated India to impose the particular domestic content requirement, the general exception was not available to the Indian government in the instant case.

Was India really wrong?
The ruling has been described as yet another instance of archaic trade rules trumping important climate imperatives. It is being seen as undermining India’s efforts
towards promoting the use of clean energy. However, this criticism is not entirely justified.

- There appears to be no rational basis for how mandatory local content requirements contribute towards promoting the use of clean energy.
- Besides, by mandatorily requiring solar power producers to buy locally, the government is imposing an additional cost, usually passed on to the ultimate consumer, for the production of clean energy. The decision may therefore stand to benefit the interest of the ultimate consumer.

How should the policy be?
If the objective is to produce more clean energy, then solar power producers should be free to choose energy-generation equipment on the basis of price and quality, irrespective of whether they are manufactured locally or not.
- It is entirely possible to give preferential treatment to clean energies (in the form of tax rebates for solar power producers and so on) without requiring mandatory local content.

Way ahead:
The panel ruling, however, is not final and reports indicate that India will prefer an appeal to the appellate body. Simultaneously, India may be exploring the option of filing a counter complaint against the U.S., with several states in the U.S. such as Michigan, Texas and California having also reportedly been accused of employing mandatory local content requirements in the renewable energies sector.

Conclusion:
In a bid to support its ‘Make in India’ campaign India is coming out with such policies. However, India must resist the temptation of adopting protectionist measures such as domestic content requirements which are inconsistent with its international obligations. Domestic content measures, despite their immediate political gains, have a tendency to skew competition. Manufacturers must remain free to select inputs based solely on quality and price, irrespective of the origin. The government must continue working towards building a business and regulatory environment which is conducive to manufacturing. This would require systemic changes in the form of simpler, transparent and consistent laws and effective dispute resolution mechanisms.
Insights into Editorial: Renegotiation of PPP contracts becomes a reality

04 March 2016

Article Link

India’s finance minister Arun Jaitley announced three new initiatives on building infrastructure through the so-called public-private partnership (PPP) mode in the national budget he presented to Parliament on 29 February.

The three initiatives are:

1. **Public Utility (Resolution of Disputes) Bill:**
   It will shortly be introduced in the parliament to streamline institutional arrangements for the resolution of disputes in infrastructure-related construction contracts, PPP and public utility contracts.

2. **Guidelines for renegotiation of PPP:**
   The government has also proposed to introduce the guidelines for renegotiation of PPP concession agreements, keeping in view the long-term nature of such contracts and potential uncertainties of the real economy, without compromising transparency.

3. **New credit rating system:**
   A new credit rating system for infrastructure projects which gives emphasis to various in-built credit enhancement structures will also be developed, instead of relying upon a standard perception of risk which often results in mispriced loans.

All the three have a bearing on investments in the ports sector but it is the announcement on re-negotiation of agreements that has the maximum impact.

**PPP in India:**
India has emerged as one of the leading PPP markets in the world due to several policy and institutional initiatives taken by the central government and a sustained effort in various sectors to accelerate the implementation of PPP projects and programmes.
India has also developed a strong framework for the approval of PPP projects at the central government-level with appropriate oversight exercised by bodies independent of the projects and aware of the fiscal implications of PPPs.

Challenges:
However, in recent years, various challenges have arisen along with the acceleration in the pace of the roll-out of PPPs.

- With the perception that participation in PPP projects has become too risky in the country, developers and financiers are not showing any interest to participate in any project bidding.
- Besides, the common themes that emerge across infrastructure sectors are that risk allocation is viewed as one-sided and several sovereign obligations are not being met.
- Also, unrealistic bidding in terms of revenue sharing that has placed concessions at risk of failure as economic conditions worsened over the past five years.
- As far as the contractual elements of the PPPs is concerned, there is a general consensus that the model concession agreements (MCAs) are inflexible with no ability to change the terms of the concession.

What needs to be done?
- For the next generation of PPP contracts, amend the model concession agreement to include provision for renegotiation with adequate safeguard built in to deal with uncertainties inherent in long-term contracts and protect the developer from unexpected changes beyond his control. Besides, it should also be ensured that the option of renegotiation is not misused.
- Post-award changes are almost always fraught with moral hazards and political risks. Hence, it is necessary to establish a set of criteria or benchmarks to be applied to each proposed renegotiation that are quantifiable and ascertainable. That is, the case for a renegotiation can be made explicit and recorded so that the decisions made are rational and defensible.
- The criteria or benchmarks for renegotiation should include evidence that the project distress is material and likely to result in default under the concession agreement in future should it continue.
Also, there should be evidence to show that this distress is not caused by the private party and is likely to cause adverse outcomes for the government and/or users of the concession assets.

- It should also include evidence that a renegotiated concession agreement is likely to have direct cost implications for the government that are less than the financial outcomes of doing nothing.
- The final decision for a renegotiated concession agreement must be based on full disclosure of long-term costs, risks and potential benefits.

Conclusion:
Besides renegotiation, the government, to ward off allegations of crony capitalism or litigation from bidders who lose out in the first stage, has to create a credible institutional mechanism. Also, pricing should combine public purpose considerations with those of risk and efficiency. Pushing big ticket reforms is no cakewalk in a raucous polity such as ours. Yet, a robust PPP framework can make a difference in cranking up investment and growth.

**Insights into Editorial: Fiddling while Rome is built**

05 March 2016

Article Link

Budget 2017 contained the announcement that use of the biometric identity card, Aadhar, will be provided **statutory backing**. Following this announcement, the government also introduced the **Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill** as a **money bill** in the Lok Sabha.

- Because it’s the single-most important method of decreasing massive political and bureaucratic corruption in India, the introduction of this bill is seen as one of the most transformative economic reform legislation introduced in India.

Background:
The concept of a unique identification scheme was first discussed in 2006 and administrative approval for the scheme “**Unique ID for BPL Families**” was given on March 3, 2006, by the department of IT.
In December, 2006, an EGoM was set up to coordinate work between the registrar general, engaged in the preparation of the National Population Register and issuance of multipurpose national identity cards to Indian citizens, and Aadhaar, which was to be issued to all residents.

In its meeting in November, 2008, the EGoM decided to notify UIDAI as an executive authority to be anchored in the Planning Commission for five years. The UIDAI was constituted on January 28, 2009.

Till date, over 98 crore Aadhaar numbers have been generated. The Aadhaar numbers have been seeded in 11.19 crore DBTL (direct benefit transfer of LPG) accounts out of total 16.5 crore beneficiaries.

Significance of this Bill:

- Given the fears raised by various privacy advocates, the Aadhaar Bill has done well to categorically say “no core biometric information, collected or created under this Act shall be shared with anyone for any reason whatsoever or used for any purpose other than generation of Aadhaar numbers and authentication under this Act”.
- The bill also aims at providing “good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services”, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals.
- The proposed legislation will also address the uncertainty surrounding the project after the Supreme Court restricted the use of the Aadhaar number until a constitution bench delivers its verdict on a number of cases challenging the mandatory use of Aadhaar in government schemes and rules on the issue of privacy violation.

Benefits:

- Once Aadhaar has legal backing a lot more subsidies can be targeted better, subject of course to the state governments identifying the beneficiaries and ensuring their bank accounts are Aadhaar-seeded—potential savings run into well over R1 lakh crore each year at just the central government level.
More than that, government departments can start sending digitally signed records of education/caste/property, etc, to the DigiLocker of each citizen.

Aadhaar-enabled financial transactions of the type being developed by the National Payments Corporation can reduce costs to a fraction and completely transform the payments system.

Also, mutual funds will be able to do eKYC to cut costs to a fraction—and hence dramatically increase their target market.

Besides, there are many more innovations that can ride on Aadhaar. In terms of what it can do to India’s productivity, this is perhaps the most significant pieces of legislation in a long time.

Concerns:

The clauses that allow information to be shared under certain circumstances are not clear and need a closer look as it appears they can be abused.

As in all such cases including phone tapping, the Bill says a court order will be required for sharing of information either in response to some police case or when national security demands it. This is where the potential problem comes in, more so since a district judge’s order is considered good enough.

If data is sought on, say, whether a person used his Aadhaar biometrics at a particular location—‘authentication records’, in jargon—that may still be permissible, though with very strict checks.

But a plain reading of Section 33(2) suggests that the information that can be revealed includes ‘identity information’ which, in the section on definitions, is said to include a person’s ‘Aadhaar number, his biometric information and his demographic information’.

This is clearly a drafting lapse as this allows biometric information of people to be accessed by anyone, including intelligence agencies.

Was the government right in introducing Aadhaar bill as a money bill?

Article 110 of the Constitution, defining the money bill, states that in addition to taxation matters, “the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund” is also part of a money bill.
The opening paragraph of the Aadhaar bill states that the purpose of the bill is to “provide for efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India”.

Besides, if any question arises whether this bill can qualify as a money bill, the decision lies with the speaker of the Lok Sabha, and is final. Therefore, the argument that the Aadhaar bill cannot be a money bill is invalid and government is right in this regard.

Conclusion:
While a law enabling Aadhaar which will pass judicial scrutiny will go some way in plugging leakage in the payment of subsidies, it is important to point out that even biometric determination of identity will not be a panacea. Leakages through impersonation and duplication of payment will be curtailed, but eligibility for subsidies is governed by determination of income. Electronic systems are no help there. The government should take note of these issues and try to address them holistically.

**Insights into Editorial: For a paradigm shift in fiscal deficit**

07 March 2016

**Article Link**

Whenever there is debate on budget, fiscal deficit, by default, occupies the centre-stage. However, this year it found a special mention in Finance Minister’s budget speech.

- Finance Minister Arun Jaitley, in his speech, said that “there is a suggestion that fiscal expansion or contraction should be aligned with credit contraction or expansion respectively, in the economy.” This statement hints at a paradigm shift in how to determine fiscal deficit.

What is ‘Fiscal Deficit’?
The difference between total revenue and total expenditure of the government is termed as fiscal deficit. It is an indication of the total borrowings needed by the government.

How is it set currently?
Currently, the Fiscal Responsibility and Budget Management (FRBM) Act insists on a blanket 3% arithmetical limit on fiscal deficit.

What is FRBM Act?
Fiscal Responsibility and Budget Management (FRBM) Act was enacted by Parliament in 2003 to progressively cut fiscal deficit to 3% levels by 2008.

- FRBM Act put limits on the fiscal and revenue deficit of the country by setting targets for both.
- These targets were to be monitored through the year by setting mid-year targets.
- The government was to provide make a medium-term fiscal policy statement, fiscal policy strategy statement and macro-economic framework statement to Parliament.
- The Act, however, provides exception to government in case of natural calamity and national security.

How fiscal deficit limit was set to 3%?
The 3% limit made its debut in the famous Maastricht Treaty to form the European Union (EU) in 1992.

- The treaty prescribed four criteria which EU members had to comply to be eligible to adopt the Euro as the common currency. One criterion was the 3% fiscal deficit limit — the others being limits on inflation, long-term interest rates and public debt.

Why did the EU treaty mandate the 3% limit?
EU members like Greece and Italy were operating on high fiscal deficits while Germany and France had much lower numbers. In the tussle between prudent and profligate EU members, the limit emerged as a negotiated rate after give and take.

- However, there was no objective economic basis for it. Besides, many EU states could keep up the promise. Ten of the 12 EU members breached the 3% limit over 12 years, from 1999 to 2011 — Greece, every year; Portugal, 10 years; Italy, eight; France, seven; and the strongest one, Germany, five.

The Indian context:
It was an open secret that the FRBM Act enacted in 2003 and implemented from 2004, had adopted the ready-made EU limit of 3%.
But, according to another theory, this limit was set by an expert committee. However, some experts argue that such committee never existed.

Faced with criticism that the EU rate of 3% was carbon copied into the FRBM Act, some convoluted arithmetic was devised retroactively to explain the logic of the magic figure of 3%.

The explanation went thus: the time-series household financial savings of India plus external savings was 13%; out of that, 5% would go to private sector corporates; of the balance 8%, 2% would go to public sector undertakings, leaving 6% for Central and State governments to be shared between them (50:50), that is 3% each, to fund their deficits.

What’s the problem with the above explanation?

The expert view rested on two basic assumptions—

- One, the financial savings would ever remain at 13%, neither rise nor fall.
- Two, obeying the experts, 5% of it would go to private corporates.

But, what if the private sector refused to take part of it? That is, if the credit offtake goes down, as it has in the last few years in India? And what if the financial saving rises? Or falls? The experts committee never answered these questions. Hence, it is argued that the fake explanation for 3% was intended to hide the copycat fiscal economics written into the FRBM limits.

What the Finance Minister said in his recent budget speech?

