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INSIGHTS into EDITORIAL

APRIL 2017



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INSIGHTS into EDITORIAL

01.04 - Connected by air – UDAN to tap on India's civil aviation opportunities

Summary:

Five airlines will operate on 128 routes connecting over 30 unserved airports under the regional connectivity scheme wherein fares are capped at Rs 2,500 for one-hour flights. As many as 70 airports, including 31 unserved and 12 under-served ones, would be connected with the UDAN flights.

- The operators are Air India's subsidiary Airline Allied Services, SpiceJet, Air Deccan, Air Odisha and Turbo Megha. They would be operating 19-78 seater aircraft. These flights would connect airports spread across over 20 states and union territories including Punjab, Uttar Pradesh, Madhya Pradesh, Maharashtra, Andhra Pradesh, Gujarat, Himachal Pradesh, Karnataka, Tamil Nadu and Puducherry.



Need for schemes like Udan:

- There are as many as 398 “unserved” airports which have no commercial flights and 18 “under-served” airports host less than seven flights per week.
- Besides, a major reason for the poor regional air connectivity in India is that airlines do not find it lucrative to operate from small cities. The government has tried to address this concern by an adroit combination of subsidies and fare caps.

So what are the likely benefits?

- First, commercialising these 416 airports will “democratise” publicly-owned sites which have hitherto been reserved for elite use. The average citizen would get a participative stake in their use and development.
- Second, the government has rightly slashed taxes and charges on regional connectivity flights to narrow the viability gap. AAI will not charge any landing or parking charge and only 42.5% of the route and navigation facilitation charge. The owners of these airports will similarly exempt such flights from all charges whilst ensuring the full package of airport facilities.
- Third, whilst Udan is branded as a new passenger facility, an additional business opportunity is the potential for moving existing perishable cargo, fragile goods and high-value export-oriented products by air. It is only a combination of passengers and cargo which can make the scheme sustainable. Public investments should be leveraged via private management model used for major airports. Investor consultations in state capitals being planned should include potential investors in airport management and development.
- Fourth, some of the additional economic value and jobs are from developing these airports as growth centres. Providing secure and high quality road links, 24x7 electricity, clean water and sanitation are key for private management to step in with malls, airconditioned warehouses, hotels and new businesses which need secure air connectivity.

UDAN scheme:

UDAN is a **market-based policy** intervention that builds on similar programmes in the US, Canada and Australia. It is also consistent with universal service approaches established for other network-based services such as railways and telecom.

- The objective of the Scheme is to **make flying affordable for the masses**, to promote tourism, increase employment and promote balanced regional growth. It also intends to put life into un-served and under-served airports.
- It offers **viability gap funding** to operators to fly smaller aircraft to such airports with a commitment to price tickets for at least half of the seats at ₹2,500 for an hour-long flight.

Benefits to airlines:

- The Central Government will support the RCS Scheme by levying an excise duty of only 2% on Aviation Turbine Fuel (ATF) purchased at RCS Airports for a period of three years. The service tax will be levied at only 10% of the taxable value of tickets for RCS seats for a period of one year. The operating Airline will be free to enter into code sharing arrangement with domestic and international airlines.
- The State Governments will charge Vat of 1% or less on ATF at RCS Airports for a period of 10 years. It will also provide security and fire services free of cost, besides providing electricity, water and other utility services at concessional rates.
- Airline Operators will exempt RCS flights from landing charges, parking charges, and terminal navigation landing charges.

Benefits for consumers:

- The benefits for tourist hotspots such as Agra, Shimla, Diu, Pathankot, Mysuru and Jaisalmer — that would now be just a short flight away, replacing cumbersome road or rail journeys — are obvious.
- There are also significant multiplier effects of aviation activity, including new investments and employment creation for the local economies of other destinations.

How the policy protects interests of various stakeholders?

- It retains the potential for business innovation by limiting the seats at the Udan price to 50% of capacity. The remaining seats can be sold at market rates. The policy is carefully and explicitly drafted to avoid ex-post disputes.
- The policy is market driven. Flight operators had to do their own due diligence and come forward with proposals which would then be put out to bid. If a proposer failed to submit the lowest bid, they could still win by agreeing to match the lowest bid. This provision preserves the incentive for initiating proposals, whilst retaining competitive energy in the bid process.
- The policy carries forward the spirit of cooperative federalism. The Central government will fund 80% (90% in the Northeast) of the subsidy amount to be paid to the operators as VGF. The state government shall fund the residual marginal amount.

Challenges:

The new policy is, however, not without challenges. For example, there are fears that a flight from an UDAN location will be low priority for air traffic controllers in big cities. Airports in many Tier 2 and Tier 3 cities do not have big runways, so they can't take regular aircraft. That means airlines will need to induct smaller aircraft for short takeoffs and landings. Such aircraft needs specialised crew. India produces 200 to 300 pilots every year, and it's safe to say that training specialised crew will take time. The government should give serious thought to these issues if its well-intentioned scheme of regional connectivity is to become a success.

Conclusion:

Providing regional air connectivity is an important policy goal for the government. Such services deliver a host of benefits by fulfilling latent consumer demand for convenient travel, making businesses and trade more efficient, unlocking India's tourism potential, enabling fast medical service and promoting national integration. Moreover, building connections to tier-2 and tier-3 cities also generates powerful network effects with many regional passengers transferring on to the national aviation network between tier-1 cities. The Udan (Ude Desh ka Aam Naagrik) programme is designed to jump start the regional aviation market by improving the profitability of under-developed regional routes.

It will strengthen the overall aviation network at a modest market-discovered price. Passengers will benefit from enhanced air services, airlines will see more traffic on their metro routes and India will gain through faster economic growth and national integration. Thus, Udan will surely be a meaningful contributor to India's overall transformation.

03.04 - Sharpening a pro-choice debate

Summary:

The **Treatment of Terminally Ill Patients Bill, 2016** was recently introduced in the parliament. The bill, among others, aims to govern end-of-life medical care.

Controversial provisions in the bill:

Legalising suicide:

The bill permits physician-assisted suicide for terminally-ill patients. However, in its judgments in the Aruna Shanbaug and Gian Kaur cases, the Supreme Court has stated that the **law currently only permits passive euthanasia**, i.e. withdrawal of life-saving treatment. The administration of a lethal drug dose by a physician (active euthanasia) or by the patient herself (assisted suicide) would constitute attempts to commit or abet suicide under the Indian Penal Code, 1860.

It should be noted here that in both these judgments, the court stated explicitly that assisted suicide was only illegal in **the absence of a law permitting it**. Therefore, assisted suicide could be legalised if legislation was passed by Parliament to that effect.

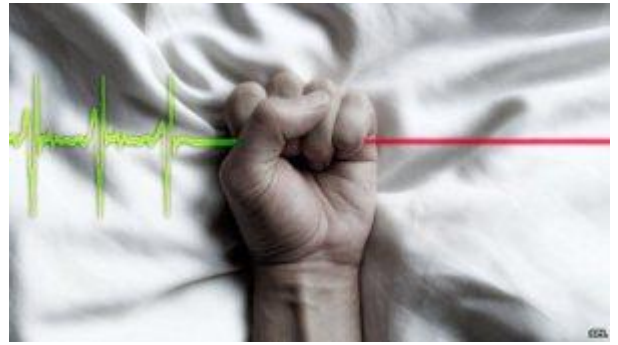
Definition of “terminal illness”:

This Bill adopts a modified definition of “terminal illness” from a draft Medical Treatment of Terminally Ill Patients Bill, which was released by the Ministry of Health in May last year. However, like the draft Bill it is based on, it defines the term as a persistent and irreversible vegetative condition under which it is not possible for the patient to lead a “meaningful life”.

The use of this subjective phrase would require second parties to decide whether a person in a permanent vegetative state is living a life that is meaningful. Persons with disabilities, in particular, are likely to be disadvantaged by such an understanding of “terminal illness”. It also gives rise to the practical question of how a person in a permanent vegetative state will be able to self-administer the lethal dosage of drugs to commit suicide.

Cumbersome procedure:

In the case of incompetent patients, or competent patients who have not taken an informed decision about their medical treatment, the Bill lays down a lengthy and cumbersome process before any action can be taken for the cessation of life. Once the medical practitioner and independent panel are satisfied that euthanasia is medically advisable, permission would have to be sought from the High Court. The practitioner would then have to receive clearance from the Medical Council of India (MCI). Such a procedure is advisable for an act like assisted suicide which might be prone to abuse. However, it would be a violation of patient autonomy if it were applied to instances of merely withholding or withdrawing medical treatment. Decisions on such withdrawal are made often and on a regular basis, and the procedure prescribed must not tie up the medical practitioner and family of the patient in litigation.



Key provisions in the Treatment of Terminally Ill Patients Bill, 2016:

- It recognises the **validity of advance medical directives by terminally-ill patients, which physicians will be bound to respect while treating them.**
- It also emphasises the need to **account for palliative care** when making end-of-life-care decisions.
- The bill recognises **the right of terminally-ill patients to withhold and refuse medical treatment**, and to express their desire to a medical practitioner to assist them in committing suicide.
- It does not permit **active euthanasia**. Once the practitioner is satisfied that the patient is competent and has taken an informed decision, the decision will be **confirmed by a panel of three independent medical practitioners.**

Role of MCI:

Given that the MCI has been affected by corruption and institutional incompetence, and likely to be overhauled completely, it is not advisable to place complete reliance on it. Ideally, its role should ideally be limited to framing guidelines and providing guidance when requested.

Ethical issues involved:

There is also a broader ethical and theological perspective. India's Constitution draws upon Western liberal ideals and the constitutions wherein they are enshrined.

- A direct line can be drawn back from those ideals to the philosophy of Enlightenment thinkers such as Immanuel Kant, whose formulations of universally applicable laws and humanity as an end in itself would argue against euthanasia. The line goes further back to Thomas Aquinas, priest, philosopher, theologian and one of the founding figures of modern jurisprudence with his formulation of natural law. The sanctity of life inherent in his philosophy would argue against euthanasia as well.
- But as argued by some experts, Indian philosophical and theological traditions across various strands of thought—from Jainism to Buddhism and Hinduism—have a more nuanced understanding of an individual's right to decide on their life and the ethical considerations therein. That understanding dovetails here with the evolution of democratic thought.

Way ahead:

Every patient is entitled to quality healthcare and treatment consistent with available resources and accepted medical standards, regardless of caste, creed or religion. Every patient has the right to refuse treatment and to be informed of the consequences of his/her refusal.

This Bill is a bold and welcome step in many respects, and is a significant improvement over the draft Ministry Bill that it is based on. It moves away from decision-making based on the 'best interests' of the patient and recognises the right to die with dignity.

Conclusion:

Efforts to allow assisted suicide have gained traction around the world in the recent past, with Albania, Colombia and Germany and Switzerland having legalised it in various forms. Even in India, the debate over euthanasia, patient autonomy and the interests of the state in preserving the life of persons is currently playing out in various fora, including the courts and the executive. While the ethical implications of these acts have been debated endlessly, there is a need to debate how such a law would be operationalised. This will help to ensure the constitutionally guaranteed right to bodily integrity and autonomy, and to minimise misuse of the law. This Bill acts as a great starting point, and must take these debates into account to be implemented effectively.