Finance Minister said that “fiscal expansion or contraction should be aligned with credit contraction or expansion respectively, in the economy.” With this it appears that he has recognized the possibility of an inverse correlation between fiscal deficit (fiscal expansion) and bank credit (monetary expansion).

What is “Inverse correlation”?

If credit growth falls, fiscal deficit may need to rise and if credit rises, fiscal deficit ought to fall — to ensure adequate money supply to the economy.

The logic of correlation between credit expansion and fiscal deficit has five sequential limbs:

1. Money is the blood of economic growth.
2. Most money that fuels the economy is created by banks, not by government.
3. Banks and financial institutions fund business and others, and it is that credit money which drives the economy.

4. If, for whatever reason including lack of business confidence, the bank credit to the economy does not adequately grow, like it did not in the last few years, economic growth will suffer for want of adequate money.

5. That is when the Budget needs to step in, to pump money into the economy by incurring deficit (spending more than the income), and, for the purpose, borrow the money lying with banks or even by printing more money, if that is needed. This ensures that growth does not decelerate for want of enough money circulating in the economy.

Where the FRBM Act has failed?
The FRBM law has ignored the fourth and fifth limbs of the logic and fixed the 3% fiscal deficit as inviolable. The FRBM Act also ignores the possible inverse link between monetary and fiscal economies.

- Banks create and control most money stock in the economy. This constitutes the **monetary economy** which is entirely under the control of the **Reserve Bank of India**. The **revenues and expenditure of the government constitute the fiscal economy**.

- If the government spends more than its income, then deficit arises, which it has to finance by borrowing money created by banks. The FRBM Act says it cannot borrow more than 3% of GDP — even if banks do have money, even if the private sector does not take it, and even if the economy needs it for growth. The money may lie idle in banks, and yet the law will not allow the government to borrow.

- However, it is unanimously agreed that money is critical for economic growth. Without adequate money, GDP growth will suffer.

Money-Growth link:
The economic debate on the money-growth link dates back to the Great Depression of the 1930s.

- While the celebrated Nobel laureate, **Milton Friedman**, talked about **inadequate money supply as the cause of the Great Depression**, **James Tobin** pointed to **inadequate demand for money**
(credit) as the cause. That is even if there is money, a lack of business confidence or high interest may reduce the demand for money.

- There is no doubt that both — lack of money supply as well as lack of demand for credit — weaken growth.

**Indian scenario:**

From 2012-13 to now, i.e. 2015-16, the Indian economy seems to have been experiencing both the Milton and Tobin effects — shrinking money expansion and credit demand shrinking even faster.

- Money supply growth had averaged 17.8% between 2006-7 and 2010-11. It began declining later. It declined from an average growth of 16.5% in the two years ending 2010-11 to an average growth of 13.5% in the three years ending 2013-14. In 2014-15 its growth had come down to 11.5% — a fall in growth of 45% as compared to 2010-11. The money supply growth is less than the growth of nominal GDP for 2014-15.

- The year-on-year growth in bank credit too more than halved from 16.7% in 2009-10 to less than 8% in 2015-16. As a proportion of the growth of nominal GDP too bank credit growth has fallen. The credit growth, which had equalled the growth of nominal GDP in 2010-11, almost halved in 2014-15. The credit expansion as related to GDP too fell to 5.6% in 2014-15 and to 4.4% in the nine months of 2015-16, from 11% in 2009-10.

- This establishes that, in the last six years, both money supply growth and credit expansion have halved absolutely and in relation to GDP growth. Even the combined fiscal deficit (fiscal expansion) and credit growth (monetary expansion) as a percentage of GDP has halved from 17.4% in 2009-10 to 8.8%, which is less than nominal GDP growth.

**Way ahead:**

The time has come to rationally fix the fiscal deficit limit and have a relook at the FRBM Act.

**Conclusion:**

It's time to align the monetary and fiscal economies. If bank credit growth falls, fiscal deficit may need to go up. If bank credit growth rises, fiscal deficit should reduce. This is particularly true for a growing economy like India.
Insights into Editorial: Oil Slip
08 March 2016

Article Link

Finance Minister Arun Jaitley has rightly affirmed fiscal rectitude and addressed the challenge of growth and rural distress in the recent Budget. However, analysts feel that the 2016 Budget has failed to lay out a clear roadmap for the petroleum industry, which is already in poor shape.

- Finance Minister’s budget speech lacked a clearer enunciation of intent, especially since energy has been an important part of the prime minister’s agenda. This lack of clarity did lead to a sharp reaction from the market. The stock price of ONGC tanked by 10%.

Such reaction from the government raises the following three fundamental questions:

1. Does the government appreciate the severity of the crisis facing the petroleum industry?
2. Is it serious about reviving domestic oil and gas exploration?
3. Is its emphasis on clean energy substantive or a rhetorical flourish?

Analysis of key proposals:
The Finance Minister made three policy announcements:-

1. The price of gas from newly discovered fields would be determined through the market and linked to the price of alternative fuels.

But, initially it was not clear, whether “newly discovered” meant discoveries yet to be made or those already made but not monetised. It was also not clear whether the price would be linked to low-priced coal, the higher-priced imported liquefied natural gas or to a fuel between these two price points.

2. The second was to switch the calculation of cess on oil production from a specific rate (fixed rupees per barrel produced) to ad valorem (percentage of value).

This is what the companies had lobbied for and it was a sensible move. The fixed charge of $9.1 per barrel produced was affordable when prices were hovering around
$100 per barrel but a crushing burden in the current low price regime of around $35 per barrel.

- However, the petroleum sector was not happy with the proposed ad valorem rate of 20%. For, at that rate, **the tax burden came down by only $2 per barrel from $9 to $7 and for so long as the price of oil remained in the current range.**

- In the event prices rise to the average level predicted by analysts of $45 per barrel in 2016, this benefit will be wiped out and companies will find themselves in the same financial straits they are in today.

3. **Third proposal was to double the cess on coal production from Rs 200 to Rs 400 per tonne, and to direct that this money be used for financing clean energy.**

This was a positive move. However, there is a concern that this money would be diverted for other purposes. Previous experiences also suggest the same. So far, the clean energy fund has been managed by the finance ministry and the money out of it has not always gone towards clean energy research but for financing unrelated activities like cleaning the Ganges.

- Finance Minister seems to have missed the opportunity to allay these fears by assuring that the money would be managed by people with domain expertise and not subject to political or financial exigency.

Before proceeding further, the government must internalise three hard truths:

1. **One, India’s dependence on oil and gas imports will increase in the short to medium term.**

   We currently import around 75% of our requirements. This will go up to near 90% by the end of this decade. We are and will remain hugely vulnerable to the vicissitudes of the international market.

2. **Two, the petroleum industry is in terrible shape.**

   According some recent studies, every private oil company loses cash at $30 per barrel. All are now on a massive cost-cutting exercise. They estimate that over the period 2015-2017, the companies will take out $200 billion of expenditure and that exploration investment will drop from around $95 billion in 2015 to less than $40 billion in 2016.
• Besides, cost-cutting will not save the highly leveraged companies from bankruptcy and there will be a plethora of stranded assets available for sale at a discount. This will automatically yield no interest in high-cost, complex and long-gestation exploration opportunities.
• Hence, it’s time to concentrate in lower-cost, shorter-gestation and technology-intensive marginal fields and that too by niche players funded by speculative private equity funds.

3. **Three, our environment is under stress.**

Indian cities are amongst the most polluted in the world. Also, forest cover is denuding along with the receding water tables. Clean energy is the sine qua non for breaking the currently unhealthy linkage between growth, energy demand and environmental degradation.

Now, what are the choices before the government?

1. First, if it wishes to accelerate exploration, it will have to stop milking the ONGC cow. Private investors will not step into the breach. A downward recalibration of the ad valorem tax rate would be a positive first step.
2. Second, if it wishes to increase domestic production, it should do what many oil-producing countries, including China, the US, the UK and Malaysia, have done in response to the current low oil price regime and offer tax credits and exemptions for incremental production from marginal fields and enhanced oil recovery.
3. And third, if it wishes to give a fillip to clean energy, it should put together a more robust package of subsidies and concessions; place its flag on the masthead of electric vehicles and cement R&D partnerships between government entities, private corporations, universities and research

**Conclusion:**

In sum, in spite of a few positive statements and announcements that impact the oil sector, considerable omissions remain. The sector appears to be shining on the outside, but the tinted windows hide what lies underneath.
“Climate engineering” has been a buzzword in recent years. Environmentalists believe that climate engineering, along with reduction in carbon emissions, can greatly reduce global warming.

What is climate engineering?
Climate engineering, also known as geoengineering, describes a diverse and largely hypothetical array of technologies and techniques for intentionally manipulating the global climate, in order to moderate or forestall the (most severe) effects of climate change.

How is it being viewed currently?
Today, climate engineering efforts are viewed either as secondary measures to be undertaken alongside reducing emissions or as technologies which have not matured enough to warrant discussion by world leaders.

Climate engineering efforts can be divided into two categories:

1. **First, removal of Greenhouse gases from the atmosphere:**
   This basically involves management of carbon. A prominent example is carbon capture and storage (CCS), where some of the carbon dioxide (CO) being emitted by coal-fired power stations is recaptured by physically sucking it in and transporting it elsewhere to be sequestered underground.
   Another method for removing CO from the atmosphere is to increase forest cover as plants will absorb some of the unwanted CO. Increased forestation is part of India’s strategy for reducing CO.
   However, it is not clear whether CCS, reforestation and other carbon removal methods can make sufficient impact at the global level to significantly slow down global warming. But they seem relatively benign at the scale at which they are being considered now and will at least lower CO pollution locally.

2. **Second category involves Solar Radiation Management or Sunlight Reflection Methods (SRM):**
This method aims to reduce the amount of heat trapped by greenhouse gases by reflecting sunlight back into space, either by increasing the reflectivity of the earth’s surfaces, or by deploying a layer of reflective particles in the atmosphere.

- Among the techniques being considered under SRM are marine cloud brightening, cirrus cloud manipulation and stratospheric aerosol injection (SAI).

**Stratospheric aerosol injection (SAI):**
SAI, the boldest and also the most risky of climate engineering interventions, involves spraying into the stratosphere fine, light-coloured particles designed to reflect back part of the solar radiation before it reaches and warms the earth. SAI proponents claim that this could bring down the global temperature by as much as 1°C — a substantial amount in the climate change context. Many researchers have already verified this claim.

- The optimal gases for injection, such as sulphur dioxide (SO), can be produced in abundance. Furthermore, just a few airplanes specially redesigned for the purpose may suffice for injecting the required aerosol into the stratosphere.
- There are also precedents from nature. The 1991 volcanic eruption of Mount Pinatubo in the Philippines injected 20 megatonnes of SO into the stratosphere, cooling the globe significantly for a couple of years.
Concerns:

- However, SAI also has the potential for disastrous side effects, crossing national boundaries. The Pinatubo volcanic eruption is also said to have reduced precipitation, soil moisture, and river flow in many regions.
- Also, injection of sulphur compounds into the stratosphere is likely to increase acid deposition on the ground and also contribute to ozone layer depletion. Apart from such “known unknowns”, there could also be, to use the catchphrase, the “unknown unknowns”.
- Besides, once the aerosol has been injected into the atmosphere, it cannot be removed. Yet, if for any reason the injection, once begun, is discontinued prematurely, there can be rapid re-warming. That, ironically, could do more damage than the gradual global warming that we are seeking to combat.

Potential threats from SRM:
Worsening climate change may pressurize small nations to resort to using whatever SAI technology is available in the international market. In their desperation, possible harmful effects on other countries may not weigh heavily on their decision-making.
Besides, just the fear of possible adverse side effects could lead to war between the nations.

How to deal with this problem?

One simple way to deal with this problem is to just ban further research in these fields. In fact, some climate scientists have already suggested this. They also fear that even the possibility of SRM interventions may undermine efforts to reduce carbon emissions.

Way ahead:

There are also few individuals who think that a blanket ban on SRM would be unwise and difficult to implement. Technology, benign or malevolent, has a way of continuing to advance.

- The goal of SRM is to mitigate damage done by carbon emissions. If there is some chance of it succeeding safely, it would be unwise to abandon it at this stage.
- Abandonment would also leave SRM technologies dangling midway, insufficiently tested or refined. That may nevertheless not deter some desperate climate change-afflicted nation from deploying it, leading to disaster.
- It is only through continuation of responsible research in climate engineering, done under proper regulatory oversight, that the limitations and risks of such interventions can be fully understood and provide the basis for informed decision-making.
- That will call for international governance mechanisms for overseeing the research and development and possible deployment of climate engineering techniques.

Conclusion:

The complexity of the issues associated with engineering the climate presents a challenge for shaping even the most basic research and engagements with the public and policy-makers today. It is difficult to predict how the debate on climate engineering will influence – or be influenced by – future developments in technology, the climate system, or the international order. While active climate engineering researchers have already been conscientiously worrying about these issues, it is not too early for the rest of us to start thinking about it.
Insights into Editorial: Four corners of a good deal

10 March 2016

Article Link

The U.S.-Japan-India trilateral has gained momentum in recent years, with regular meetings and a variety of collective exercises. This proves that India has begun to exert its leadership in the Asia-Pacific region.

- But, it is not possible for India to be a world leader or an Asian leader without first being a South Asian leader. For this to happen, the support of Australia is also necessary.
- Few experts have been pitching for a greater cooperation between the U.S., India, Japan, and Australia. But, often this quadrilateral relationship is depicted only in defence terms. The four-way arrangement has made much less progress and has largely been limited to some meetings and naval exercises several years back.
- But, a closer relationship between these four key democracies is necessary for India’s overall growth and can also boost India’s tenuous energy security in a big way.

India’s energy dependency:
India’s energy deficiency and ever increasing needs are well-known. It is also true that for Indian economic growth to return to double digits, energy supplies must increase by three to four times over the next few decades.

- Deficits, however, are immense — including, for electricity alone, peak demand deficits of 25% in some southern States. This has made India largely depend on other countries to meet its demands.

Key facts:
- 80% of India’s oil is imported.
- Coal imports have also increased by as much as 56% in a single year.
- India also imports 40% of its uranium.
- Import of natural gas is also increasing.

Concerns:
India’s dependency on other countries is always fraught with risk.
• Many, if not most, of its hydrocarbon imports come from unstable or faraway regions.
• Two thirds of its oil comes from West Asia, and distant Venezuela is also a key source of oil. Additionally, India sees great potential in gas-rich Central Asia. However, because Pakistan denies India transit rights to Afghanistan, India lacks direct access to the region.
• India is now planning to enhance its access to Central Asia by developing the **Chabahar port in southern Iran**. However, so long as Afghanistan remains unstable, access to Central Asia via Chabahar will be difficult.
• TAPI pipeline project is a good move. But, Afghanistan’s security problems make this gas pipeline an unlikely prospect.
• Meanwhile, the lifting of sanctions on Iran following its nuclear deal with the U.S. opens up energy possibilities for India, which has reduced its imports from Iran in recent years. However, New Delhi faces serious competition from other importers rushing to cash in.
• India has also lost out many opportunities in this sector, while China has seized them.

**How can Australia be a game-changer?**

Australia can provide immense energy benefits to India. It already provides sizeable quantities of coal and uranium cooperation between the two countries has also been explored.

• Australia is a top global producer of LNG. And in recent times, India has shown a strong desire to capitalise on Australia’s gas riches. With LNG prices having fallen by 75% since 2014, the timing could not be more ripe to explore deeper energy cooperation — particularly given the volatile location of Qatar, the top current source of India’s LNG imports.
• Additionally, India could leverage a closer relationship with Australia to engage more deeply with the latter’s neighbour, Indonesia, which provides India more than 60% of its current coal imports. This would also help advance India’s “Act East” policy.
A closer relationship with Australia and Indonesia would further ease the burden on India’s naval forces of protecting energy assets in areas more far-flung than Southeast Asia.

Additionally, Indonesia and Australia — despite their proximity to the South China Sea and their susceptibility to Islamist militancy, including attacks by the Islamic State — are far more stable than West Asia, which would ease concerns about the security of Indian energy assets and imports originating in these two countries.

Way ahead:
The time is ripe for India to explore ways to increase cooperation with Australia. One way to achieve this is by reviving the quadrilateral relationship. This could also enhance energy engagement with the U.S. and Japan.

Besides, all four countries have an interest in energy infrastructure development. Japan, US and Australia have all signed on to the India-led International Solar Alliance. Japan and India are also offtakers for U.S. LNG projects.

Conclusion:
In recent years, a major roadblock to the quadrilateral relationship was Australia, which withdrew from the arrangement in 2013, citing concerns about China’s reaction. But, now with the new government the country has expressed renewed support for resurrecting it. For India, reviving the quadrilateral relationship may not make much sense from a national security perspective. However, viewed through the lens of energy security, it arguably makes very good sense.
Most major Indian laws are legacies of the British, the results of a great codification movement that failed to make much headway in the colonial metropolis, and therefore chose India as its laboratory.

- Such laws include the Indian Penal Code or IPC (1860), the Indian Evidence Act (1872), the Indian Contract Act (1872), the Transfer of Property Act (1882), the General Clauses Act (1897), the Code of Civil Procedure (1908), and — until its overhaul in 1973 — the Code of Criminal Procedure (1898).
- Among these, Sections 377 and 124A of the Indian Penal Code have received much attention in the recent times. These sections highlight how the British left their stamp upon India’s criminal law in a manner entirely inconsistent with a democratic, constitutional republic.

Background:

1. **Section 377:**
   Section 377 was in news recently, when the Supreme Court agreed to refer the curative petition against its earlier decision upholding its constitutional validity to a bench of five judges. Section 377 is one of the clearest examples of the then colonial morality that pervades the IPC.

   **What is it all about?**
   **Section 377 of IPC** which came into force in 1862 defines unnatural offences. It says, “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years, and shall also be liable to fine.”

2. **Section 124A:**
   Section 124A is about the offence of sedition. This nineteenth century law, enacted to silence the Indian people by the colonial rulers, has been retained by the democratic government in free India. Not only that, it has perhaps been used more often by free India’s governments than the colonial government did during the 77 years of its presence in the Penal Code.
• Sedition was not a part of the original Indian Penal Code (IPC) enacted in 1860 and was introduced in 1870. Created to deal with the rising Wahhabi movement in the 1870s, used against Gandhi, Tilak, Besant and many other stalwarts of the freedom movement, and in its latest avatar, invoked against sloganeering university students, the law of sedition is perhaps amongst the most recognisable — and notorious — provisions of the IPC.

• Section 124A reflects a colonial logic, predicated upon a subject-ruler relationship between the Indians and the British. Its prohibition upon spreading “disaffection” against the government, and the manner of its use, makes it clear that it was enacted to preserve the reputation of the colonial government in the eyes of its subjects.

How these laws have been impacting?
The colonial context of these laws, and the manner of their use, has often left the courts in a bind. These laws have been forced into a number of unconvincing contortions to try and reconcile the colonial law with the constitutional republic. The government has also been unwilling to strike down these laws.

• While upholding the constitutionality of sedition, the Supreme Court has restricted its operation to incidents inciting towards, or leading to, public disorder. However, this is directly at odds with the language of Section 124A, and has failed entirely to prevent abuse at the level of the police and lower judiciary.

What can be done now?
• It can be concluded that the problems with the IPC cannot be solved in a piecemeal manner by taking isolated sections of the code and attempting to modernise them (as the Verma Committee tried to do with the laws of sexual assault, in the aftermath of the Nirbhaya case). Therefore, a comprehensive relook is necessary.

• Besides, this is not a task that the judiciary can accomplish. It is for the legislature to take a comprehensive relook at the IPC for the first time in its 156-year history and introduce reforms that do not merely tinker at the edges but transform the very philosophy of the penal law in a manner that is consistent with our constitutional principles.
Also, any such reform would have to be carried out in conformity with the basic principles of the Constitution.

**Conclusion:**
Change has never been more overdue, or more urgently required. Even the criminal law of the United Kingdom was comprehensively reviewed and changed as recently as 2003, via the Criminal Justice Act. Also, laws that claim to protect individuals from moral degradation and corruption, that privilege community sentiment over the individual right of speech and conscience, and that are based upon stereotypical assumptions about men and women, must be reviewed and modernised in a manner that is consistent with the Constitution in the Indian cont

**Insights into Editorial: Show Me The Money**

**12 March 2016**

**Article Link**
The Lok Sabha has successfully passed the Aadhaar Bill that aims to ensure targeted services to intended beneficiaries by assigning them unique identity numbers. These numbers will be given to each person who has stayed in India for 182 days in the year preceding the date of application.

- The government, having seen the fate of the Goods and Services Tax (GST) Bill, chose to package the legislation as a money bill to ensure that it was not blocked by the Rajya Sabha, where the ruling NDA is short of a majority. The bill will now go to the Rajya Sabha, which can deliberate on it and suggest amendments.

**How government defends this move?**
The government, citing **Section 110** of the Constitution, says any bill which facilitated the payment of moneys into or withdrawals of money from the Contingency Fund of India was a money bill.

**Why such move?**
In all democratic parliaments, as in India, the Lower House alone has the power to grant money to the executive. A bill that deals with such matters is called a money bill. A money bill cannot be passed or rejected by the Rajya Sabha, which can keep such a bill for only 14 days, after which it will be deemed to have been passed by both Houses. Hence, such route is often preferred by the governments.
What the law says?
As per Article 110(1), a bill that contains only provisions dealing with the following qualifies as a money bill:
1. The imposition, abolition, remission, alteration or regulation of any tax.
2. Regulation of borrowing or the giving of any guarantee by the government of India, or undertaking financial obligation by the government.
3. The custody of the Consolidated Fund of India (CFI) or the Contingency Fund of India, the payment of moneys into or withdrawal from them.
4. The appropriation of moneys out of the CFI.
5. Declaring any expenditure as a charged expenditure on the CFI.
6. The receipt of money on account of the CFI or the public account of India or the ambit of accounts of the Union or of a state.
7. Any matter incidental to the above issues.

Does Aadhaar Bill deal with any of the above mentioned provisions?
According to few experts, Aadhaar bill does not deal with imposition, abolition, alteration, etc, of tax; nor does it deal with the regulation of borrowing or giving a guarantee by the government or an amendment in respect of any financial obligation to be undertaken by the government.
- This bill also does not deal with the custody of the CFI, etc. The moneys paid into or withdrawn from such funds are incidental.
- Besides, the bill is not an appropriation bill that appropriates money from the CFI. It does not deal with declaring any expenditure as a charge on that fund.
- Further, it does not deal with the receipt of money on account of the CFI or the public account, or the custody or issue of such money, or the audit of the accounts of the Union or states.

Why Aadhaar bill cannot be a money bill?
The object of the Aadhaar bill is to create a right to obtain a unique identity number, regulate the enrolment process to collect demographic and biometric information, and create a statutory authority for regulating and supervising the process. It also specifies offences and penalties.
Thus, the obvious purpose of the bill is to deal with all aspects relating to the unique identity number of Indian residents, which will be used for multiple purposes.

Also, clause 4(3) states that the Aadhaar number may be accepted as proof for “any purpose”, not merely for the payment of subsidy or other monetary benefits.

Therefore, the above analysis clearly shows that the Aadhaar bill is not a money bill. Subtle attempts have been made to give it the appearance of a money bill by referring to the CFI in certain clauses. But this does not alter the character of the bill, which does not deal with the CFI.

Further, subsidies, subventions, etc, are not a part of this bill. The Aadhaar bill does not make any provision for subsidies or other government benefits or specify beneficiaries.

Where does it fit then?

The Aadhaar bill comes under the category of financial bills under Article 117, which would inter alia involve expenditure from the CFI.

The Constitution stipulates that such bills be considered only after the president has recommended their consideration. However, such bills can be introduced in either House and, as per Article 107(2), need to be passed by both Houses.

Conclusion:

In this case, prima facie it appears that the government has taken the money bill route to bypass the upper house. This move is even backed by the speaker of the Lok Sabha, whose decision is final on the question of whether a bill is a money bill. However, this constitutional provision cannot be seen as a convenient tool to deal with an inconvenient second chamber. The Constitution reposes faith in the speaker’s fairness and objectivity. Article 110(1) provides the touchstone of the decision to be taken by the speaker under Article 110(3). Any decision actuated by extraneous considerations can’t be a proper decision under Article 110(3). The speaker’s decision needs to be in conformity with the constitutional provisions. If not, it is no decision under the Constitution.
Insights into Editorial: Patents over patients

14 March 2016
Article Link

The U.S.-India Business Council (USIBC) to the U.S. Trade Representative (USTR) recently revealed that India has given private assurances to the US that it will not grant licences allowing local firms to override patents and make cheap copies of drugs by big Western drug makers.

Background:
It should be noted here that the USTR has placed India on its “priority watch” list for two years in a row saying the country’s patent laws unfairly favour local drug makers. A bone of contention has been a legal provision that allows the overriding of patents on original drugs and granting of ‘compulsory licences’ to local firms to make cheaper copycat medicines.

What is Compulsory Licensing (CL)?
CL is the grant of permission by the government to entities to use, manufacture, import or sell a patented invention without the patent-owner’s consent. Such licenses permit a third party to make, use, or sell a patented invention without the patent owner’s consent.