04.04 - The wheel of social justice

Summary:

The government recently decided to begin the process for establishing the **National Commission for Socially and Educationally Backward Classes with Constitutional status** in place of the National Commission for Backward Classes. Its intention is to **tackle the increasing demand for reservation by an increasing number of castes across states.**

- The usefulness and effectiveness of the commission depends on the functions entrusted to it and its composition.

Background:

The name of “National Commission for Socially and Educationally Backward Classes” is correctly chosen in line with constitutional terminology. **In 1951, Jawaharlal Nehru insisted on this name in a new clause (4) of Article 15.**



Functions to be performed by the commission:

- Along with the present functions of the NCBC, the National Commission for Socially and Educationally Backward Classes will be entrusted with the **additional function of grievance redress of socially and Educationally backward classes.**
- A new **Article 342(A)** will make it mandatory to take the concurrence of Parliament for adding or deleting any community in the backward classes list. This will introduce greater transparency.

What is to be ensured?

Socially and educationally backward classes require not only list-inclusion and reservation, but also **comprehensive and holistic development and advancement of each community towards equality with Socially Advanced Castes (SACs) in all parameters of development and welfare.** In view of this, the Commission should be entrusted with the work of **advising and guiding the Centre and the states regarding measures undertaken and required to be undertaken; monitoring their effectiveness and the progress of backward classes** and all other related tasks.

The existing statutory **composition of a judge as chairperson, a central secretary-level officer as member-secretary, a social scientist and two persons possessing special knowledge of matters relating to Socially and Educationally Backward Classes (SEdBCs) should continue.** All five members should be selected on the basis of objectivity, repute earned through long and sincere service for backward classes and knowledge and experience of society, social backwardness and developmental processes relevant to advancement of SEdBCs. They should **not be attached to any political party.**

To infuse confidence in the SEdBC public, **the practice of ensuring majority of membership from SEdBCs should continue.** Due representation should be ensured for most and extremely backward classes, who form a good majority of SEdBCs, among them castes of artisans, service-providers, fisher-folk, indigent castes etc. One of the five members may be from a religious minority — the bulk of India’s Muslims and Christians belong to most and extremely backward SEdBCs.

The government should improve its credibility by instituting, in article or rules, the process of **members’ selection through a bipartisan collegium.**

Challenges ahead:

Now, the real danger that leaders have to protect SEdBCs from is inclusion of **any socially advanced castes (SAC)** in SEdBC lists. Certain SACs are making muscular efforts for this.

Another important task calling for the attention of leaders, the Commission and the government is the categorisation of SEdBCs into **“backward”, “more backward”, “most backward” and “extremely backward” castes with sub-quotas,** so as to spread the benefits of reservation and other social justice measures equitably.

What needs to be done?

- The poor and the unemployed who are not classified as people belonging to backward classes, should be helped **through means such as scholarships and educational loans, but not through reservation.**
- Parties should resist **the temptation of using muscular agitations of powerful SACs for transient electoral advantage.**

- There should be a **common moral code based on constitutional norms and morality emphasised by B.R. Ambedkar, which should be binding on all parties.**

Historical background on reservation:

When the idea of reservations was first conceived, not only was it to be phased out after a decade, but communities were also to be 'de-inducted' from the quota list. But the last time such a decision was taken was in the mid-1960s.

Thereafter, inclusion has been permanent as parties feared losing the support of the excluded community.

Way ahead:

Going by the response so far, the odds are high that the road of reservations, bumpy at best, will not be an easy one to pave. The fact of the matter is that the clamour for getting on the OBC bandwagon has increased in recent years. Intermediary castes no longer aspire to 'go up' the social ladder and 'graduate' to forward status. Instead, more and more castes are eager to go 'down'.

This issue will confront both government and opposition if the new commission determines that certain castes in the OBC currently do not require preferential treatment any further. The added problem is that castes in the current quota list would loathe sharing the pie with new inclusions because their share will go down correspondingly.

05.04 - Liquor drives State Highways to turn local

From April 1, **the sale of alcohol has been banned along national highways in India**, following a Supreme Court order directing states to revoke commercial liquor licences. The move is expected to severely hit liquor and wine shops to tourist establishments, as well as hundreds of local bars and pubs in several metros.

The ban:

- Late last year, the Supreme Court passed an order banning the sale of alcohol along national and state highways, ordering the cancellation of liquor licences issued to shops by April 1, 2017.
- The order states **that no liquor stores should be even visible from highways, or located within a distance of 500 metres of the highways, or be directly accessible from a national or state highway.**
- The order has been subsequently modified to exempt establishments within **220 metres of the highways for smaller towns and municipalities with a population of less than 20,000 people.**

Significance of this ban:

The order reaffirms a policy decision of the union government that goes back more than 10 years. In 2004, the **National Road Safety Council (NRSC) unanimously agreed that licences for liquor shops should not to be given along the national highways**, and the Ministry of Road Transport and Highways (MoRTH) has "consistently" advised state governments not to issue fresh licences and remove liquor shops from national highways.

Why the ban?

- The order is **aimed at tackling the rising menace of drunk driving as well as improving road safety conditions in India.** The court cited "alarming" statistics showing drunk driving-related accidents and deaths, and said the order is in "overwhelming public interest."
- Citing data from the Union Ministry of Road Transport and Highways, the Supreme Court noted that in 2015, intake of alcohol or drugs by drivers resulted in 16,298 road accidents (4.2% of total accidents) and 6,755 fatalities (6.4% of total accidents) where drivers were at fault.
- The court also said data showing low incidence of drunk driving often tends to be skewed and "under-reported" as a cause of accidents, as that can affect the claims of victims or their heirs to accident compensation.

Implications of this move:

- Needless to say such closures will **lead to enormous losses to business and tourism, which will translate into jobs lost as well as huge revenue losses for state governments** which could have been spent on people's welfare.
- The uncertainty of India's business climate will deter **investment from coming to India**. And given the number of livelihoods at stake it's more than **likely that illegal liquor vends will proliferate along highways**, leading to bigger risks to public safety.
- For example, the excise collection from liquor, which undergoes high "sin" taxes, helps prop up state revenues, which in Tamil Nadu's case, where liquor sale is a state monopoly, is as much as Rs 26,000 crores annually, and offsets the high cost of freebies and other state-run social programmes.
- According to early estimates, states and hospitality companies could see a loss of Rs 65,000 crores, and as many as 1 million jobs could go as a result of the ban.

The move was expected to severely hit liquor and wine shops to tourist establishments, as well as hundreds of local bars and pubs in several metros. However, some states are coming up with alternative plans to circumvent the idea. How?

- Some States are **now re-classifying State Highways into local roads**. The Rajasthan government passed an order recently to convert a portion of their State Highway roads passing through populous areas into urban and district roads.
- Similarly, the Chandigarh administration issued a notification on March 16 to convert a significant portion of its State Highways into major district roads (MDRs).

Key facts:

- The State government can issue a **notification to convert State Highways into district roads**. However, the de-notification of national highways **can only be affected by the Union Road Transport and Highways Ministry**.
- The implications of converting National Highways into State Highways would certainly be significant. The maintenance responsibility in such cases will shift to the States, which lack the capacity in some cases, compared to Central authorities.

What is the need of the hour?

Policing should improve on highways to tackle drunken driving. State governments should be directed to allocate more resources for this purpose. Only constant checking of drivers and punishment for offenders can deter those who drink and drive.

Other issues associated with this move:

- Why ban **only liquor shops and exempt bars that serve wine, whisky, brandy, etc, which contain 15 to 50% alcohol**? Any alcohol, when drunk in sufficient quantity, blurs judgement and dulls reflexes. Hence, all opportunities for drinking must be removed from the highways.
- **If alcohol is harmful on the roads, is it safe elsewhere?** Is alcohol an innocent drink? WHO attributes 200 types of diseases to alcohol with an estimated annual 3.3 million deaths globally, and a loss of a total of 140 million life-years. Alcohol kills more people than HIV.
- But why **fuss about people occasionally indulging in a peg or two**? According to the WHO Statistical Report 2015, the annual per adult consumption of absolute alcohol in India is four litres — about 400-500 drinks per year. As only 20% of adults in India drink, their per head annual consumption is 2,500 to 3,000 drinks. Think about the impact on those who consume alcohol, and those around them.
- What about the **individual's freedom of choice to drink**? Yes, but what makes this free choice? The brain. Alcohol influences the brain and compromises its ability to make a reasoned choice. After the first drink, it is alcohol

which is dictating choice, not the brain. In the case of alcohol, the idea of free choice is a myth. Alcohol takes away our ability and, thereby our freedom, to make a choice. Abstaining from alcohol protects our freedom of choice.

- **The issue is not simply the freedom of choice of drinkers; it is also the freedom of life, safety and dignity, of family income and the productivity of other people.** Hence, the issue is in the realm of social policy. Regarding prohibition, the obligation of the state is enshrined in the constitution of India.

Way ahead:

Following the ban, several individual and state applications have filed appeals against the ban. However as of March 31, only eight states had moved the court. The Supreme Court has said it will continue to hear appeals against the order.

Many states including Andhra Pradesh, Punjab, Goa, and Maharashtra have reportedly asked the central government to reclassify some highways or highway stretches as urban roads to bypass the order. Many states that rely on tourism contend that it will affect revenues and tourism industry.

Conclusion:

The Supreme Court order banning establishments selling alcohol along all state and national highways is a classic case of good intentions missing the mark. The apex court directive is certainly well meant. It stems from the desire to curb drunken driving that kills thousands of people each year on our highways. But a blanket ban on all liquor outlets is a sweeping and radical measure, throwing out the baby with the bath water. While the move's impact on drunken driving is likely to be marginal, the ban puts thousands of valid businesses employing lakhs of people at risk.

Blanket bans and prohibition-like decrees, whether from judiciary or legislature, only make the problem worse. In this case they will injure the economy and cripple the tourism industry – which happens to be the sector that produces the most jobs per rupee invested. The apex court must reconsider its decision.

06.04 - The right to recall legislators

Summary:

More than five years after anti-corruption activist Anna Hazare sought empowerment of people with **right to recall elected representatives**, BJP MP Varun Gandhi has raised the same issue through a private members' bill in the Lok Sabha.

Key facts:

- The bill has sought an **amendment to the election rules to introduce right to recall parliamentarians and legislators** if 75% of their voters are dissatisfied with their performance, taking a leaf from the existing practice in some countries abroad.
- The draft legislation proposes that **the process to recall an elected representative can be invoked by a constituency voter by approaching the Speaker.** The petition seeking annulment of the membership of an MP or an MLA should be signed by at least one-fourth of the total number of electors in that seat.