Laws governing such licenses:
India can grant such licences under certain conditions, such as public health emergencies, to ensure access to affordable medicines.

- Under Indian Patent Act, 1970, the provision with regard to compulsory licensing is specifically given under Chapter XVI. The conditions which need to be fulfilled in order for a compulsory licence to be granted are also laid down under Sections 84 and 92 of the Act.

- Under Section 84 (1) of the Indian Patent Act, any person may request a compulsory license if, after three years from the date of the grant of a patent, the needs of the public to be covered by the invention have not been satisfied; the invention is not available to the public at an affordable price; or the patented invention is not “worked in,” or manufactured in the country, to the fullest extent possible.
- India’s National Manufacturing Policy (NMP) also supports the application of CL across different manufacturing sectors, more specifically to ensure access to the latest green technologies that are patented.
- The NMP provides the “option” to entities such as the Technology Acquisition and Development Fund “to approach the government for issue of a CL for the technology which is not being provided by the patent holder at reasonable rates or is not being ‘worked in India’ to meet the domestic demand in a satisfactory manner.”
- CL is also permitted under the WTO’s TRIPS (IPR) Agreement provided conditions such as ‘national emergencies, other circumstances of extreme urgency and anti-competitive practices’ are fulfilled.

Concerns over the recent assurance:
The disturbing word in the recent communication from the USIBC to the US Trade Representative is “privately”. This is related to Track II Diplomacy (Track II diplomacy refers to “non-governmental, informal and unofficial contacts and activities between private citizens or groups of individuals, sometimes called ‘non-state actors’. It contrasts with track I diplomacy, which can be defined as official, governmental diplomacy that occur inside official government channels).
- Track II flourishes in diplomacy, but the idea of Track II policy is problematic. Policy must always be created and operated transparently, or government runs the risk of losing credibility.
- Yet, the government appears to have offered a verbal, Track II-like reassurance on drug patents, which has found its way into the official record.
- Technically, private assurance suggests that India is willing to pay heed to multinational requests to respect intellectual property and to protect incomes accruing from it, even if it amounts to disrespecting the right of its citizens to life and health.
- Such an assurance also goes against the main spirit of Patents Act and the public health safeguards enshrined in it.

Natco’s case:
Based on section 84, Natco, an Indian generic manufacturer, applied for India’s first compulsory licence some years ago and convinced the patent office that Bayer’s
patented drug for kidney cancer, Sorafenib Tosylate, was excessively priced and available to hardly 2% of patients.

- In sharp contrast to Bayer’s Rs 2.8 lakh per month price tag, Natco offered to sell its version of the drug at Rs 8,800 per month.
- The controller of patents granted a licence upon the payment of a 6% royalty rate to Bayer, ensuring this was not a zero-sum game but one that could potentially benefit the patent owner as well, given Natco’s knack of selling in markets beyond the ordinary purview of the high-priced patented drug.
- Upon appeal by Bayer, the patent office decision was validated, with some minor modifications in royalty rates.

Unfortunately, despite this excellent start to the invocation of an important public health safeguard, no other licence has been granted since.

**WTO’s view:**

The WTO’s fourth ministerial conference in Doha in 2001 had adopted a declaration which balanced the imperative of national health against the transnational rights to intellectual property.

- It established the primacy of the right of member nations to protect public health and promote access to medicines for all. It further clarified that each member has the sovereign right to decide the grounds for granting compulsory licences according to national interests, and implicitly did away with the need for an emergency or a situation of urgency, which are listed both in Trips and in the IPA.
- The Indian government is, therefore, under no compulsion to put multinational interest ahead of the imperative of public health. It only needs to be fair in its policy — and transparent.

**What needs to be done now?**

World over, compulsory licensing is largely a matter of government discretion to be invoked at the government’s pleasure. However, in India, Section 84 makes clear it’s a legal entitlement that cannot be pimped away through private assurances to foreign friends. Rather, the government is obliged to adjudicate each application on merit, donning its robe as a quasi-judicial authority. The patent office must, therefore, be
equipped with personnel vested with a fair degree of adjudicatory competence and independence.

- If serious about its constitutional commitment to good health, the government must immediately formulate a legal framework to compel private parties to disclose drug and disease data.
- Also, it must ensure quasi-judicial authorities (the patent office) remain relatively independent and are infused with sufficient training to ensure a fair, impartial and competent dispensation of justice.

**Insights into Editorial: How reforms killed Indian manufacturing**

**15 March 2016**

**Article Link**

Manmohan Singh, the then minister of finance, ended his budget speech of 1991–1992 with a quote from French novelist Victor Hugo: “No power on earth can stop an idea whose time has come.” He then went on to conclude with the declaration: “Let the whole world hear it loud and clear. India is now wide awake. We shall prevail. We shall overcome.”

- This speech set the stage for the cleanest declared break from the past that India has seen on the economic front.
- 2016 marks 25 years since the so-called “economic reforms” were launched in India in July 1991.
- By now, intentions behind policies and practices that characterized such reforms are well known, viz. radical deregulation, marketization and privatization of the industrial, technological and financial sectors, and an across-the-board induction of foreign direct investment and foreign institutional investment, and so on.

What necessitated such transformation?

Licence raj had the unintended consequence of giving birth to a vast and unending bureaucracy, significant public expenditure and the development of a few large corporations that would dominate the private sector. Besides, exports were encouraged while at the same time imports were discouraged.

What changes were introduced?
The external shock of 1991 set the stage for a fundamental mindset shift. The government no longer selectively removed restrictions and rules, though they were only selectively applied. The government also did away with licence raj, ended many public monopolies, and opened several sectors to automatic approval of foreign direct investment. It was an undeniable paradigm shift, and one that changed India dramatically.

The broad goals of this transformation were:
1. To increase the productivity of investment of Indian industries.
2. To improve the performance of the public sector in order to gain a competitive edge in a fast changing global economy.
3. To achieve greater social equity.

Analysis:
Twenty-five years hence, it is evident that the economic growth rates are transformed; not only was India’s growth in this quarter-century substantially higher than in the past, it was also less volatile than in the high-growth period of the 1980s, when it was hovering at an average of around 6%.

- As a result, India has taken its place on the global economic stage—both as a key market for most multinational corporations and as a global provider of services.
- The reforms spurred a new age of entrepreneurship, making India the fourth largest country and one of the fastest growing computer and digital start-up hubs in the world.

However, not all goals have been met:
- Income inequality has grown, and the ratio between the top and the bottom wage-earners has doubled in 20 years.
- Conglomerates created during the license raj still dominate many sectors.
- India is No. 130 in the global Ease of Doing Business rankings.
- Also, industrial India is plagued by a lack of skilled, educated workers.
- Additionally, some sectors—such as broadcasting, telecom, retail, and information technology—have leapfrogged in their development cycle, while others such as agriculture, roadways, manufacturing and electricity have yet to change much.
Structurally too, despite consensus at the central level—which has transcended governments led by different parties and coalitions—reforms have been deployed in fits and starts and not as a continuous process.

The reform mindset has taken hold in states to different degrees, as evidenced by variable progress on state-level fiscal and social indicators (education and health).

Negative effects of these reforms:

**On IT:**
As part of 1991 economic reforms, the government reduced import duties on all IT hardware purportedly to facilitate software promotion and growth on a globally competitive basis using imported hardware.

However, by 1994 our fledgling civilian IT hardware industry folded up. During those days, IT hardware far more technologically sophisticated than the commercial hardware being imported by our software companies was being manufactured by Indian defence, atomic energy and space agencies and even exported to other developing countries such as Brazil, Malaysia, and Indonesia. But, the government failed to take note of this.

**On fibre telecommunication systems:**
The reforms also dealt a body blow to the indigenous optic fibre telecommunication systems industry, a project begun by the Department of Electronics (DoE) in 1986 with the setting up of the public sector utility, Optel. This was mainly because of the reduction in import duty on fibre from 40% to 10%. With this, large quantities of optic fibre began to be imported. This move affected the domestic industries very badly.

**On electronic corporations:**
In 1990-91, there were at least a dozen electronics corporations producing a range of high-tech radio communication equipment, industrial electronics and control and instrumentation equipment worth annually around Rs.6,000 crore.

However, the reduction in customs duties from 60% to 30% overall, which led to a glut of imports, forced many of these corporations to halt production and become import agents, a phenomenon repeated in the key solar photovoltaic industry.
Reforms also led to large-scale import of cell-phone handsets that could have been easily produced here had a policy of phased manufacture been adopted. As a result, the entire market for such handsets was met by unnecessary imports from Day One in 2005-06. In 2013-14 cell-phone imports totalled Rs.35,000 crore.

Also, by 2000, foreign brands grabbed 80% of the television sets market, from a situation where 10 local companies catered almost fully to the demand. Six of the 10 indigenous television makers have folded up, with a ripple effect on the electronic components sector.

**On heavy electrical equipment industry:**
This industry was led by Bharat Heavy Electricals Limited (BHEL). Up until 1998-1999 this industry was doing very well. However from the next year onwards, four Chinese power plant equipment manufacturers began to seriously erode BHEL’s market.

- This erosion was despite the quality and technical reliability of the Chinese equipment being considerably inferior to BHEL’s products.
- Besides, the United States, home to General Electric and Westinghouse, had already imposed penal anti-dumping duties on Chinese power plant equipment. Yet, the Indian government merely watched as BHEL lost 30 per cent market share by 2014.

**Conclusion:**
The above analysis indicates that, despite few positive gains, the reforms have largely led to deindustrialisation. Products that we were manufacturing in the 1990s are being imported now. The negative impact this deindustrialisation has had on employment and on our economy is gigantic. Therefore, the government must now act immediately to halt the destruction of domestic industry on such a massive scale.
Insights into Editorial: A dispute that begs resolution

16 March 2016

Article Link

The resolution to the Sir Creek dispute has been considered a low-hanging fruit for sometime now. The demarcation of the 96 km strip of water in the Rann of Kutch marshlands was one of the factors that contributed to the 1965 India-Pakistan war.

- Pertinently, it is tied to the larger issue of delineating maritime boundaries and exclusive economic zones. That the creek has changed its course significantly over the years complicates matters further.

Background:

Sir Creek is a strip of area between Pakistan and India in the Rann of Kutch marshlands. It is situated in south east of Karachi, and divides the Kutch region of the Indian state of Gujarat with Sindh province of Pakistan.

- Both countries have many creeks in the delta region such as Kajbar, Kori, Sir and Pir Sanni creek. The significance of Sir Creek is that it lies between the boundary of India and Pakistan. The far ends starts from Border Pillar (BP) 1175 and other end opens up into the Arabian Sea.

- A dispute arose on the issue of drawing a dividing line between the two countries. The demarcation becomes significant when the line extends seawards to divide the sea boundary between India and Pakistan. The line then directly affects the division of sea resources including minerals, fish and other marine life between the two countries.

- Going over to the history of this dispute, it is worth mentioning that the Bombay Presidency, a British Indian Province established in the 17th century, was divided into four commissionerates and twenty-six districts with Bombay city as its capital. The four divisions were Sindh, Gujarat, Deccan and Karnataka.

- In 1908, the commissioner of Sindh brought to the notice of government, an act of encroachment on the part of Kutch State and Kutch Darbar was asked for an explanation by Government of Bombay. During several sessions and series of meetings, both representatives of Sindh and Kutch states were provided ample opportunity to explain their positions before final decision. In 1914, with Kutch
Darbar awarding a triangular area to Sindh state in the north and some area to Kutch state in south, resolved the issue.

- The boundary demarcation as per 1914 resolution was marked on the map B-44. To demark the boundary on land, 66 pillars were erected vertically and 67 pillars were erected horizontally. Last Border Pillar (BP) 1175 was at the far end of the Sir Creek and a green line was marked on the eastern bank of the Sir Creek.

During recent past history, the question of boundary in the Sir Creek region came up first time for discussion during 1969, when a delegation from the Government of India visited Islamabad for the purpose of actually settling the question of boundary alignment from BP 1175 to Mouth of Sir Creek opening up into the Arabian Sea. Since then twelve rounds of talks and three technical level meetings have been held in this regard but any success could not be met due to Indian evasive attitude.

**Significance of this region:**
The issue may not have risen, since the creek itself is located in the uninhabited marshlands, has limited military value but holds immense economic gain. The region being rich in oil and gas below the sea bed, control over the creek will add enormously to the energy potential of each nation.

**How Convention of the Laws of the Sea has further increased the tension?**
Initially territorial waters extended only till 12 nautical miles but since the advent of the 1982 UN Convention on the Law of the Sea, a coastal state can now have control over five sea zones: internal water, territorial sea area (12 nautical miles wide), contiguous zone (12 nautical miles wide), the (EEZ) Exclusive Economic Zone (200 nautical miles wide), the continental shelf (from 200 nautical miles up to maximum 350 nautical miles wide). The EEZ can thus be exploited commercially both for the undersea energy as well as nutrient sources.

- The said Convention gives additional rights to both India and Pakistan over sea resources up to 200 nautical miles in the water column and up to 350 nautical miles in the land beneath the water column.

- It also provides principles on the basis of which sea boundaries have to be drawn between the states adjacent to each other with a concave coastline. In short, the land boundary’s general course of direction on the land leading up to the coast
can make a difference of hundreds of square nautical miles of sea when stretched into the sea as a divider between the said two states.

- With the adaptation of 1982 Law of the Sea Convention by both countries, the governments have suddenly realised the enormous sea resources that can be lost or won on the basis of the land terminal point where the border between India and Pakistan ends. That is why Sir Creek has now become more contentious than ever before.
- Besides, both countries are bound to protect their sea-lanes of communications and make efforts for increasing the Exclusive Economic Zone (EEZ) area through claiming Continental Shelf by submitting claim to UN Commission on Limits of Continental Shelf (CLCS).

Pakistan’s arguments:
Pakistan claims the entire Sir Creek based on a 1914 agreement signed between the government of Sindh and rulers of Kutch.

India’s arguments:
India contests Pakistan’s claim, stating that the boundary lies mid-channel of the Creek. In its support, it cites the Thalweg Doctrine in International Maritime Law,
which states that river boundaries between two states may be divided by the mid-channel if the water-body is navigable.

Who is being affected?
The biggest casualty of not delimiting the Sir Creek is the incarceration of thousands of innocent fishermen from the border region who are routinely arrested and their boats and materials confiscated under the premise of illegal intrusion, even though there is no cognisable territorial and maritime boundary delimitation in the area.

- These innocent civilians are deprived of their fundamental human rights. They are denied consular assistance; many are allegedly tortured and languish in jails while being subjected to horrible living conditions and without any meaningful access to judicial process.
- Some prisoners go missing and may even be presumed victims of custodial killings. In goodwill gestures, some prisoners are fortunate enough to be freed, often in swaps.
- Various studies have also shown that this region has become a safe haven for international drug mafia.

Why deadlock?
One of the chief reasons for the deadlock is that India wants the dispute resolved solely through bilateral dealings in the spirit of the Shimla Agreement of 1972, while Pakistan favours third-party involvement and wants to link the resolution of the dispute to contested territories under Indian occupation.

Options before both the countries:

- Designating the **non-delineated area** — Sir Creek and its approaches — as a **zone of disengagement or a jointly administered maritime park**. 
  Such a joint administration could see licensed fishermen from both countries fish in the area without fear of incarceration.
- Alternatively, given the creek’s ecological sensitivity, both countries could designate the area a **maritime sensitive zone**. In fact, given the challenges posed by climate change, environment protection offers a significant opportunity for bilateral cooperation.
- Another option available is the constitution of an arbitration tribunal under Article 287 (c) of the UN 1982 Convention on the Law of the Sea (Unclos).
The solution to the Sir Creek issue also lies in the adoption of the Bombay Government Resolution of 1914, which demarcated the boundaries between the two territories, included the creek as part of Sindh, thus setting the boundary line known as the “Green Line” or the eastern flank of the creek.

Conclusion:
Both India and Pakistan are passing through a crucial phase that offers huge potential for collaboration. While issues such as terrorism remain, the youthful demography of both countries holds out significant hope. The post-1971 generation in both countries is increasingly stepping into leadership roles. Unburdened by the baggage of history, and tackling issues on the basis of pragmatism, a paradigm shift in bilateral relations is within grasp.

**Insights into Editorial: Making India GI brand conscious**
17 March 2016
**Article Link**

Geographical indications (GIs) right is often described as “sleeping beauty”. Also, of all the Intellectual Rights, it is the least discussed right.

What is GI status?
GI status is an indication that identifies goods as produced from a particular area, which has special quality or reputation attributable to its geographical origin.

- GI-branded goods possess a recall value amongst consumers who essentially attribute these characteristics, qualities or reputation to such geographical origin.

GI registration confers:
1. Legal protection to the products.
2. Prevents unauthorised use of a GI by others.
3. Helps consumers get quality products of desired traits.
4. Promotes economic prosperity of producers of goods by enhancing demand in national and international markets.

Significance of GIs:
- GIs support and protect local production, generate local employment and are mostly untouched by industrialisation, originating in villages or small towns.
They are also popular for their unique production methods. Since consistent quality is a must in GI-branded goods, and often cements itself as a consumer recollection point, producers are expected to diligently follow specific production methods.

They also make way for the construction of ancillary industries like tourism and lodging in the respective regions, enabling visitors to get a first-hand experience of the manufacturing process and absorb the history thereof. Such ancillary industries also create local employment and aid in the socio-economic development of the region in the long run.

GI status also boosts exports.

**GI Act in India:**
Complying with World Trade Organisation obligations, India enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999 (GI Act) and has set up a registry in Chennai to register such names.

- The act is administered by the Controller General of Patents, Designs and Trademarks.
- Covering agricultural goods, manufactured and natural goods, textiles, handicrafts and foodstuffs, the GI Registry’s website lists 238 registered names as of March 2016.
- While the list has popular GIs like Basmati rice, Darjeeling tea and Pashmina shawls, many names on the list are lesser known or never heard of, despite being in existence for decades.

**Problems with the present GI Act:**

- India’s GI Act does not lay much emphasis on inspection and monitoring mechanisms for GI protection.
- Also, quality associated with geographical origin is the hallmark of a GI and the current legal framework evidently lacks teeth to ensure it.

**GIs and Make in India:**

One of the objectives of the “Make in India” programme is to improve and protect the Indian intellectual property (IP) regime. The steps envisaged to achieve this objective include increased posts in IP offices, e-filing facilities, major fee reduction for Micro,
Small and Medium Enterprises, holding awareness programmes etc. However, a less discussed IP right in this context is ‘geographical indications’ (GIs).

- Despite the gradual rise in GI registrations, the role and scope of GIs in the Make in India programme has perhaps remained unnoticed in discussions.
- Considering that GI-branded goods can be made 100% in India without the need for any foreign direct investment (FDI) and that they can promote socio-economic development of the respective regions, GIs are perhaps the most ideal IP rights to foster and realise a programme like Make in India.

What needs to be done now?

- First of all, quality of such products has to be ensured. It is necessary to preserve and maintain high quality in such origin-specific goods.
- Just like the European law on the protection of names relating to agricultural goods and foodstuffs, India too should enact a law in this regard. Such a law gives a competitive advantage to producers and enables consumers to make more informed choices by providing clear information on origin-specific products and their characteristics.
- To preserve the consumer trust, the law should mandate: (i) effective verification and controls at multiple levels in the supply chain, ensuring compliance with product specification before placing it in the market and (ii) market monitoring of the use of the names to ensure legal compliance.
- Besides, the current Indian legal framework for GIs needs to be strengthened to address quality control and consumer expectations by insisting on multi-layered quality control systems as a precondition for registration.
- Still a greenhorn in GI protection, India must hand-hold producer bodies, look at successful models elsewhere and mould these to suit the ground realities of protection and enforcement in a developing country. Other important issues faced by GI producer bodies are market access and funding for enforcement and marketing.

Conclusion:
GI Act, with a few amendments to fill the serious missing gaps described above, coupled with diligent implementation can turn into a magic wand for the Make in India programme.
**Insights into Editorial: Let larger pictorial warnings stay**

17 March 2016

**Article Link**

**Summary:**
Just few weeks before pictorial warnings covering 85% of the principal display area of the front and back sides of all tobacco products can become effective, a Parliamentary Committee on Subordinate Legislation report tabled in the Lok Sabha recently said that the requirement will be “too harsh” on the tobacco industry and will result in “flooding of illicit cigarettes”.

**Background:**
In October 2014, the Ministry of Health and Family Welfare had first proposed that 85% of a cigarette packet’s surface area on both the sides should carry health warnings, up from 40% on one side of the packet. It was opposed by the tobacco industry and put on hold after the parliamentary panel said it needed to analyse the impact on the industry.

**What has the committee recommended?**

- The 15-member committee has recommended that pictorial warnings be restricted to only 50% on both the sides of the cigarette packets.
- In the case of bidis, chewing tobacco and other tobacco products, the committee has recommended that the warning be restricted 50% of the display area and on only one side of the packet.

**The committee’s recommendations are based on the following assumptions:**

- In the case of bidis, there would be virtually no space left for printing the brand name and logo if 85% of area is earmarked for printing the warning. Besides, it is impossible to print the pictorial warning on both sides as the bidi packet has practically only a single round surface.
- Also, such pictorial warnings, besides causing significant rise in illicit tobacco products, would severely impact the domestic cigarette industry and affect the livelihood of thousands of tobacco farmers and workers.
- However, the committee has not stated the logic for restricting the warning to only one side in the case of chewing tobacco products.
Problems with the committee’s recommendations:

- Various studies indicate that due to larger graphic warnings, 58% of smokers in Canada and nearly 54% in Brazil and Thailand changed their opinion about the health consequences of smoking. However, the committee has failed to take note of this.
- The committee attempts to justify the reduction in pictorial warning size by arguing that tobacco consumption in India has increased and not declined after pictorial warnings were introduced in 2009. Tobacco companies too claim that there is no evidence whatsoever to suggest that large, graphic health warnings reduce consumption. However, there is no clear evidence in this regard.
- Also, the committee’s claim that pictorial warnings would encourage illicit trade is at best hollow. According to a 2015 paper in the journal Tobacco Control, a national cross-sectional survey undertaken in Australia after plain packaging was introduced found “no increase” in the use of illicit unbranded tobacco, contraband cigarettes or purchase from informal sellers. If plain packaging does not lead to increased illicit sales, there is no reason to believe that pictorial warnings would. Needless to say, sale of illicit tobacco products is more likely to be linked to cost of tobacco products than larger pictorial warnings.
- The Committee also claims that education and awareness campaigns are better than increasing the pictorial size. While a comprehensive approach that includes education and awareness generation should be adopted, there is no evidence to back the committee’s claim. California spent millions of dollars to attain the level of awareness that Canada achieved through pictorial warnings at little or no cost to the government.

Why stricter laws in this regard are necessary?

- Nearly one million tobacco-related deaths take place in India every year, and in 2011, the total health expenditure burden from all diseases due to tobacco use amounted to more than Rs.1,00,000 crore, which is 12% more than the combined State and Central government expenditure on health in 2011-12.
- The revenue earned through tobacco excise duty during the same period was a paltry 17% of the health burden of tobacco.
Also, 12% of children in India in the 13-15 age group use tobacco. Similarly, in the case of adults in India, the percentage is 35%.

Why larger pictorial warnings are necessary?

Besides being unaware of all the risks associated with tobacco use, a vast majority of consumers in India of bidi and chewing tobacco are poor and less exposed to awareness campaigns.

Hence, larger images on both sides of the packet are the most effective and powerful way to communicate health risks to this population. They also provoke a greater emotional response, decrease tobacco consumption and increase motivation to quit.

Comparison to other countries:

India is ranked 136 among 198 countries in terms of prominence of pictorial health warnings on tobacco packaging.

At 30%, the only other country on the list with a smaller warning than India is Cayman Islands.

Despite having relatively lower tobacco use than India, countries like Thailand, Australia, Uruguay, Brunei, Canada, and Nepal have large-sized warnings.

How to curb illicit trade?

Curbing illicit sales of tobacco products, if they really exist, should be a high priority for the government and the companies; there are several well-proven methods that India can adopt to fight this menace.

For instance, Brazil and California use a digital tax stamp using invisible ink to keep illicit trade under check, while the European Union uses barcodes and Malaysia uses a security mark with a visible and an invisible feature.

Conclusion:

Unlike other measures, excise duty hike and bigger, graphic pictorial warnings are easy to enforce and have the highest impact on tobacco consumption. Considering the huge public health benefits, it is imperative that the Health Ministry ignore the recommendations of the committee and enforce pictorial warnings that cover 85% of the principal display area on both sides of all tobacco products. Any dilution in the size of warning would entail a delay of several months and cost thousands of lives. The country can ill afford it.
Insights into Editorial: Privacy is a fundamental right

19 March 2016

Article Link

The Central government has forced the Aadhaar Bill through Parliament in a week. However, as cited by many experts, there are extensive threats to privacy contained within this legislation.

- The Aadhaar bill seeks to institutionalise an extensive, pervasive database that links multiple other databases containing our personal information.
- Many people are unhappy with the fact that the government passed the Aadhaar Bill with no public consultation about the sort of privacy safeguards that are necessary for such a database.