Need for the Right to Recall:

- There exists **no recourse for the electorate if they are unhappy with their elected representative**. The Representation of the People Act, 1951, only provides for “vacation of office upon the commission of certain offences and does not account for general incompetence of the representatives or dissatisfaction of the electorate as a ground for vacation”.
- Logic and justice necessitate that **if the people have the power to elect their representatives, they should also have the power to remove these representatives** when they engage in misdeeds or fail to fulfil the duties.
- The right to recall is a democratic **tool which ensures a ‘greater accountability’ in the political system** as the electorate retains control over those legislators who are underperforming or are misusing their office for their selfish gains.
- Having such a right offers a **mechanism to ensure vertical accountability**. Such a right would be a significant check on corruption along with ongoing criminalisation of politics.
- Additionally, it is also argued that having the system of recall will deter candidates from spending crores of money in campaigning for the elections because they will always have a fear of being recalled. Apart from this, some proponents of recall perceive it as an **‘option’ to correct wrong decisions without having to wait for the next five years**.

What is Recall?

Recall is basically a **process whereby the electorate has the power to remove the elected officials before the expiry of their usual term**. Thus, recall confers on the electorate the power to actually ‘de-elect’ their representatives from the legislature through a direct vote initiated when a minimum number of voters registered in the electoral role sign a petition to recall.

Arguments against right to recall:

- The most fundamental argument against right to recall is that **it can lead to an ‘excess of democracy’** where the independence of representatives will go down due to the perpetual threat of being recalled.
- Apart from this, to escape a recall would demand the representatives to always keep their respective electorates happy, which would force these representatives to succumb to **the populist pressure**.
- It would inevitably discourage the representatives from using **their own judgment and coming up with tough but unpopular stands rather than the populist ones**, which militates against the fact that we are a representative democracy wherein MPs and MLAs rise above the local duties and undertake national and state-level ‘duties’ respectively. Such tying up of representatives to their electorates is inherently detrimental to the larger public interest and hence should be avoided at any cost.
- Additionally, having a recall system in India would not only **create unnecessary chaos due to recurring recall election, but also would destabilise the government**. Recall in a country like India would be very vulnerable to abuse by influential political groups and would give us those criminals as our leaders who could use strong-armed methods to prevent the recall being exercised against them.
- Leaving all these questions aside, there is always a **question of practicability of conducting a recall which would involve enormous amounts of money, manpower, time etc.**
- It is also known that the Indian democracy vests the power of removal of elected representatives in Parliament or the State legislature itself, even though the power to elect them lies with the people. Indian democracy has certainly defied its conservative parentage and has tried to be as inclusive as possible by giving to its citizens a framework which ensures political equality, however, the introduction of recall would bring down **this inclusiveness as only politically alert citizens would benefit from it**.
- Lastly, it is argued that introducing recall would unnecessarily **undermine the role and importance of our representatives which, in fact, would weaken our democracy**.

Recall of elected representatives in India:

Quite interestingly, India is not new to this concept. **India witnessed its first recall election in the year 2008 wherein three local body chiefs were de-elected by the people in accordance with the Chhattisgarh Nagar Palika Act, 1961.**

Safeguards that need to be put in place, if the Right to Recall is introduced:

While it is necessary to ensure that a recall process is not frivolous and does not become a source of harassment to elected representatives, the process should **have several built-in safeguards such as an initial recall petition to kick-start the process and electronic-based voting to finally decide its outcome.** Furthermore, it should ensure that **a representative cannot be recalled by a small margin of voters and that the recall procedure truly represents the mandate of the people.** To ensure transparency and independence, **chief petition officers from within the Election Commission should be designated to supervise and execute the process.**

Way ahead:

Recall is quintessentially a 'post-election' measure to ensure accountability from the elected representatives, however, there are already in existence various neglected 'pre-election' measures which aim to achieve the same purpose. Some examples of such pre-election measures would be the provisions relating to disqualification and expulsion of members and the existing vigilance bodies to check corruption etc. These pre-election measures are comprehensive enough to realise the cherished goal of 'good governance', however, there is a serious problem with the implementation of the same. Therefore, it is suggested that the introducing the post-election measure of recall would rather be a very 'premature' move and hence, the focus should be on a better implementation of the pre-election measures instead.

Conclusion:

Right to recall seems like a very attractive idea on theory but introducing such a right would not only entail practical difficulties, but also bring along various undesirable repercussions. The idea to have recall elections does not seem to be the best idea when we already have other measures to ensure good governance. The focus should be on reviving the existing measures as well as finding solutions to the root-cause of having poor quality of representation at the first place.

08.04 - Brutal war in Syria exposes the global cant on chemical weapons

Syrian government planes recently carried out a dawn raid on the rebel-held town of Khan Sheikhun. This is suspected to be a **chemical attack**. The most likely poison is thought to be sarin.

What is a chemical weapon? Which chemicals are most commonly used?

Chemical weapons are specialised munitions that deliver chemicals that inflict death or injury on humans through chemical actions. Because they are relatively cheap and easy to produce, chemical weapons are referred to as the "poor man's bomb". Even though modern munitions, through precision of application and specialised use, can cause catastrophic damage, chemical weapons trigger unmatched horror and leave deep psychological scars.



Among the most commonly used chemical weapons are mustard gas, phosgene, chlorine, and the nerve agents Sarin and VX.

- **Sarin:** Doctors and first-responders at the recent attack site said symptoms shown by victims suggested use of Sarin. This odourless, colourless agent is extremely potent — even trace amounts can kill humans — but its threat

after being released in the atmosphere is short-lived. The UN had confirmed the use of Sarin in the deaths of hundreds in a rebel-held Damascus suburb in 2013.

- **Mustard gas:** Possibly the world's most commonly used chemical weapon, it was widely used in World War I, and gets its name from its distinctive odour of rotten mustard. It is slow acting, and only about 5% to 10% of people exposed to it usually die.
- **VX:** This is the nerve agent that was reportedly used in the assassination of Kim Jong-nam, half-brother of North Korean leader Kim Jong-un this February. In its original form, it is odourless, and appears as a brownish oily substance. It is very persistent — once in the atmosphere, it is slow to evaporate, and thus tends to cause prolonged exposure.

How have chemical weapons been used in the Syrian war?

Early on August 21, 2013, rockets containing Sarin hit the Ghouta suburb of Damascus, causing around 300 deaths. Western powers, led by the US, accused Syrian government forces of the attack. Faced with the threat of international intervention, President Bashar al-Assad admitted to having chemical weapons. The stockpiles were destroyed by August 2014, paving the way for Syria's entry into the CWC. American estimates from the time put the size of the stockpile at 1,000 tonnes of chemical weapons, including mustard gas, Sarin and VX. Latest incident, however, suggests there were more chemical agents in the country than had been officially declared and destroyed.

Way ahead:

Doctors and experts have called for greater supplies of gas masks and the antidote to sarin to be sent to rebel-held areas of Syria to help limit casualties in the case of another attack. That response is in part recognition of the futility of international efforts to limit use of chemical weapons in Syria, after the initial outrage that followed the 2013 attack in Ghouta.

- Although Assad destroyed much of his stockpile then, there are allegations he kept some supplies. The military also has ready access to chlorine, which can be used as a weapon but is also an industrial chemical needed for peaceful uses, including water purification.
- After Barack Obama publicly abandoned his "red line" on the use of chemical weapons in Syria, there has been little overt military threat to Assad for deploying powerful and once-taboo weapons against rebel-held areas.
- There has been no response, other than toothless censure, to UN reports confirming use of chemical weapons by government troops.

Conclusion:

Chemical warfare has become an entrenched part of the Syrian civil war: jihadists are accused of having used various agents regularly, while the government is alleged to have used them in east Hama and

International conventions against the use of chemical weapons

Geneva Protocol: The horrors of chemical weapons during World War I prompted countries to sign the **Geneva Protocol in 1925** to stop the use of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices" and "bacteriological methods of warfare". The core elements of the Geneva Convention, which went on to have 35 signatories and 140 parties, are now generally considered part of customary international law. The Convention was, however, silent on the production, storage and transfer of these chemicals.

CWC: The Chemical Weapons Convention (CWC) of 1993, plugged the previous loopholes. The CWC outlawed the production as well as stockpiling of chemical weapons. 192 countries have so far agreed to be bound by the CWC — **4 UN states are not party: Israel, Egypt, North Korea and South Sudan**. The CWC's main objective is to get signatories to destroy their stockpiles of chemical weapons, and as of December 2016, an estimated 93% of the world's declared stockpiles had been destroyed. The CWC is administered by the Organisation for the Prohibition of Chemical Weapons (OPCW), which won the Nobel Peace Prize in 2013 for its efforts to curb use of chemical weapons internationally.

India was one of the original signatories of the CWC in 1993, stating that it did not possess chemical weapons or the technology to manufacture it. However, in June 1997, it declared a stockpile of 1,044 tonnes of sulphur mustard, and promised to start the process of destroying it as per CWC guidelines.

Raqqa. In the absence of an independent investigation architecture, flat-out denial is the norm: Russia and Syria, for example, claim their jets hit a jihadist stockpile in Khan Sheikhoun.

Chemical weapons use, however, it is argued, crosses a red line that civilisation cannot countenance defiled, even during war.

10.04 - Can unarmed states prohibit nuclear weapons?

Summary:

Recently, a group of nations without nuclear weapons gathered to negotiate a “**legally binding instrument to prohibit nuclear weapons, leading towards their total elimination**”. This has caused greater consternation among the nine nuclear-armed states and their shielded allies than the spectre of Armageddon through deliberate, inadvertent or accidental nuclear use.

What necessitated small nations to team up against nuclear weapon states?

It is being said that **this conference is a direct result of the diminishing faith in the nuclear non-proliferation treaty (NPT) process, the conference on disarmament, and the nuclear-centred world order even after the end of the Cold War.**

Ever since the indefinite extension of the **NPT in 1995**, the nuclear-armed states failed on two counts. First, **they failed to keep their commitments** made in NPT review conferences, primarily on disarmament, thus alienating even the most loyal non-nuclear adherent. Second, despite the growing disconnect between the emerging nuclear disorder and the evolving world order, the **nuclear weapon states (also permanent UN security council members) failed to accommodate aspirant powers and establish a new world order that was not based on nuclear weapons.**

Significance of this move:

- The 120-odd nations that participated in the negotiations highlight that nearly two-thirds of UN members have been able to ensure their security without the possession or protection of nuclear weapons.
- The conference and treaty will plug a serious legal gap in that nuclear weapons (unlike chemical and biological weapons) are the only weapons of mass destruction that are not prohibited by international law. This is an unfathomable lapse given the potential of nuclear weapons use to lead to global extinction.
- The proposed treaty offers a significant opportunity, at the very least, to diminish the role of nuclear weapons in deterrence and subsequently to move towards a nuclear-free world order. To be clear, the treaty will not eliminate existing nuclear weapons in the first instance; it is more likely to establish an international norm that prohibits the development, acquisition, manufacture, possession, transportation, transfer or use of nuclear weapons.

Nuclear-Weapon States:

The **nuclear-weapon states (NWS)** are the **five states—China, France, Russia, United Kingdom, and the United States—officially recognized as possessing nuclear weapons by the NPT.** The treaty legitimizes these states’ nuclear arsenals, but establishes they are not supposed to build and maintain such weapons in perpetuity. In 2000, the NWS committed themselves to an “unequivocal undertaking to accomplish the total elimination of their nuclear arsenals.”