The right to privacy in India:
The debate over Right to Privacy began in late 1940s. While drafting the Constitution, amendments were moved to insert safeguards against search and seizure within the fundamental rights chapter.

- However, Dr. B.R. Ambedkar pointed out that these safeguards were already provided by the Code of Criminal Procedure. He also observed that adding these safeguards to the Constitution would make it impossible for the legislature to tamper with them.
- As a result, amendments were not passed. But, debates over privacy issue were disappointing since they offered no discernible reason for this choice.

Supreme Court’s observations:
Recognizing the gaps, the Supreme Court soon read the right to privacy into the Constitution. Progressively, in case after case, it realised that the rights to liberty and freedom of expression cannot survive if the right to privacy is compromised. It began with recognising people’s rights against government intrusion into their homes and went on to build this norm over the years across a variety of cases.

Main concerns:
The Aadhaar database is a dangerous thing in itself. This database could cause widespread disaster if breached. Despite multiple assurances of safety, it has offered
citizens no guarantee of compensation or recompense if its poor choices endanger them.

The two enormously significant exceptions permitted under the Bill have further increased concerns. The exceptions permit the government to access the database in two separate ways-

1. One way is if a **district judge orders disclosure of information**. This is very dangerous if one bears in mind that we have inadequately trained district judges all over the country, and that they are not given enough support to understand the implications of a database like Aadhaar. Also, the legislation offers no avenue where the affected party may appeal if her rights are affected. This creates a huge window for access and misuse of the database.

2. Under another route, a Joint Secretary authorised by the government can direct disclosure of information **“in the interests of national security”**. This direction again leaves the affected party out of the equation, and nothing in the legislation compels any kind of public or independent oversight that may help ensure that there is no abuse of power.

**What needs to be done?**

- It is necessary to take every possible precaution when building such a big database. It is also necessary to ensure that whoever creates a hazard by leaking the information takes full responsibility for the ill-effects.

- The government should also provide internal procedural safeguards with independent external monitoring for the protection of rights.

- Also, known and accessible remedies need to be made available to those whose privacy is violated. The remedies are supposed to include thorough and impartial investigation and the option of criminal prosecution for gross violation.

- The Aadhaar Bill excludes courts from taking cognisance of offences under the legislation, requiring that the authority that runs Aadhaar consent to prosecution for any action to be taken under the legislation. This part of the Bill completely undermines all the safeguards that do exist within it, since citizens cannot access these safeguards without co-operation from the authority which is arguably in a position of conflict of interest. Hence, it is necessary to revisit this provision.

**Conclusion:**
If privacy has to be secured meaningfully, then some limits have to be placed on the government’s ability to gather information. Also needed is a comprehensive law to protect the privacy and personal data from unauthorised surveillance and misuse. Anything short of that will leave the citizen short-changed.

**Insights into Editorial: The Uday plug-in**

21 March 2016

**Article Link**

The Ujwal Discom Assurance Yojana (Uday) has been the subject of much debate in the recent past.

- Uday was launched to turn around power distribution companies (discoms), which are generally inefficient state government monopolies that are struggling financially.
- Seventeen states, adding up to 77% of India’s power demand and 79% of outstanding discom debt, have already agreed to Uday. Of these, nine states, which together constitute 42% of power demand and 55% of discom debt, have also taken the next step, signing a tripartite agreement between the Centre, the state government and the discom, committing to a significant improvement in operations and thus financial performance.

**Key features of the scheme:**

- The scheme allows DISCOMS in few selected states to convert their debt into state bonds. According to the scheme, states will take over 75% of DISCOM debt as on 30 September 2015 over two years – 50% of DISCOM debt will be taken over in 2015-16 and 25% in 2016-17.
- States will issue non-SLR including SDL bonds in the market or directly to the respective banks / Financial Institutions (FIs) holding the DISCOM debt to the appropriate extent.
- The centre will not include the debt taken over by the States as per the scheme in the calculation of fiscal deficit of respective States in the financial years 2015-16 and 2016-17.

However, the scheme is not free from criticisms. Main criticisms are:
- The cost of borrowing for state governments has risen sharply since the Uday was launched.
- Also, as state governments have tried to raise funds by selling Uday bonds, they have been blamed by some for creating a shortage of funds for other borrowers.
- It is also argued that the gap between the costs at which the Centre and the state governments borrow — “the yield gap” — has now widened to levels only seen at a time of crisis.

Is there a shortage of funds?
Experts say, “NO”. This whole process is just debt replacement where the banks that had earlier lent to the discoms get their money back, and are then free to lend in the economy, or even buy state development loans (SDLs) from the market. Even the non-banking companies that receive the proceeds of these SDLs may deploy them in bank bonds, among others things, and these funds thus enter the market again.
- However, currently there is tightness in liquidity, that is, more borrowers than funds. But, the main cause for the shortage in funds seems to be a pick-up in bank credit growth. After nearly 15 months of growing below seasonal trends, credit has started moving as per seasonality from October onwards, showing that economic momentum is picking up.

What should policy makers keep in mind?
Given its large borrowing needs, the Central government issues most of its bonds in the first half of the fiscal year so as not to crowd out the market towards the end of the year. State government borrowing, however, is still back-end loaded. Hence, a better-planned borrowing calendar for the states is becoming a necessity.

Conclusion:
The discoms, along with the railways, are among the few generally large and inefficient government monopolies that need reform. Change in the discoms can be further complicated by the fact that these are state government controlled. Under Uday, states have committed to transformative operational improvements in the next three-four years. The political will to raise tariffs and improve billing and collection is likely to be tested. But technological improvements, like in metering and feeder line separation, should help and the merging of discom losses with fiscal deficits a few years down the line should improve the success rate.
**Insights into Editorial: Why some states could delay real estate regulator Bill**

**22 March 2016**

**Article Link**

The Real Estate Regulation Bill is expected to trigger a Centre-state clash as some states, including Maharashtra, Haryana and West Bengal, already have similar rules in place.

**Background:**
The Real Estate (Regulation and Development) Bill, 2013 was passed in Parliament recently. It seeks to create a set of rights and obligations for developers and buyers.

- The bill is aimed at protecting home buyers from real estate developers who fail to deliver on time, and regulating India’s murky real estate sector.
- Developers will now have to set aside 70% of sales proceeds from a project in an escrow account and get mandatory approvals before launching a project. Also, buyers and developers will be paying the same interest rate on defaults.
- The Bill has also made it mandatory for all residential and commercial projects to register with the regulator.
- It also provides for imprisonment of up to three years in case of promoters and up to one year in case of real estate agents and buyers for any violation of orders of Appellate Tribunals or monetary penalties or both.
- The mandatory registration for projects has been brought down to 500 sq m area, or those comprising eight flats.
- Also, a clear definition of carpet area and a system that would require the consent of two-thirds of the buyers in case there are changes in project plans have been included in the Bill.

**Main concerns:**
- The 2013 Real Estate Bill is a model Bill and states can have their own rules based on it. States can continue to apply their laws regulating real estate as long as they are not contradicting the central one.
- The Real Estate Bill falls under the Concurrent List and state governments are entitled to legislate.
Also, while the central rules will eventually overrule the state norms, some states might delay implementation.

Many developers have already started bargaining with state governments to not bring under-construction projects in the ambit of the Bill. Many have also requested state governments for a less stringent imprisonment clause.

The Bill also differs from existing laws in many states:

- While the central Bill mandates establishing a statutory regulatory authority to register projects in a state, West Bengal has delegated this function to a government department.
- The clause mandating 70% of the funds collected from buyers of a project to be kept in an escrow account is also inconsistent with the new Bill as many states have allowed for greater flexibility in usage of funds.
- While Maharashtra Housing Regulation and Development Act, 2012 mandates that the entire amount collected from buyers be kept in a separate account, the draft Haryana Real Estate (Regulation and Development) Bill, 2013 mandates at least 70% of the amount collected from buyers be used for the particular project.

Besides, Punjab, West Bengal and Uttar Pradesh have hinted they would prefer to continue with existing state laws on real estate. This will make it difficult to have one set of regulations across India.

Conclusion:
This bill is an important step in cleaning up the real estate market, but the journey should not end with it. State governments play a significant role in real estate and they are often the source of problems. Some estimates suggest that real estate developers have to seek approvals of as many as 40 central and state departments, which lead to delays and an escalation in the cost of houses. It is also true that without real estate reforms at the level of states, it will not be possible to meet the ambition of making housing accessible for all urban dwellers. Hence, it is time for the centre to address these concerns before proceeding further. It is also expected that, once the Bill is notified, states will get more investments in the real estate sector and property prices will come down.
Insights into Editorial: LPG for every Indian household

23 March 2016

Article Link

The Cabinet Committee on Economic Affairs, chaired by the Prime Minister, recently approved Pradhan Mantri Ujjwala Yojana. The scheme is being implemented by the Ministry of Petroleum and Natural Gas.

Aim of the scheme: It aims at Providing Free LPG connections to Women from BPL Households.

Details:

- The scheme aims to provide 5 crore subsidized LPG connections to women of poor households (BPL).
- Under the scheme, Rs 8000 crore has been earmarked for providing five crore LPG connections to BPL households. This Scheme would be implemented over three years, namely, the FY 2016-17, 2017-18 and 2018-19.
- The Scheme provides a financial support of Rs 1600 for each LPG connection to the BPL households.
- The identification of eligible BPL families will be made in consultation with the State Governments and the Union Territories.

What makes LPG adoption necessary?

- Various surveys have indicated that the poor in the country have limited access to cooking gas (LPG). Also, the spread of LPG cylinders has been predominantly in the urban and semi-urban areas with the coverage mostly in middle class and affluent households.
- There are serious health hazards associated with cooking based on fossil fuels. According to WHO estimates, about 5 lakh deaths in India alone due to unclean cooking fuels. Most of these premature deaths were due to non-communicable diseases such as heart disease, stroke, chronic obstructive pulmonary disease and lung cancer.
- Indoor air pollution is also responsible for a significant number of acute respiratory illnesses in young children. According to experts, having an open fire in the kitchen is like burning 400 cigarettes an hour.
• Also, women and younger children are most affected by indoor pollution caused by biomass as they spend maximum time at home. Nearly 82% of pregnant women in rural India are exposed to biomass related indoor air pollution, which increases the risk of low birth weight.

• Hence, providing LPG connections to BPL households will ensure universal coverage of cooking gas in the country. This measure will empower women and protect their health. It will reduce drudgery and the time spent on cooking. It will also provide employment for rural youth in the supply chain of cooking gas.

Major barriers to LPG adoption in India and associated issues:

1. **High LPG prices**: According to a survey, as many as 95% of LPG-deprived households in India cited their inability to pay as a barrier to their adopting LPG. Expenditure capacity of poorer households in India is very low.

2. **Limited LPG distribution networks** in rural areas in the next major barrier.

3. **Awareness and administrative issues** is the third major barrier. About 40% of LPG-deprived households in rural areas cite a lack of information about the process of getting a connection as a challenge.

How can we address these issues?

• Create awareness about the actual cost of fuel and its benefits, especially those related to health.

• Tackle the issue of cash flow, especially for the strata of population who find it difficult to pay for the aggregated cost of refilling a large cylinder. Introducing smaller LPG cylinders (2 to 5 kg) for this section could be a solution.

• Leverage mobile money for LPG payments. As LPG coverage expands in rural areas, the Direct Benefits Transfer of LPG (DBTL) subsidy programme could create additional barriers for economically weaker households. These could be in the form of no bank account or the distance the person travels to have access to banking services. While the Pradhan Mantri Jan-Dhan Yojana has increased the number of rural households with bank accounts, we need innovative payment approaches to fill the gap of last mile access to banking services.

• Most rural areas are served under the Rajiv Gandhi Gramin LPG Vitaran Yojana (RGGLVY). Here, the consumer has to collect the cylinder from a dealer. Such consumers typically travel 3-11 km (one way). Hence, innovation is required in
distributing LPG in the rural areas, beyond the traditional realm of a dealership model. Leveraging rural supply chains, only for the delivery of the regulated commodity, could be one such approach.

- For households in urban slums, the absence of residential proof or a lack of interest by urban dealers to serve them also pose a barrier. The government’s scheme of selling 5 kg LPG cylinders at petrol pumps and kirana stores may help, as proof of address is not required. However, its limited penetration and retail pricing still make it challenging for many poor households. Opening exclusive dealerships for smaller cylinders (2 and 5 kg), with specific provisions to serve urban poor areas, could help overcome some of these challenges.

- Those relying completely on free-of-cost biomass (about 50-60% of the rural population) would possibly opt for the subsidised connection, but would not spend on refilling cylinders regularly. We need to focus on reducing this gap between adoption and sustained use. So, awareness creation in rural areas and among the urban poor is also a must.