Opposition:

The 40 nations staying away—less than one-fourth of all UN members—perceive that nuclear weapons are essential to ensure their security. This is also the rationale provided by the US and its allies to justify their nuclear weapons and their boycott of the conference.



This justification raises a fundamental question: “If nuclear weapons are truly indispensable in providing security, then why should not all states benefit from this advantage?” This argument also lays bare the fallacy that deterrence based on nuclear weapons is more stable than deterrence without nuclear weapons, given that relations among nuclear weapon states are crises-ridden.

Why are small nations worried?

Some of the countries spearheading the negotiation process—Austria, Cuba, Ireland, Mexico, Mongolia and Sweden—are **likely to face the brunt of nuclear fallout if weapons are used in their region by the heavily-armed nuclear nations.**

To put this in context, the fallout from **the single biggest nuclear test conducted by the US on Bikini Atoll in the Pacific on 1 March 1954 with a yield of 15 megatons—five times more than all the firepower used in World War II—spread over 18,000 sq. km** and showered radioactive material as far as Australia, India, Japan and the US. It was this one test that prompted Jawaharlal Nehru to propose a nuclear test ban treaty.

Arguments for nuclear abolition:

- The abolition of nuclear weapons is an urgent humanitarian necessity. Any use of nuclear weapons would have catastrophic consequences. No effective humanitarian response would be possible, and the effects of radiation on human beings would cause suffering and death many years after the initial explosion. Eliminating nuclear weapons – via a comprehensive treaty – is the only guarantee against their use.
- Nuclear weapons pose a direct and constant threat to people everywhere. Far from keeping the peace, they breed fear and mistrust among nations. These ultimate instruments of terror and mass destruction have no legitimate military or strategic utility, and are useless in addressing any of today’s real security threats, such as terrorism, climate change, extreme poverty, overpopulation and disease.
- It would take less than 0.1% of the explosive yield of the current global nuclear arsenal to bring about devastating agricultural collapse and widespread famine. The smoke and dust from fewer than 100 Hiroshima-sized nuclear explosions would cause an abrupt drop in global temperatures and rainfall.
- Also, nuclear weapons programmes divert public funds from health care, education, disaster relief and other vital services.

Way ahead:

As envisaged in these negotiations, the treaty is likely to allow for the future membership of nuclear armed states with the objective of eliminating their nuclear arsenals, but only in cooperation with them. Thus, by participating in the negotiations, nuclear-armed states could underscore their commitment to a nuclear-weapon free world and also contribute to the contours of the treaty. By staying out, they gain nothing and lose goodwill.

Conclusion:

The new treaty prohibiting nuclear weapons will strengthen the global norms against using and possessing these weapons. And it will spur long-overdue progress towards disarmament. Experience shows that the prohibition of a particular type of weapon provides a solid legal and political foundation for advancing its progressive elimination.

11.04 - What is the lowdown on sharing of Teesta waters?

Summary:

India and Bangladesh share 54 common streams with the Teesta being a major one and the water sharing dispute between the two neighbours is not something new. However, sharing the waters of the Teesta river, which originates in the Himalayas and flows through Sikkim and West Bengal to merge with the Brahmaputra in Assam and (Jamuna in Bangladesh), is perhaps the most contentious issue between two friendly neighbours, India and Bangladesh.

What's the issue?

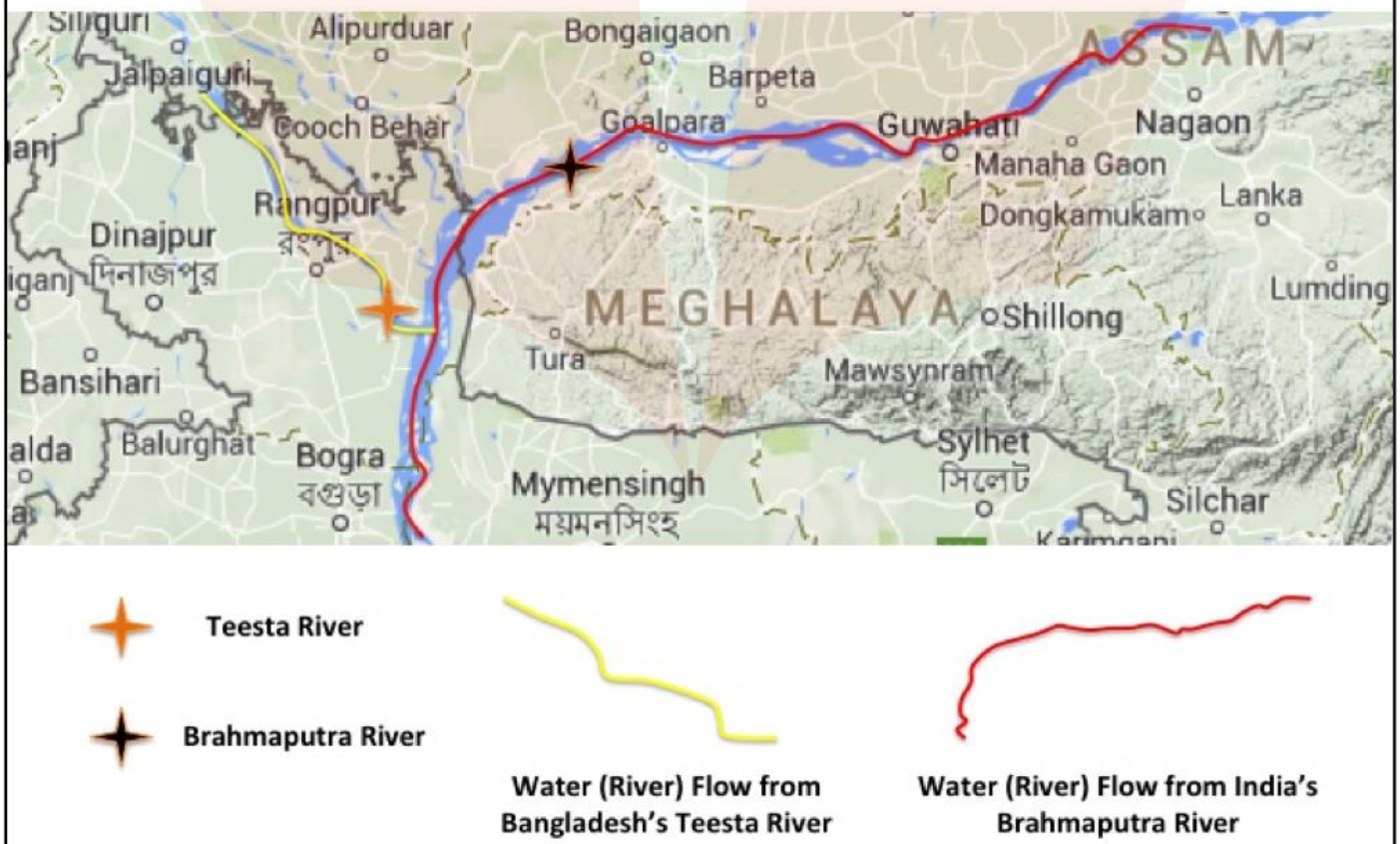
It all began when West Bengal started constructing a barrage across the Teesta River. Bangladesh opposed the construction as few regions in the country were dependent only on Teesta River water for agriculture.

- However, after negotiation, an ad-hoc agreement was reached. As per the agreement, 36% of water of the Teesta flows was allocated to Bangladesh, 39% to India and a further 25% remained unallocated.
- But even this deal has remained pending for more than 2 decades. After many unsuccessful attempts to reach a consensus on the issue, a new bilateral interim deal was to be signed in 2011 to reach an equitable sharing of the water. But it was once again put on hold as the chief minister of West Bengal Mamata Banerjee opposed the deal.
- Later, in 2013, an agreement was drafted which allowed for the 50:50 allocation of Teesta waters between the countries during the lean season, when the real problems of allocation crop up. However, that was not acceptable.
- The flow of the river is crucial for Bangladesh from December to March for that they require 50% of the river's water supply. While India claims a share of 55%.

Key facts:

- **Teesta is the fourth largest transboundary river** shared between India and Bangladesh, after the Ganges, Brahmaputra and the Meghna (GBM) river system.
- The total catchment area of the GBM is about 1.75 million square km.
- The **Teesta originates in the Indian state of Sikkim** and its total length is 414 km, out of which 151 km lie in Sikkim, 142 kms flow along the Sikkim-West Bengal boundary and through West Bengal, and 121 km run in Bangladesh.

Mapping The River Flows of Bangladesh's Teesta & India's Brahmaputra River



Efforts to solve the issue:

A Joint River Commission was setup to resolve all outstanding water sharing disputes between the two countries. However, no pragmatic and long-term solution could come out and Teesta remained a problematic issue.

- India has been examining many parameters for arriving at a workable solution. A possible option considered was that — **since the regeneration of flow in the river channel between the Gajoldoba and Dalia barrages is about 25%, which would be available at the downstream barrage — the additional 25% demanded by Bangladesh could be released by West Bengal from the upstream barrage.**
- But the state had its own compulsions for meeting irrigation needs as the summer flows are generally erratic. Hence, West Bengal did not want to commit to releasing water from the upstream barrage, at the cost of its major project envisaging the irrigation of 9.22 lakh hectares in the ultimate stage.
- Thus, the water-sharing arrangement got embroiled in domestic hydro-politics, stalling further action to find an acceptable solution to the dispute.

Importance of Teesta for Bangladesh:

The river is Bangladesh's **fourth largest transboundary river for irrigation and fishing**. The Teesta's floodplain covers 2,750sq km in Bangladesh. Of the river's catchment – an area of land where water collects – 83 percent is in India and 17 percent is in Bangladesh.

- That means more than one lakh hectares of land across five districts in Bangladesh are severely affected by withdrawals of the Teesta's waters in India. These five Bangladesh districts then face acute shortages during the dry season.
- Bangladesh wants 50% of the Teesta's waters between December and May every year, because that's when the water flow to the country drops drastically.

West Bengal's opposition:

West Bengal has been opposing the treaty fearing that the loss of higher volume of water to the lower riparian would cause problems in the northern region of state, especially during drier months. It is estimated that the Teesta River has a mean annual flow of 60 billion cubic metres but a significant amount of this water flows only during wet season i.e. between June and September, leaving scant flow during the dry season i.e. October to April/May wherein the average flow gets reduced to about 500 million cubic metres (MCM) per month. This creates issues of equitable sharing during lean season.

Why this deal matters for both India and Bangladesh?

India witnessed a surge in insurgency in the northeast during the rule of the Bangladesh Nationalist Party (BNP) from 2001 to 2005. A new policy to befriend the BNP backfired. Bangladesh allegedly sheltered insurgents engaged in anti-India activities, and nearly all the Home Ministry-level talks ended without agreement, and India had to increase the security budget for the northeast.

- In a couple of years of assuming office in 2008, the Awami League targeted insurgent camps and handed over the rebels to India. As India's security establishment heaved a sigh of relief, the relationship improved on multiple fronts.
- But in 2017, the Awami League is on a sticky wicket. It will be facing one of its toughest elections in two years and water-sharing will be one of the key issues. If this deal is not sealed, it will hurt both India and Bangladesh.

What can be done?

It is apparent that to make Teesta water-sharing a reality, there is a need to **augment the river flows during the non-monsoon months**, without which West Bengal would not allow further discussion on the subject. The deficit in flows

can be met by the transfer of water from other water-endowed basins. In this connection, the proposals made in the Indian River Linking (IRL) project could be considered.

- The **Manas-Sankosh-Teesta-Ganga (MSTG) link canal** is one of the links proposed under the Himalayan component of the IRL. It envisages diversion of the surplus waters of the Manas and Sankosh rivers to the Teesta, Ganga and beyond, to meet the requirements of water-deficit areas. By making suitable provisions in the link canal, it should be possible to release the required water into the Teesta during the summer to augment river flows, thus meeting the requirements being proposed for water-sharing with Bangladesh.
- Also, another suggestion is the **construction of giant artificial reservoirs**, where the monsoon water can be stored for the lean season. The reservoirs need to be built in India as the country has some mountain-induced sites favourable to hosting dams with reservoirs, unlike Bangladesh.

Conclusion:

The success of the deal on the Teesta is considered to be a political necessity for both governments. The deal, as anticipated, will help New Delhi get more political leverage, which, it thinks, is necessary to check the rising influence of an extra regional power – China – in the Bay of Bengal region. For Hasina, the deal will support her chances to retain political power in the 2018 general elections in Bangladesh by projecting her as a leader who can secure her country's interests and not a 'pawn' in the hands of India, as she is being often called by opposition groups.

Bangladesh has been one of India's strongest allies in South Asia. And if New Delhi wants it to remain so, it has to move fast on signing an agreement on sharing the waters of the Teesta river.

12.04 - Budgeting for the police

Summary:

Despite the appointment of multiple commissions to reform the governance of police forces across the country, the state of police forces in the country has not changed. Police forces have received no more than cosmetic treatment at the hands of the government. There is a perceptible dissatisfaction about policing in India among the people. It is argued that this poor performance is mainly due poor resourcing, and that the police require a higher quantum of budgetary allocations.

Problems with police budgets:

- Various studies have shown that budget outlays for the police only meet the establishment cost. Salary is the main component of budget, consuming almost 90% of the total allocation. The residual amount covers costs of domestic travel, maintenance of motor vehicles and petrol cost. Budgets, as they stand, barely allocate funds for operational expenses of running police stations, or maintenance costs for computer systems, arms and ammunition.
- Police budgets have focused solely on manpower. On an annual basis, budgets do not have allocations towards capacity building, and are not structured to achieve desired outcomes.
- The police also suffers from inadequate expenditure management. Expenses on items other than salary are not monitored frequently enough.
- There is no investment in basic infrastructure and human resources in policing. The police continue to lack basic amenities and support.

What has been done to modernize the police forces in the country?

The **Modernisation of Police Forces Scheme to fund deficiency in state police infrastructure** has been in existence since 1969-70, the cost of which is shared by the Centre and states. Annual allocations to this fund were raised substantially, following the BPR&D study. Since 2000, the focus has been to build secure police stations, increase the supply of police housing, improve forensic laboratory, equipment, training infrastructure, communication systems and mobility of the police force.

However, the scheme has had limited success. The scheme has been able to fill very limited gaps compared to the actual requirements of the police forces. Inadequate training and lack of funds for repair and maintenance of assets created under the scheme continue to pose challenges. Under-utilization of funds as a result of delays in release of funds and cumbersome asset-procurement processes is another challenge.

Way ahead:

As with any budget, police budgets too need to be tied to outcomes. Broadly, the desired outcomes of policing are:

- safety and security of citizens.
- Collection of intelligence.
- Investigation of crime.
- Sound public order.

What can be done to create conditions conducive for outcomes?

- First and foremost, **aligning budgets to these outcomes will require outlays to fully cover the office or operating expenses of the police station.** It is estimated that office or operation costs for running a police station in an urban area are around Rs5–6 lakh per year, while the figure for rural areas is between Rs4-5 lakh per year. This cost estimate covers expenses on any item of miscellaneous nature, such as stationery, translations, etc., while performing police duty.
- The second input to achieve these outcomes is **to build capacity within the police.** This may be through focused training to keep pace with the changing nature of crime and prevention techniques, or the creation of IT infrastructure for tracking cases to tackle delays due to mounting pendency. It will also require investment in management techniques, soft skills, new technology, and building of databases to allow for seamless access to information, among other heads.

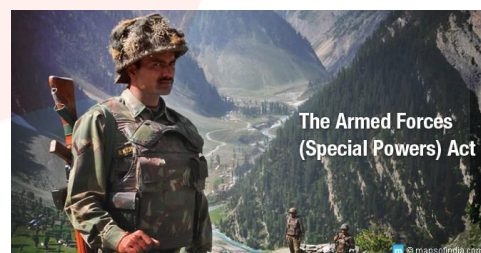
Conclusion:

As the law enforcement agency of the government and the first point of contact in the criminal justice system, the police is critical for sound law and order, and a good quality of life. It needs to be emphasised that police reforms are absolutely essential if India is to emerge as a great power. A dynamic process of evaluating the needs of effective policing, and aligning the budgets accordingly is an important step towards achieving a well-functioning police.

13.04 - Govt urges Supreme Court to review AFSPA decision restraining army

The government wants the Supreme Court to reconsider a landmark decision that restrained the army from using “**excessive or retaliatory force**” in India’s conflict regions and ordered investigations into hundreds of alleged extra-judicial killings in Manipur between 1979 and 2012.

- The Centre has filed a **curative petition** in this regard. A curative petition is the last legal recourse available after a litigant exhausts all remedies such as appeals and review pleas.



Why the Centre wants the Court to reconsider the decision?

- The centre says the court’s verdict is **hampering the army’s ability to respond to insurgency-related situations** and its daily operations in Kashmir and the Northeast, both regions torn by militancy.
- The Centre defended its military actions in conflict areas and said the army was not a “rogue”. **Any proactive action in maintaining peace and law and order was curtailed by the verdict.**
- According to the Centre, the court’s interpretation of the law was not **in consonance with the ground realities that the armed forces face in Manipur**, which has several secessionist groups.
- The army has **to take quick decisions** that cannot be dissected nor can be judicially reviewed like any other murder appeal, the government argues.
- Also, it contended that the verdict would **lower the morale of the armed forces**, especially personnel who spend a lifetime risking their lives to safeguard the nation’s sovereignty and integrity.

Supreme Court's judgment:

The top court's judgment last July ruled that despite the Armed Forces (Special Powers) Act, or AFSPA, the armed forces cannot use "excessive and retaliatory force" in Manipur. The court had said that excessive force could be used only when a soldier is defending himself in a combat with terrorists.

How does one officially declare a region to be 'disturbed'?

Section (3) of the **AFSPA Act empowers the governor of the state or Union territory** to issue an official notification on The Gazette of India, following which the centre has the authority to send in armed forces for civilian aid.

Once declared 'disturbed', the region has to maintain status quo for a minimum of three months, according to The Disturbed Areas (Special Courts) Act, 1976.

What is AFSPA?

The Armed Forces (Special Powers) Act was enacted in **1958** to bring under control what the government of India considered 'disturbed' areas.

Controversial provisions in the Act:

AFSPA is a bare law with just six sections. The most damning are those in **the fourth and sixth sections**: the former enables security forces to "fire upon or otherwise use force, even to the causing of death" where laws are being violated. The latter says no criminal prosecution will lie against any person who has taken action under this act.

What are the arguments for Afspa?

- The army is opposed to the withdrawal of Afspa. Many argue that removal of the act will lead to demoralising the armed forces and see militants motivating locals to file lawsuits against the army.
- Also, the forces are aware that they cannot afford to fail when called upon to safeguard the country's integrity. Hence, they require the minimum legislation that is essential to ensure efficient utilization of combat capability. This includes safeguards from legal harassment and empowerment of its officers to decide on employment of the minimum force that they consider essential.
- The absence of such a legal statute would adversely affect organizational flexibility and the utilization of the security capacity of the state. This would render the security forces incapable of fulfilling their assigned role.
- AFSPA is necessary to maintain law and order in disturbed areas, otherwise things will go haywire. The law also dissuades advancement of terrorist activities in these areas.

What do detractors say?

- Critics say the undemocratic act has failed to contain terrorism and restore normalcy in disturbed areas, as the number of armed groups has gone up after the act was established. Many even hold it responsible for the spiralling violence in areas it is in force.
- The justice Jeevan Reddy Committee was set up in 2005 to review Afspa and make recommendations. It recommended that Afspa should be repealed and the Unlawful Activities Protection Act strengthened to fight militancy.
- Common people see it as 'Right to Kill' Act. Since its inception many Human Rights organizations and civil societies have been opposing it.

Way ahead:

Security forces should be very careful while operating in the Northeast and must not give any chance to the militants to exploit the situation. Indiscriminate arrests and harassment of people out of frustration for not being able to locate the real culprits should be avoided. All good actions of the force get nullified with one wrong action. Any person, including the supervisory staff, found guilty of violating law should be severely dealt with.

Conclusion:

The law is not defective, but it is its implementation that has to be managed properly. The local people have to be convinced with proper planning and strategy.

14.04 - Do we need a film censor?

Summary:

India has the largest film industry in the world, making over 1250 feature films and larger number of short films every year. At a rough estimate, a total of about 15 million people see films in India every day, either at its over 13,000 cinema houses or on the video cassette recorder or on the cable system. Thus, every two months, an audience as large as India's entire population flocks to its cinema houses.

Films can be publicly exhibited in India only after they have been certified by the Central Board of Film Certification. Central Board of Film Certification (CBFC) is a statutory body under Ministry of Information and Broadcasting, regulating the public exhibition of films under the provisions of the Cinematograph Act 1952. However, in the last few months several filmmakers have complained of arbitrary "suggested" cuts or objections by CBFC.

Why is film certification necessary?

- While the media in our country are free, it is considered necessary in the general interest to examine the product when it goes out for public consumption. While there is no certification of published material, need was felt to have certification for films because of **the effect that the audio-visual medium can have on the people which can be far stronger than the influence of the printed word, particularly on the impressionable minds of the children.**
- Film certification is thus the end product of the process of previewing of film and it includes a decision either not to allow a particular film or public viewing or to allow it for public viewing with certain deletions and / or modifications or at least proper categorization of the films. Furthermore, **it is to ensure that the children do not get exposed to psychologically damaging matter.**
- The Supreme Court in a judgment in 1989 said that **film certification becomes necessary because a film motivates thought and action and assures a high degree of attention and retention as compared to the printed words.**
- The combination of act and speech, sight and sound in semi-darkness of the theatre with elimination of all distracting ideas will have a strong impact on the minds of the viewers and can affect emotions. Therefore, it has as **much potential for evil as it has for good and has an equal potential to instill or cultivate violent or good behavior.** It cannot be equated with other modes of communication. Certification by prior restraint is, therefore, not only desirable but also necessary.