- Also, the high recurring cost, as cited by poor households, in LPG purchases is not only a problem of purchasing capacity but also a perception and cash-flow issue. Various studies suggest that households that buy some or all of their biomass end up paying more than those who rely on LPG. Thus, LPG would be an economically attractive proposition for such households.

Conclusion:

It is welcome that the government has recognised the importance of clean cooking energy with the launch of this mammoth scheme. However, we need to go beyond subsidising connections and fuel costs and focus on issues of cash flow, awareness, availability and administration. Only such a comprehensive approach will help poor households have a better life.
Insights into Editorial: Why Belgium?
24 March 2016

Article Link

In the wake of recent terrorist attack in Brussels, which ISIS has claimed responsibility for, there’s one big question on everyone’s mind: Why Belgium? How did this small European country become a hub and a target for radical extremists?

- It is true that Terrorist violence is a global problem. Cities across the world all have to be on their guard. Yet while the problem may be global, the ingredients are almost always specific and local too.

Why Belgium? Reasons:

1. An Artificial State:
Belgium, nestled between France, Germany, Luxembourg and the Netherlands, was established in 1830 to serve as a neutral buffer state between the geopolitical rivals, France and Germany. Belgium’s role as a buffer state effectively came to an end after the end of the Second World War and the subsequent move toward European integration. Over time, Brussels emerged as the de facto capital of the European Union. In some ways Belgium resembles the kind of country that colonial powers created in 19th-century Africa and the Middle East, a country drawn on a map to suit the interest of powerful others.

2. Language issue:
The language issue also affects integration. Many jobs in Brussels require knowledge of French, Flemish or Dutch, and now sometimes English, too, while most people speak mostly Arabic and some French. That has blocked integration. Also, for the past three decades, Belgium has faced an existential crisis due to growing antagonism between the speakers of Dutch and French.

3. Open Borders:
The so-called Schengen Agreement, which allows for passport-free travel throughout most of the European Union, has allowed jihadists posing as migrants to enter Europe through Greece and make their way to northern Europe virtually undetected. Open borders are a huge safety risk.

4. Weak security institutions:
The security institutions in Belgium are very small and weak. Also, various security agencies in Belgium are suspicious about each other and are often reluctant to share information with another. Security apparatus of Belgium is extremely small as well. Belgian state security only has some 600 employees. Its military counterpart, Adiv, has a similar number. That makes just over a thousand intelligence officers to secure a country that hosts not only Nato and the EU institutions but also the World Customs Organisation, the European Economic Area, the Society for Worldwide Interbank Financial Telecommunication (Swift), the European Organisation for the Safety of Air Navigation (Eurocontrol), another 2,500 international agencies, 2,000 international companies and 150 international law firms.

5. **Weak cultural ties:**
Belgium’s weak state reflects the fundamental fact that roughly three-fifths of Belgium’s modern population lives in Flanders, is Flemish speaking, and has deep cultural connections with the modern Netherlands to the north. Meanwhile the other two-fifths are French-speaking Walloons, once prosperous but now increasingly economically marginalised and linked culturally with France to the south. The result from day one of Belgium’s history has been a compromised federal state, loosely held together by a constitutional monarchy originally installed by the British. Almost every aspect of lived experience in Belgium — politics, work, media, universities and civil society — is divided on linguistic grounds.

6. Two-thirds of the inhabitants of Flanders expect the country to fall apart, according to a 2007 poll. The looseness of these ties means that Belgium may lack some of the tools and resiliences that other more unified states possess — even if they do not always use them very well — to deal with terrorism.

7. **Easy target:**
Belgium, as the prototypical post-national state within an EU that is itself conceived almost as a Greater Belgium, is now established as the home to most of the institutions of the EU. This makes Brussels a target for jihadi terrorists who want to ferment a conflict in Europe between the states and institutions of Europe on the one hand, and Muslims on the other.
Conclusion:
None of this is to say that terrorists are incapable of mounting attacks which take much stronger states than Belgium by surprise. France, after all, is a classic strong state with strong institutions and a unified sense of nationhood. But Belgium’s inherent weakness, which dates from a distant era in European politics, is also now Europe’s weakness too and in the recent attack the terrorists showed that they know how to take advantage of it.

Insights into Editorial: Governor’s call
25 March 2016

Summary:
Reiterating the deepening challenges facing the global economy, RBI Governor Raghuram Rajan recently argued for a new international agreement, along the lines of the Bretton Woods conference in 1944 that yielded the International Monetary Fund and the International Bank for Reconstruction and Development. Why do we need such an agreement?
The world today is facing an increasingly dangerous situation. That’s because while all economies, both advanced and emerging, are straining to grow faster, only few are succeeding. As a result few countries have resorted to “beggar thy neighbour” policies, which have proved detrimental for all economies.
What is “beggar thy neighbour’ policy?
A beggar-thy-neighbour policy is an economic policy through which one country attempts to remedy its economic problems by means that tend to worsen the economic problems of other countries.
- Such policies utilize currency devaluations and protective barriers to alleviate a nation’s economic difficulties at the expense of other countries.
- While the policy may help repair an economic hardship in the nation, it will harm the country’s trading partners, worsening its economic status.

What necessitated countries resort to “beggar thy neighbour” policies?
It is the 2008 financial crisis which is to be blamed. In the wake of the 2008 financial crisis, global demand slumped and countries were left with a massive debt. Countries
tried to solve this problem by bringing down interest rates. When even bringing
down interest rates to zero per cent did not stimulate the economy adequately,
central banks went for unconventional tools, such as quantitative easing (QE).

- In essence, QE is the creation of new money. But such unconventional methods
  have led to the depreciation of the domestic currency and the creation of asset
  bubbles across the world.
- In return, some central banks have retaliated by allowing their currency to
devalue in a bid to corner global exports. But this string of competitive
devaluations has brought down the overall level of global employment.

What can be done to improve the situation?
Central banks in developed countries find all sorts of ways to justify their policies.
Hence, what we need are monetary rules that prevent a central bank’s domestic
mandate from trumping a country’s international responsibility.
In doing so, RBI governor has also called for a new set of rules for assessing policies
that are:

1. Acceptable (green).
3. Not acceptable at all (red).

Conclusion:
However, given the situation, India cannot afford to wait for changes in the global
order. India needs to focus on structural reforms, which lie in the domain of fiscal
policy and should shore up reforms that “increase competition, foster innovation,
and drive institutional change”. Meanwhile, the time is also ripe for building a
system fit for the integrated world of the twenty-first century.
Unusually heavy rains in densely populated areas can brew a deadly cocktail for disaster. And recent Chennai floods have made us realize that proper planning is a must for any city in the 21st century.

- Therefore, today, as India massively ramps up infrastructure and promotes smart cities, it's time to build resilience into the blueprint for the future, strengthen cities’ ability to respond to a disaster, as well as to recover rapidly if it does occur.

**What’s been done so far?**

From the time a super-cyclone hit Odisha in 1999, and a devastating earthquake shook Gujarat in 2001, India has sought to build a safer, disaster-resilient nation.

- Odisha and Gujarat were among the first states to set up **institutions to deal specifically with disasters**. Then, in the aftermath of the 2004 tsunami, and following legislation in 2005, the **National Disaster Management Authority (NDMA)** was established in 2006.

- India’s coastal areas are also making a beginning with a number of projects, including the Union government’s **National Cyclone Risk Mitigation Project (NCRMP)**, building the resilience of power infrastructure by placing electrical cables underground, among other measures.

- The NCRMP, being implemented by the NDMA, is developing a digital platform that will help determine vulnerabilities to weather-related events along India’s coastline. This will help define land-use along the 7,500-km coast — three-fourths of which is cyclone-prone — and determine how strong we need to build to save lives.

At the global level too, efforts to boost urban resilience are gaining momentum. In 2014, nine institutions, including the World Bank and the Global Facility for Disaster Reduction and Recovery (GFDRR) — the world’s largest fund for disaster prevention and recovery — announced the Resilient Cities Initiative, a worldwide collaboration to make cities safer.

**What else can be done reduce the impact?**
To increase resilience, critical infrastructure and services — schools, hospitals, water, electricity, communications systems, transportation, etc — will need to be built or retrofitted to withstand multiple hazards so that they continue to function in an emergency.

Preventing urban flooding will be equally critical. Similarly, it will be important to upgrade waste collection as carelessly handled garbage and construction debris are a major cause of clogged water outlets.

While modern technology can help forecast floods and cyclones, no precise methods exist to predict earthquakes. Enforcing building codes will therefore be imperative, especially in India where almost 60% of the landmass is seismically vulnerable.

Timely data availability has to be ensured. All towns and cities will benefit by collecting and sharing data on population densities, critical infrastructure, buildings, etc, enabling them to direct urban growth to safer places.

A swift response can keep casualties low. On the lines of Gujarat, emergency response centres should be established across India. Such centres should also be provided with specialised search and rescue equipment, and outfitted emergency vehicles so that they could navigate narrow city lanes expeditiously.

Involving local communities is also critically important. In Odisha, for example, local volunteers have been trained as first responders and equipped to provide first-aid and conduct search and rescue operations, with special evacuation procedures to be followed for the disabled and elderly. In Gujarat, all schools, including rural ones, conduct exhaustive earthquake and fire drills that instil a deeprooted culture of safety and preparedness.

Also needed is the reduction in the multiplicity of urban authorities and their alignment with disaster-conscious ways of thinking.

There should also be disaster drills conducted to educate the public on what to do during an earthquake.

Conclusion:
Natural disasters are, of course, beyond human control. But human action and inaction can profoundly affect their outcome, exacerbating or mitigating their effects on people. Preparedness is the key to managing any more such disasters.
**Insights into Editorial: Did climate change cause those floods?**

28 March 2016

**Article Link**

A lot has been discussed about weather-related extreme events and their impact on day-to-day activities. Events such as heavy downpours followed by floods, droughts, storms, heat and cold waves, and wild fires often destroy lives, property and ecosystems. At the same time such events also stretch the capacities of disaster management departments and coffers for emergency funds in various parts of the world.

- However, such events are often thought to be caused by climate change. One of the main impacts anticipated from climate change is an increase in the intensity, frequency or duration of extreme events.

Is climate change behind all these extreme events?

No. It is because **most extreme events have one or more components** that are not related to climate change. For example, incompetent forest management practices contribute to fires. Poor land use planning contributed to heavy downpours and floods in Chennai last year.

- Also, we can attribute such extreme events to climate change **only when there is reliable data**, based on sound physical principles, consistent evidence from observations, and numerical models that can replicate the event, available. But, all these conditions are not satisfied for every type of extreme weather event.

- Besides, **contribution from non-climatic factors such as human activity is often not considered** when attributing such events to climate change.

- Another confounding issue is that there is a **natural variability in the occurrence of weather events in any case**.

- For these reason, it is difficult for a scientist to be absolutely sure that a particular singular event has been caused by climate change.

What should be done?
To understand the real consequences, it is first necessary to separate the climate signal from everything else. Two approaches in this regard are helpful-

1. **Climate models**, which help simulate an event.
2. **Observational record** which are helpful in estimating the statistical chance and magnitude of an extreme event.

**Why scientific study in this regard is necessary?**

- Scientific studies of extreme weather events and their attribution to global warming may help various groups such as planners, emergency responders, policymakers and insurance companies.
- Also, better knowledge of the risk contributes to how communities, governments, investors and others prepare for the future, with regard to planning cities, proposed infrastructure, natural resources or food security.

**Conclusion:**

As efforts to improve our understanding of extreme events improve, the ability for attribution is expected to improve. As in any other kinds of scientific studies, the accuracy improves with various advances including validation across different approaches, advances in modelling methods, and the accuracy of historical records of such events. However, it is necessary to address anticipated risks even before all our models become accurate enough to estimate every detail of climate extremes. Otherwise, we will reach thresholds beyond which making corrective improvements to deal with climate change may not yield the protection we need.

**Insights into Editorial: Time for a brand new FRBM Act**

**29 March 2016**

**Article Link**

Since its introduction, the Fiscal Responsibility and Budget Management Act has been facing a rocky road in terms of implementation.

- Paused four times since its enactment in August 2003, including for a reset of the fiscal deficit target in 2008-09 following the global financial crisis, the FRBM Act has become a subject of animated debate.
- Central to this has been the question of whether the law has served the purposes for which it was envisaged. There is no denying that the Act has helped focus attention on the issues relating to fiscal consolidation. But with regard to the
larger objective of ensuring macro-economic stability, the record has been less than ideal.