Arguments against film censorship:

The name of the Central Board of Film Censors was changed to the Central Board of Film Certification in 1983 and that pretty much explains the responsibility of the CBFC, which is to certify films according to age. The ratings are meant to indicate the category under which the films are certified as U, UA, S, and A. Thus, **as long as films are certified, censorship should be avoided.**

- Also, **the rules are old.** The Indian value system has changed since these rules were first framed.



Film certification in India:

The **Cinematograph Act, 1952**, apart from including provisions relating to Constitution and functioning of the CBFC or the Central Board of Film Certification (called the Central Board of Film Censors before 1983), also lays down the guidelines to be followed by certifying films. Initially, there were only two categories of certificate – "U" (unrestricted public exhibition) and "A" (restricted to adult audiences), but two other categories were added in June, 1983 – "UA" (unrestricted public exhibition subject to parental guidance for children below the age of twelve) and "S" (restricted to specialized audiences such as doctors or scientists). The 1952 Act has been amended time to time to make it up to date. Still the Act has become dated and Central Govt. is actively considering to replace the 1952 Act with a new one.

The present certification of films is governed by the **1952 Act, the Cinematograph (Certification) Rules promulgated in 1983 and the Guidelines issued there under from time to time**, the latest having been issued on December 6, 1991. The Guidelines are issued under section 5B of the Act, which says that "a film shall not be certified for public exhibition, if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the sovereignty and integrity of India, the security of the States, friendly relations with foreign State, public order, decency or morality or involves defamation or contempt of court or is likely to incite the commission of any offence".

- Besides, censorship places **unfettered discretion on authorities**. This **also hurts individual creativity**.

Reforms in this regard:

The Indian government has made two half-hearted attempts to deal with the situation by appointing commissions to review the process of censorship. The **Mukul Mudgal Committee Report (2013)** was found inadequate and rightly consigned to the dustbin. The hype then shifted to the recently-formed **Shyam Benegal Committee (2016) on film censorship**. Given the fact that eminent film personalities were on the committee there was hope that at least, this time, the issue would be addressed with the seriousness it deserved but the final report has belied all expectations.

The broad themes of the report suggested that henceforth the focus will be on certification and not censorship; that the numbers of members of the CBFC will be reduced from 25 to 9; and that the categories of certification will be increased by two — one for minors and one for adults.

What needs to be done?

India is a diverse society. There will always be grievances from some section of civil society. And yes, we need an arbitration mechanism to address a wide range of concerns. We need a multi-layered solution to the absurd censorship regime in India.

- The industry must set up the Film Council of India to deal with civil society grievances. The CBFC's scope must be limited to certification, with no powers to maim, mutilate or ban any film.
- For any film it finds 'objectionable', the CBFC should refer it to the Film Certification Tribunal. The tribunal comprising retired judges, lawyers, filmmakers, writers and artists must become the sole forum for a considered dialogue with the filmmaker concerning any 'censorship' of their work.

Conclusion:

Certification is a dynamic process and one which is likely to change as society changes and evolves. For now, the government is in the process of examining the recommendations of the Shyam Benegal Committee. A comprehensive policy in this regard is the need of the hour.

15.04 - India seeks access to Jadhav

India has again sought consular access to former Navy official Kulbhushan Jadhav now facing the gallows in Pakistan, which has not addressed 13 earlier requests for the same.

- The decision has come at a time when the relations between the two neighbours are running through a particularly rough patch, with the two nations alleging sabotage and infiltration bids on each other.
- India officially maintains that Jadhav had been abducted while on a business trip to Iran, and has lodged strong protests with the Pakistani government over the denial of consular access to him despite repeated requests.

Background:

Former Indian Naval officer Kulbhushan Jadhav, who was arrested last year in Pakistan on charges of spying, has been sentenced to death. Islamabad accused Mr. Jadhav of carrying out attacks inside Pakistan since 2014-15 but said that he will have the chance to appeal for mercy.

The death sentence comes month's after Nawaz Sharif's foreign advisor Sartaj Aziz said that there was not enough evidence against him. Ever since his arrest, Jadhav has been denied consular access. More worrying was instead of an open trial, Jadhav was tried in secret by military courts in Pakistan, set up to try terrorists.

WHO IS KULBHUSHAN JADHAV? TOI

- 46-YEAR-OLD INDIAN CITIZEN IS RECOGNISED BY THE GOVT AS A FORMER NAVAL OFFICER
- His family says he quit the navy and got into business
- Sources claim he worked out of Iran's Chabahar port
- Jadhav joined the National Defence Academy in 1987 and served the navy for over 12 yrs
- Passport says he was born in Sangli, Maharashtra
- FAMILY**
 - Married, has children
 - Father Sudhir Jadhav is a retired ACP
 - Two uncles work with Maharashtra govt

What can India do now?

The right to consular access, encompassing the right of sending-state consuls to visit, converse with and arrange legal representation for nationals of the home-state in custody of the receiving-state, is provided for under article 36(1)(c) of the **Vienna Convention on Consular Relations, 1963 (VCCR)**, to which both India and Pakistan are parties.

This protective work performed by the consulates-general of one state within the territory of another is necessary to ensure the wellbeing of sending-state nationals in a foreign land and is also one of the most fundamental duties a sovereign state owes its citizens.

Under the VCCR, the receiving state (Pakistan in this case) is obligated to facilitate this protection work by:

- Promptly informing the competent consulate when one of their nationals is arrested or detained.
- Inform the detained foreign national of his right to consular access with his home state.
- Facilitate the protection work performed by the competent consuls in the form of visits, communications and legal arrangements made for the detainee.

What if Pakistan refuses?

Pakistan's conduct in Jadhav's case, wherein it failed to inform Indian authorities of his detention and refused to provide consular access to Indian authorities despite multiple requests, is in contravention to the obligations it has undertaken under the VCCR and international law.

- Pakistan's breach of international law and Jadhav's death sentence may be effectively challenged by recourse to the ICJ. Such recourse, while not automatically available under most international agreements, is almost providentially open in Jadhav's case by virtue of both India and Pakistan being parties to the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes, 1963.
- The Optional Protocol, to which **India and Pakistan acceded to in November 1977** and March 1976 respectively, provides that disputes arising out of the interpretation or application of the VCCR shall lie within the compulsory jurisdiction of the ICJ, and may accordingly be brought before the court by any party to a dispute.
- The larger benefit of instituting an ICJ proceeding, however, would be the protection that it would offer Jadhav in the current situation. The ICJ, under the provisions of its statute, has ordered binding provisional measures against the execution of death sentences during the pendency of consular access disputes before it.

Way ahead:

The right to consular access is afforded to India under international law. At present, the government appears committed to pursuing the matter bilaterally through diplomatic representations and negotiations. Given the current ebb in relations, however, such bilateral efforts may be ill-conceived and ineffectual in securing access to Jadhav. Mindful of this, and in consideration of the mortal peril that may soon befall one of its nationals, India would be well-served in promptly initiating legal proceedings against Pakistan before the International Court of Justice (ICJ) for the violation of international law providing for consular access.

India's recourse to the ICJ under article 1 of the Optional Protocol, and a subsequent request for provisional measures under article 41 of the ICJ Statute would be the most efficacious way of ensuring that Jadhav's death sentence is not carried out before the resolution of the alleged improprieties and illegalities surrounding this case.

17.04 - Revamping the Indian Foreign Service

Summary:

Concerns have been raised by a parliamentary committee over the way in which candidates are being recruited to the prestigious Indian Foreign Service (IFS) and trained.

Present way of recruitment:

Those who desire to be a part of this service and become a career diplomat need to clear the Civil Services Examination (CSE) first. After selection, candidates go through a gruelling training period during which they are taught various aspects of diplomacy.

Why generalists should not be recruited for this job?

A diplomat is a representative of his country and a foot soldier of its foreign policy. Good armies fight wars and win. Good diplomats deter wars and win. Hence, diplomacy needs specialisation. It is not the job of a 'generalist'.

What kind of people need to be recruited?

Being a specialised job, diplomacy needs people who have prior theoretical and historical knowledge of the subject before being trained in its practical aspects.

- Diplomacy involves the conscious pursuit of the national interest through well-designed policies and initiatives. That requires an understanding of international relations including the nature of the state, political systems, international order, among others.
- In other words, the job of diplomacy demands that its practitioners be first well equipped with the basic knowledge of the subject of international relations.

Other challenges:

- There is overall 'deterioration' in the quality of recruits to the IFS. The parliamentary committee noted that, unlike in the past, when only those with the highest ranks in the CSE were taken into the service, it was surprised to find that even low-ranked candidates are now able to enter the service.
- The committee also highlighted the low strength of the IFS. It is well known that when compared to India's global profile and its image as an emerging power in the international system, it needs many more officers in the field with a deeper knowledge and understanding of the areas they are about to serve in.

What can be done?

'Lateral entry' and 'revolving door' have been suggested to increase the strength and effectiveness of the service.

Lateral entry: It involves posting an officer from any other All India service to an overseas mission to execute a specific job. For instance, a railway service official is posted for executing railway projects in a neighbouring country, or a Commerce Ministry official is posted to handle complex trade negotiations. The advantage of absorbing such officials into the IFS is that they are exposed to an international work environment and could be valuable assets in carrying out relevant tasks pertaining to the work of overseas missions.

Revolving door: The other option to revamp the IFS is to introduce the 'revolving door' concept. Experts in academia, think-tanks or industry should be given an option to serve in the diplomatic corps. The walls between these fields and diplomacy need to be broken down and inter-operability need to be given a chance. The United States has been following this kind of inter-operability for decades, and with success.

Entry rules: IFS entry rules need to be made more specialised. Only those candidates who have an academic background in the subjects of international relations, strategic studies, security studies or foreign policy studies should be allowed to appear for the examination, which could either be conducted by a separate body or be a separate exam conducted by the Union Public Service Commission (UPSC) itself. The clear advantage of such a change is that those who have already done a degree course in subjects related to international relations and foreign policy would have a better understanding of the job requirements prior to joining the service, unlike candidates with an engineering or medicine or management background who have no prior knowledge or very little knowledge of the subject.

Specialised institutions: The government needs to build institutions focused on international relations, defence, security and diplomatic studies in order to get the best skilled talent in the field. This is being practiced by many countries such as Russia and France, among others, where they groom students from these fields to become career diplomats.

Conclusion:

The time has come to apply the same standards to the IFS, if India wants to have a large number of quality diplomats. The argument is not that existing IFS recruits are of lesser quality but to highlight the fact that the rank of candidates in a 'generalist exam' decide their fate whether they would become career diplomats or not. With changing times and



the growing profile of India in the international system, there is a need for a change in the structure and process of recruitment into this very important service.

18.04 - Equity in debt

Summary:

An expert committee formed to review the FRBM Act of 2003 has recommended **to review the Act**. This advice requires attention, given India's track record.

Important recommendations made by the committee:

- Maintain the **3%** target till 2019-20 before aiming for further reduction.
- Pare India's cumulative public debt as a proportion to GDP to 60% by 2023 — from around 68% at present.

Background:

With fiscal discipline faltering and the deficit shooting up to 10% of GDP, the FRBM law was enacted to 'limit the government's borrowing authority' under **Article 268 of the Constitution**. But the target to limit the fiscal deficit to 3% of GDP (by 2009) was abandoned after the 2008 global financial crisis as a liberal stimulus reversed the gains in the fiscal space, creating fresh macro-level instability.

Performance of the FRBM Act:

The FRBM Act, 2003 (notified in July 2004) envisaged an annual 0.3 percentage point reduction in the fiscal deficit and a 0.5 percentage point reduction in the revenue deficit to bring the former down to 3% of GDP and the latter to nil by 2008-09. In reality, the fiscal deficit doubled to 6% of GDP during 2008-09, driven largely by the desire to distribute largesse on the eve of the 2009 general elections. Meanwhile, the revenue deficit is nowhere near being eliminated.

Has FRBM Act served its purpose?

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.

Need for limiting borrowings by the government:

- Excessive and unsustainable borrowing by the government entails a cost on future generations while crowding out private investment.
- In the past, fiscal irresponsibility has cost jobs, spiked inflation, put the currency in a tailspin and even brought the country to the brink of a default.

Why review of this law is necessary?

- Passed almost three years after it was first introduced in Parliament, that too in a significantly watered down form, the Fiscal Responsibility and Budget Management Act has faced 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.
- A review of some of the provisions of the law may certainly be warranted, especially the limiting of the fiscal deficit to 3% of the GDP, which some economists consider arbitrary and more suited to the West where growth has tapered off.
- The existing FRBM Act also 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, the combined fiscal deficit is much larger.
- Even, the 14th Finance Commission recommended a strong mechanism for ensuring compliance with fiscal targets and suggested an amendment to the existing FRBM Act to form an independent council to assess fiscal

policy implications of budget proposals and their consistency with rules. Indeed, it had made out a case for replacing the FRBM with a Debt Ceiling and Fiscal Responsibility legislation by invoking Article 292.

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.

Way ahead:

A clear fiscal policy framework in tandem with the monetary policy framework already adopted could act as a powerful signal of commitment to macroeconomic stability. The Centre must swiftly take a call on the panel's recommendations — including for a new debt and fiscal responsibility law, and the creation of a Fiscal Council with independent experts that could sit in judgment on the need for deviations from targets. It is equally critical that States are brought on board, as the 60% debt target includes 20% on their account. Their finances are worsening again even as the clamour for Uttar Pradesh-style loan waivers grows.

Conclusion:

In conclusion, the adoption of new FRBM framework will enhance the efficacy of India's fiscal policy and significantly reduce the twin-deficit vulnerability. At a juncture where most developed economies are struggling with their government's balance sheet to support the economy, a rule-based system with room for independent advisory and oversight can transform India's fiscal architecture and create enablers for germination of green field investment appetite. However, any exercise of fiscal management should not only be cautious but sensible and far-sighted.

19.04 - Cheap generic vs costly branded: Issues in picking right drug in India

Summary:

The central government is planning to bring a legal framework under which doctors will have to prescribe generic medicines which are cheaper than equivalent branded drugs, to patients. If a doctor writes a prescription, he has to write in it that it will be enough for patients to buy a generic medicine, and he need not buy any other medicine.

Interestingly, this is not a new intervention. **MCI has already notified an amendment in Clause 1.5 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002.** This clause now reads: "Every physician should prescribe drugs with generic names legibly and preferably in capital letters and he/she shall ensure that there is a rational prescription and use of drugs". The words "legibly and preferably in capital letters" were not there originally.

Why aren't generic drugs more popular?

There are various reasons for their unpopularity. There is a distinct lack of awareness about them. Also, since they are cheap, people who can afford branded drugs don't buy them believing them to be of inferior quality. Chemists have to hand out exactly what's written on the prescription and most doctors except in government hospitals don't hand out generic drugs.

Generic drugs:

A generic drug is identical — or bioequivalent — to a brand name drug in dosage form, safety, strength, route of administration, quality, performance characteristics and intended use. Although generic drugs are chemically identical to their branded counterparts, they are typically sold at substantial discounts from the branded price.

- Also, private doctors never hand out generic drugs because there are no kickbacks or incentives involved from pharma companies.
- The government or specifically the government's Department of Pharmaceuticals is also to blame for **the lack of awareness**.

Experts say it will be misleading to presume that prescriptions with generic names will automatically translate into lower medicine bills for patients. There are many challenges:

- This is a well-intentioned but impractical proposal. But, the existing drug market in the country makes it hard to implement. Almost all medicines sold in India have brand names, including generic medicines with brands.
- Some doctors who have tracked the pricing of drugs have cautioned that the trade margins for branded generic medicines are at times even higher than the margins for branded medicines from the same companies.
- About 40% of the estimated 60,000 drug formulations sold in India are fixed dose combinations, or FDCs, of multiple pharmacological ingredients which are only sold through brand names.
- A study has found “significant variations in drug concentrations and physical properties” of generic formulations of latanoprost, a medicine used to treat glaucoma, an eye disorder.
- Also, prescriptions with generic names only had the potential to compromise patient safety because the choice of the medicine to be handed over to patients would shift from the doctor to the retail chemist.

How can the government ensure that generics, apart from being cheap, are also safe for the patient?

Experts say the priority of the government should be **to bring a legal framework to ensure “quality” in generic drug testing**. No more than 1% of generic drugs sold in India undergo quality tests. Generic drugs should work “therapeutically” and the government should ensure “uniform quality”, experts say — only then can doctors prescribe them with confidence.

- Also, the government has to clarify how it will ensure that once a doctor prescribes the generic drug, detailing its medical composition, the pharmacist or chemist will give the most appropriate drug to the patient. Even on the question of price, studies have shown that it is the retailer's margin that often plays the key role in deciding how much the patient pays for a drug.
- Making it incumbent on the doctor to prescribe a generic drug would mean that the prescription will detail the medicine's composition — the salts — leaving the choice of the brand on the patient. However, for such a choice to be effective, the proposed law needs to go beyond the doctor-patient binary and **target each link in the pharma industry's chain of corruption**.
- A large number of patients in the country are illiterate and even many literate patients are not well-versed with medical terms and drug composition. A patient armed with a prescription detailing the composition of the medicine could still be dependent on a pharmacist to make the most suitable drug choice for her. And by all accounts, a pharmacist is likely to be even less sensitive to a patient's medical — and financial — condition than the doctor. The efficacy of the proposed law will hinge on the ways in which it brings pharmacists — and not just doctors — under its ambit.
- The generic medicine industry will also have to pull up its socks. Last year, 27 commonly-used medicines in the country failed quality tests. The drugs were found wanting on several counts, including false labelling and inadequate quantity of ingredients. Ensuring **quality of drugs is a problem in the absence of adequate**

Difference between a generic drug and brand-name drug:

When a company develops a new drug — often after years of research — it applies for a patent, which prohibits anyone else from making the drug for a fixed period. To recover the cost of research and development, companies usually price their brand-name drugs on the higher side. Once the patent expires, other manufacturers duplicate and market their own versions of the drug. Since the manufacture of these generic drugs do not involve a repeat of the extensive clinical trials to prove their safety and efficacy, it costs less to develop them. Generic drugs are, therefore, cheaper.

However, because **the compounds in the generic versions have the same molecular structure as the brand-name version, their quality is essentially the same**. The generic drug has the same “active ingredient” as the brand-name drug. This ingredient is the one that cures the patient; and other, “inert ingredients”, which give the drug its colour, shape or taste, vary from the brand-name drug to the generics. In the United States, the Food and Drug Administration notes that **the cost of a generic drug is 80% to 85% lower than the brand-name product on average**.

regulations and shortage of drug inspectors and lab facilities to check drug quality. The number of drug inspectors — approximately 1,500 now — must be increased.

Conclusion:

Though the Medical Council of India had by way of an amendment to the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, issued directives to the doctors to preferably prescribe generic drugs, nothing changed. Implementational problems, non-commitment and non-effective strategies to materialise its order, has drenched the medical body into controversies. It's functioning too has been far from effective. It is, therefore, not surprising that no headway has been made on this matter. Now that the Government has taken up this issue, it should swing into action and ensure that promises are kept and provisions implemented.

20.04 - Should we privatize water?

Summary:

Water privatization – when private corporations buy or operate public water utilities – is often suggested as a solution to municipal budget problems and aging water systems. However, critics say privatizing local water and sewer systems usually does far more harm than good for our communities.

Need for privatization:

Water is a **basic need of life** and even the United Nations (UN) has recognized this need as a **human right**. The UN **World Water Report** of 2006 notes that *“there is enough water for everyone”* and *“water insufficiency is often due to mismanagement, corruption, lack of appropriate institutions, bureaucratic inertia and a shortage of investment in both human capacity and physical infrastructure”*.

- However, the process whereby all resources not limited to water are transformed from a public good to a tradable commodity is due to economic processes at work.
- Fears over water scarcity and the need to **manage water efficiently by giving it an economic value** is the starting point from where privatization is pushed.
- Critics of public supply of water insisted on **the state's inability to operate efficiently** and created a case for a shift towards market-based water governance.

Why privatization of water is *not* a good idea?

- By privatizing water and sewer systems, **local government officials abdicate control over a vital public resource**.
- Privatization **limits public accountability**. Multinational water corporations are primarily accountable to their stockholders, not to the people they serve.
- Loss of **transparency**. Private operators usually restrict public access to information and do not have the same level of openness as the public sector.
- The objectives of a profit-extracting water company can conflict with the public interest. Because a water corporation has different goals than a city does, it will make its decisions using a different set of criteria, often one **that emphasizes profitability**. This can create conflict.
- Private water companies are unlikely to adopt the same criteria as municipalities when deciding where to extend services. They are prone to **cherry-picking service** areas to avoid serving low-income communities where low water use and frequent bill collection problems could hurt corporate profits.
- As a result of price hikes, service disconnections, inadequate investment and other detrimental economic consequences, water privatization often **interferes with the human right** to water.
- Empirical evidence indicates that **there is no significant difference in efficiency between public and private water provision**. In theory, competition would lead to cheaper contracts, but in practice, researchers have found



that the water market is “rarely competitive.” The only competition that can exist is the competition for the contract, and there are only a few private water companies that bid to take over municipal water systems. Once a contract is awarded, the winning company enjoys a monopoly. A lack of competition can lead to excess profits and corruption in private operations.

- A survey of 10 privatization contracts found that after taking over a system, water companies reduce **the workforce by 34% on average**. Other surveys have found similar results.

India’s experience:

In 2012, municipal body in Nagpur handed over its water supply to a subsidiary of the French water corporation, Veolia, for 25 years. Since then, the project has seen allegations of corruption, four increases in water tariffs, cost overruns, and delays in plugging leaks. The municipal body’s financial losses from water works has reportedly increased by Rs 60 crore per annum, leading to demands, from both opposition parties and the local community, for the ouster of the private player.