Besides, the FRBM Act, 2003, has many flaws and we need to reflect on five issues and produce a truly modern act-

1. **Are fiscal rules really helpful?**

They are not necessary nor sufficient to ensure good behaviour, but they can be potentially helpful. India’s experience bears out this assessment.

The FRBM Act succeeded in disciplining the states, because the states cannot borrow without the permission of the centre, but it was spectacularly ineffective in disciplining the centre. The act failed to reduce centre’s deficit.

- Besides, experts argue, such acts are ineffective where Parliament doesn’t function as an effective watchdog.
- This act can be effective in a presidential system but not in a parliamentary system, where the government can have its way because it commands a majority in the legislature.

What can be done?

- Well-designed fiscal rules can at least help encourage a spirited discussion in Parliament on the consequences of departing from the rules and could have an impact on public opinion and market expectations.

2. **What is a reasonable fiscal deficit?**

The existing FRBM Act prescribes a target fiscal deficit of 3% of GDP for the centre but with no explicit justification for the number. Since there is also a separate limit for the states (although not specified in the Act), the combined fiscal deficit (general government deficit in International Monetary Fund terminology) is much larger.

- The Fourteenth Finance Commission (chaired by Y.V. Reddy), for example, has explicitly recommended a 3% fiscal deficit for the centre and another 3% for the states, yielding a combined limit of 6% per year for the period 2015-16 to 2019-20.

- Ideally, the FRBM Act should not prescribe specific numbers. Instead it should require the government to present every year an explicit analysis of the crowding-out implications and government debt-to-GDP ratio implications of the proposed fiscal deficit trajectory of the combined deficit over the next five
years based on explicit assumptions about GDP growth, household savings and inflation.

- This would bring out more clearly the rationale for the target and would guide discussions of departures.

3. **Apportioning the total deficit between the centre and states:**
The total deficit has to be divided between the centre and the states. Since the states have been given a large increase in their share of the centre’s tax revenues, it is reasonable to divide the total combined deficit of, say, 4% of GDP into 3% for the centre and 1% for the states. A higher allocation for the states implies a lower allocation for the centre. The proposed division and its rationale should be reported to Parliament under the FRBM Act.

- Besides, the 1% limit for the states as a whole also has to be converted into entitlements for individual states. Past practice would allow each state to borrow up to 1% of its gross state domestic product (GSDP). This seems fair, but it can be argued that states with high debt ratios should borrow less and states with a low growth potential should also borrow less. This may seem unfair, but financially weak states should be helped with more grant funds and not more borrowings.

4. **Should fiscal targets be flexible?**
The most important reason for flexibility is the need to deal with cyclical shocks. The fiscal deficit in the budget is the gap between explicit expenditure and revenue projections, which, in turn, are based on reasonable expectations regarding growth of GDP. If for some reason there is a temporary shock, such as a fall in export demand, or a temporary choking of investment, or poor rains, revenues could turn out to be lower than expected. Expenditures could also be higher for cyclical reasons, for example a drought leading to higher expenditures under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). These could increase the fiscal deficit in absolute terms, and if GDP is also lowered, the deficit as a percentage of GDP would be even higher.

- In a cyclical downturn, it doesn’t make sense to adhere to the earlier deficit target by cutting expenditures or raising taxes. Instead, we should allow the deficit to exceed the target as a contra-cyclical measure. However, it should not
be an open-ended departure from the target, but one which ensures that the “structurally adjusted” deficit remains on track.

- The structurally adjusted deficit is what the deficit would have been if the cyclical shocks had not occurred. And the approach must be symmetric—when positive shocks produce an unexpected gain in revenue, the observed fiscal deficit should be lower than the target.

5. **Would a Fiscal Accountability Council help?**

Both the Thirteenth Finance Commission and the Fourteenth Finance Commission recommended the establishment of an autonomous body to review fiscal performance under the FRBM Act. This could evolve into a statutory Fiscal Council, reporting to Parliament through the finance ministry. Such institutions have been set up in several countries, with somewhat varying mandates.

- A Fiscal Council, with technical expertise, would help generate better understanding of the consistency of fiscal stance of each budget with the longer-term fiscal trajectory envisaged under the FRBM Act. It would certainly improve the quality of Parliamentary oversight and also contribute to a more informed public debate.
- The Council would also strengthen the hands of the finance ministry, which is otherwise the lone guardian of fiscal prudence, battling other ministries typically keen on expanding expenditure.

**Conclusion:**

It is in this context that the finance minister, in his budget speech, announced that a committee would be set up to review the implementation of the Fiscal Responsibility and Budget Management Act (FRBM Act) and suggest modifications for the future. A major restructuring of the FRBM Act, taking account of these considerations, would produce a truly modern legislation in this important area.
Insights into Editorial: Decline of pollinators threatens food supply
30 March 2016

Article Link

The wild pollinators are declining, and their loss will imperil our food supply, warns a recent United Nations report, based on the global assessment of pollinators by an international team of more than 75 scientists from different parts of the world, including India.

- The large scientific panel was brought together by the Intergovernmental Platform on Biodiversity and Ecosystems Services (IPBES). Endorsed by the governments of 124 countries, the report was released last month in Kuala Lumpur.

What are Pollinators?
Pollinators are biotic agents that move pollen from the male anthers of a flower to the female stigma of a flower to accomplish fertilization or ‘syngamy’ of the female gametes in the ovule of the flower by the male gametes from the pollen grain.

Examples:
- Insect pollinators include bees, (honey bees, solitary species, bumblebees); pollen wasps (Masarinae); ants; a variety of flies including bee flies and hoverflies; lepidopterans, both butterflies and moths; and flower beetles.
- Vertebrates, mainly bats and birds, but also some non-bat mammals (monkeys, lemurs, possums, rodents) and some reptiles (lizards and snakes) pollinate certain plants.
- Among the pollinating birds are hummingbirds, honeyeaters and sunbirds with long beaks; they pollinate a number of deep-throated flowers.

Importance of Pollinators:
Most of our staple food crops such as wheat, rice, sorghum, barley and maize do not require animals for their pollination. However, wild pollinators play a very important role in the production of other crops such as some pulses, sunflower seeds, cardamom, coffee, cashew nuts, oranges, mangoes and apples.

- Pollinators also provide a key ecosystem service vital to the maintenance of both wild and agricultural plant communities.
Besides, the annual economic value of the crops pollinated by animals worldwide is estimated to be between $235 billion and $577 billion (in 2015).

Declines in the health and population of pollinators pose what could be a significant threat to the integrity of biodiversity, to global food webs, and to human health. At least 80% of our world’s crop species require pollination to set seed.

**Indian context:**
According to the IPBES report, the pollinator declines are well-documented in North America and Europe but have not yet been well-researched in other parts of the world including India.

- In India, the important pollinators of food crops are various species of honeybee, *Apis*, such as *A. Dorsata*, *A. Cerana*, *A. Florae*, *A. Andreniformes* and *A. Laboriosa*.
- However, the both pollinators and the quality of pollinator service has declined over time. Various researchers have reported a decline in the number of honeybee colonies in India. Its negative effects are increasingly being observed. For example, in the Himalayas, apple yields in recent years have decreased.
- However the picture in the Indian context, about the exact causes of low yields, is still unclear. That is to say, we have a very poor knowledge of the pollination systems of our animal pollinated crops, and how best we can manage the pollinators for optimal yields. This knowledge gap and lack of expertise have further aggravated this problem.

**Why more research in this field is necessary?**

- Lack of data and expertise in this field is a potential crisis not only for biodiversity but also for our agricultural economy. The economic stakes are huge.
- The value of animal-pollinated crops in India is in the tens of billions of dollars. Poor management of our pollinator species may be leading to lower crop yields and to losses of hundreds or thousands of crores annually.

**What needs to be done?**
The IPBES report makes a number of recommendations to restore the integrity of pollinators:
- Improvements in the science of pollination.
- Better land management.
- Strong regulations underlying pesticide use.
- Restoration and protection of habitats for wild pollinators.
- Better monitoring of wild pollinators.
- Strengthening the governance of natural assets.

**What can the government do?**

- The Ministry of Environment, Forests and Climate Change has recently launched a programme to establish a network of Indian Long Term Ecological Observatories (I-LTEO) to monitor the country’s ecosystems. The I-LTEO network offers tremendous opportunities to monitor wild pollinators and the government should make use of it.
- Pollinators in urban areas can service and enhance food production in peri-urban areas. Wild biodiversity, including pollinators, must become a significant component of future ‘smart cities’.
- Also, it is necessary to increase the level of investment in research on pollinators.

**Conclusion:**

It is not only the science that requires attention. Policies and governance for managing landscapes — natural, agricultural, urban — are equally important. Government agencies must rethink conventional sectoral approaches and narrow disciplinary perspectives. There are many factors involved in the complex environmental challenges threatening human security today. Only well-integrated approaches can successfully address them.

**About IPBES:**

It is an intergovernmental body. Created in 2012 by more than 100 governments, the IPBES seeks to provide scientific information about biodiversity and ecosystem services to policymakers of the member countries. The IPBES, with its secretariat in Germany, is administered by the UN, including the United Nations.
Environmental Programme (UNEP) and the United Nations Development Programme (UNDP).

**Insights into Editorial: Road map for a robust defence industry**

**31 March 2016**

**Article Link**

India is probably the only large country in the world which is overwhelmingly dependent on external sources for its defence requirements. India remains the world’s largest weapons importer over a five-year period according to latest report of the Stockholm International Peace Research Institute (SIPRI) on global arms purchases released recently. The report also says that China sold most of its weapons to India’s neighbours. India accounted for 14% of total imports between 2011 and 2015. This dependency on arms import is a stark reminder of how far India is from the objective of substantive self-reliance in defence production that it has aspired to since the early days of independence.

- However, after the new government came to power certain initiatives helped India improve its position in this sector.

Reforms undertaken:

- One of the early reforms ushered in was the raising of the Foreign Direct Investment limit in defence from 26% to 49% under the automatic route. This move encouraged the entry of both the domestic industry and foreign companies into the defence sector.
- The ‘Make in India’ (MII) drive also offers a way of improving the country’s self-reliance in defence production.
- Government’s recent initiatives have also encouraged major corporate houses to forge tie-ups with foreign defence companies.

What else needs to be done?
The focus of any policy should be to draw foreign defence manufacturers to India and, in the process, gain technology transfer. To accomplish this, an enabling architecture that would guarantee the protection of their Intellectual Property Rights (IPR) and commercial interests is key.

This would require two strategic changes:

1. The FDI ceiling in defence should be revised upwards.
2. The Defence Procurement Procedure (DPP) has to be fine-tuned to integrate its various components with the liberalised investment regime.

The following strategies related to the above mentioned aspects could be implemented to yield rich dividends-

1. Given the peculiarities of the sector, the government should consider permitting 100% under the automatic route, subject to certain conditions. This is necessary because even after raising the ceiling to 49%, the inflow in 2015 under the head “defence industries” was only $0.08 million. Profit is not the main issue here; it is the absence of the desired level of control that investing entities will have over their technologies with 49% ownership that acts as the dampener.
2. Use the mandatory offset (compensations that buyers obtain from sellers) to bolster the ‘Make in India’ programme. When using this strategy, it would be wise to remember that offsets do not come free. They are indeed paid for by the buyer. It should also be noted that offsets are trade distorting. As offsets come at a substantial cost, they would need to be steered. For fulfilling offset obligations, identify equipment from a shelf of projects carefully created to fill identified gaps in Indian defence technology. Make it compulsory for companies to locally produce such equipment with predetermined levels of indigenisation to be achieved over the years. For such projects, permit up to 76% FDI under the automatic route, thereby giving foreign investors sufficient control over the established entity.
3. Complement the above strategy by employing multipliers (assigning higher value) where foreign companies manufacture defence wares identified to be of critical need for the services. In such cases, allow 100% FDI, mandating only a reporting requirement to the Ministry of Defence.
4. Establish a **separate Department of Overseas Acquisitions in the Ministry of Defence** for establishing Special Purpose Vehicles with identified private sector entities to take over foreign companies. The department should in effect function as a **Defence Sovereign Wealth Fund**.

5. **Finance and support R&D/production in the private sector** as the U.S. does (the development and production of U-2, the highly successful reconnaissance aircraft, in the 1950s is a good model).

6. **Create a body in the Ministry of Defence** consisting of civilian officers, defence personnel and industry leaders to evaluate FDI flows, steer these flows and offsets, identify foreign companies for acquisition, etc. The mandate of this body should be to achieve convergence of various strategies being implemented by multiple bodies.

**Conclusion:**
The defence industry is like no other. It is evolutionary, highly technology-intensive, and demands continuously high levels of research and development (R&D) investment. Hence, development of this industry in the country would require multiple strategies, a synergic approach and unconventional thinking, taking some lessons from China which has successfully adopted many of them.