- Nagpur was the first large city in India to hand over its entire water service to a private firm. Smaller experiments in privatisation in Khandwa, Mysore, and Aurangabad, among others, have followed similar trajectories. Social mobilisation against the introduction of PPP (Public-Private Partnership) projects in metros such as Mumbai, Delhi and Bangalore have led to the plans being aborted.
- Water services Latur were handed over to a private operator — but within a few years, the Maharashtra water supply department had to take back control after high tariffs without any improvement in water quality triggered strong protests.

Global experience:

A 2014 study by the Transnational Institute lists 180 case studies in the last 15 years of public authorities wresting back control from private players — including in capital cities such as Paris, Berlin, Buenos Aires, Budapest, Kuala Lumpur and Bogota. 75% of these cases have been in high-income countries. The US has seen the largest number of cases — 59 — followed by France (49), home to the world’s largest water corporations, Veolia and Suez, and the country with the longest history of water privatisation.

Forty-four cases were recorded in middle- and low-income countries. The smaller number has been attributed to the fact that these countries are more likely to be subject to conditionalities of multilateral lenders. Also, the transaction cost of remunicipalising often involves paying huge compensation to the private operators for lost profits.

Then, what role should the private sector play?

From developing new technologies to providing construction crews for new treatment plants, the private sector plays an important role in protecting our water resources and finding innovative solutions to the water crisis. Although the public and private sectors work well together in many areas, businesses should not operate, manage or own public drinking water or wastewater systems. Those duties should fall under the purview of local governments, who have a responsibility to ensure safe and affordable service for all.

What can be done?

Instead of privatizing water systems, municipalities can partner together through public-public partnerships. Public partners are more responsive, reliable and cost-effective than private water companies. Intermunicipal cooperation, interlocal agreements and bulk purchasing consortiums can improve public services and reduce costs, while allowing communities to retain local control.

- As the recently drafted National Water Framework Law (NWFL) states, “water is the common heritage of the people of India; an inseparable part of a people’s landscape, society, history and culture; and in many cultures, a sacred substance, being venerated in some as a divinity”. Such a resource must never be privatised.
- Indeed, as the NWFL goes on to say: “The State at all levels holds water in public trust for the people and is obliged to protect water as a trustee for the benefit of all”. And that no one’s use of water should lead to depriving anyone of his or her basic right to water for life. So much so that even a “delegation of water service provision to a private agency will, in no event, constitute the privatisation of water”.
- Thus, the Public Trust Doctrine enunciated by the Supreme Court, rather than privatisation or nationalisation, is the answer to India’s water problems.

Conclusion:

Because private sector focuses on profit it is important that Government's restructure Water Utilities to reverse the infrastructural decay and improve their performance. There is a need to have greater engagement with the public and make Water Utilities accountable and capable of delivering water services.

21.04 - The case for long-term finance banks

Summary:

As the financial sector grows, apart from a number of universal banks, experts say it may be useful to **have differentiated banks** focusing on different areas and developing competence. In this context, RBI recently published a discussion paper on the need for wholesale and long-term finance (WLTF) banks. The move comes exactly a year after former RBI governor Raghuram Rajan proposed a new category of lenders to take over the burden of financing long-term projects from commercial banks.

Need for specialised banks:

- Presently, **it's not easy for companies to get long-term financing** because of the underdeveloped corporate bond market and possible asset liability mismatch in the banking system.
- The banking system is also saddled with **non-performing assets (NPAs)**, and a large portion is concentrated in the infrastructure sector.
- The financial sector has also not been able to meet the scale or sophistication of the needs of large corporates, as well as public infrastructure, and does not penetrate deeply enough to meet the needs of small- and medium-sized enterprises in many parts of the country.

Scope of activities:

- WLTF banks focus on lending to the corporate sector, small and medium businesses, and the infrastructure sector.
- They may also offer services in the area of foreign exchange and trade finance.
- They can act as market makers in instruments like corporate bonds and credit derivatives.
- The banks can also raise funds through issuance of debt and equity. They may also be allowed to accept term deposits above a threshold.
- Besides providing long-term loans, it is envisaged that WLTF banks will act as market-makers on corporate bonds, credit derivatives, warehouse receipts and provide takeout financing. They will also provide investment bank services related to equity/debt investments and forex and trade finance to their clients.
- Apart from these, there is a gamut of specialized services that these banks can offer to Indian businesses.

Benefits of having WLTF banks:

- They reduce the cost of intermediation and lead to better economic outcomes.
- As specialized institutions, they will be in a much better position compared with commercial banks in evaluating and funding long-term projects.
- With specialized banks, NPA risks could possibly be avoided in the future.



WLTF bank:

It will be a combination of term-lending institution and an investment bank. Promoters eligible to apply for banking licence can apply. However, minimum capital proposed is Rs 1,000 cr. while they can't accept savings deposits, they can raise money from current accounts, bulk fixed amounts and bonds.

WLTF is the **third category of a differentiated bank licence**. The RBI has already issued differentiated licences for payments banks and small finance banks.

- It may also help the rest of the banking sector in the case of joint lending, or by simply getting the project evaluation from these banks.
- Establishment of WLTF banks will also enhance competition, which will lead to more efficient allocation of financial resources.

Things that need to be ensured for these banks to succeed:

- Government participation in setting up WLTF banks should be avoided as it could end up defeating the purpose. Government ownership would lead to the same problems that public sector banks are facing at the moment. Further, these banks will be highly specialized and will need operational freedom, which is not possible with government ownership.
- Licences should only be issued to entities that are able to demonstrate the ability to build such a highly specialized bank, and are in a position to bring in capital to both meet regulatory requirements and run the business on a sustainable basis. The central bank may allow industrial houses to participate to the extent that they are not in a position to influence business decisions.
- The RBI will need to design a regulatory architecture that will enable growth with adequate safeguards. For example, the regulator may choose to exempt these banks from cash reserve ratio and statutory liquidity ratio requirements. These banks will compete directly with the bond market.
- Having bricks-and-mortar structures would add to costs and hence the option of being primarily an internet based bank can be considered.
- The WLTF banks can be made to apportion lending activity across both credit and debt markets. A 50-50 division will be useful as they can lend directly in the bond market for bonds which will be higher-rated. This will also be the preferred route for higher-rated companies. The balance lending should be based on collateral with insolvency laws in place. Also, RBI should focus simultaneously on credit enhancements to be provided by banks on such bonds which may be subscribed by the WLTFs.
- The WLTF banks should be freed completely from CRR and SLR obligations. The CRR is a disincentive while SLR will make them gravitate towards G-Secs.
- RBI can set tenures for their lending, i.e., not less than five years or such a norm, but should give the freedom to lend to any sector. Bringing in priority-sector-like norms will impede their activity.

Way ahead:

It should be remembered that WLTF will be starting with the handicap of lending to the non-retail segment and taking on higher risk as these loans would be of a long tenure. Focusing on infra projects and term-lending makes FIs more vulnerable to NPAs and hence, prima facie, the last decadal developments are a dampener. In short, there should be few inhibiting clauses in the terms of engagement for these banks, or else potential promoters would be at a disadvantage. An issue which should be kept in mind while giving permission is that all banks—including private sector—ones have faltered on asset quality when such long-term lending is concerned.

Conclusion:

Well designed WLTF banks with right kind of ownership will go long way in helping the financial sector of the country. With right regulatory architecture, these banks will help improve efficiency in the financial system and enhance the flow of credit to businesses with large and long-term financing needs. The pitfalls in the earlier dispensation of DFIs need to be addressed in detail by the applicants to reassure the central bank that these models can work.

24.04 - Why has India chosen to become a member of the International Energy Agency

Summary:

In March 2017, India activated the association status with the International Energy Agency (IEA). With India's inclusion, the IEA accounts for about 70% of the world's energy consumption.

India's energy demands:

India's oil consumption has grown at an average annual rate of 5% over the last decade and climbed over 4 million barrels per day for the first time in the year ending in March 2016.

- India is currently the world's fourth-largest oil consumer after the United States, China and Japan, and set to overtake Japan for the third slot within the next 12-18 months.
- Diesel remains the largest end market, accounting for more than 40% of all petroleum consumed in the country, according to the Ministry of Petroleum and Natural Gas.
- Liquid petroleum gas for cooking and petroleum coke for power generation are other major markets, each accounting for about 10% of final demand.



Background:

In an effort to reflect the rising role of non-OECD economies with major impact on the global energy market, the IEA introduced the “association” status in 2015. Since its inception, China, Indonesia, Thailand, Singapore, Morocco, and now India have become associated with the IEA.

The association status allows these countries to participate in meetings of IEA standing groups, committees, and working parties, without prior invitation. Association countries can work with the IEA on matters of energy security, energy data and statistics, energy policy analysis, and benefit from priority access to IEA training and capacity-building activities.

How this will help India?

India's membership in the IEA is a major milestone for India, the IEA, and global energy governance. India has had dialogues with the IEA on emergency preparedness in the past, but India's joining as an association country can facilitate its collaboration with the IEA in developing preparedness for oil supply disruptions and emergencies, including building and maintaining emergency reserves. The IEA association can help strengthen India's capacity building in the areas of energy efficiency, energy technology, renewable energy, electricity security, and grid integration—many of which have been identified by Prime Minister Narendra Modi's government as key priorities.

How is this significant for IEA?

For the IEA, India's participation signifies the evolution of the IEA as a global energy institution that better represents key players in the global energy markets today. According to the U.S. Energy Information Administration, non-OECD demand for energy will rise by 71 percent from 2012 to 2040, whereas total energy use in OECD economies will rise by 18 percent during the same period. Participation by major energy consumer countries—earlier by China and now by India—helps the IEA increase transparency in the global energy system through improved access to their production and consumption data.

Also, closer dialogues with energy policymakers and capacity building in India strengthens the IEA's effectiveness in setting the right agenda today to help address key challenges tomorrow. This will be especially relevant as these economies drive global energy trends and affect the global course for combating climate change in the future. Given that the IEA is now also the secretariat for the Clean Energy Ministerial (CEM) in which India has participated, joining the IEA will allow all member nations, including India, to work together on clean technology policies.

Way ahead:

Participation in the IEA is by no means a silver bullet for the challenges that India faces. India has a long way to go in providing energy access for its vast population. Today, 245 million Indians lack access to electricity. Also, emergency preparedness is a growing challenge for India, which has only 13 days of net oil import coverage in its Strategic Petroleum Reserve (SPR) as of 2016.

- As India looks to provide universal electricity access and pursues urbanization, its energy demand will double over the next 25 years, contributing to one-fourth of global energy demand growth during that period. Consequently, India is expected to become increasingly reliant on foreign sources of energy, as its import dependence, which is about 80% for crude oil and 40% for natural gas today, will grow.

- Not being a member of the IEA or OECD, India is not subject to any of the preconditions to which the member countries are subjected, including the 90-day oil reserve requirement. However, India and the international community will stand to benefit from India's collaboration with the IEA on emergency preparedness, as supply disruptions could significantly harm the global economy as well as Indian economy. Specifically, association with the IEA may hasten the development of SPR in India.

Conclusion:

India's participation in the IEA may herald the dawn of new era in global energy governance. The associate membership arrangement allows for a greater voice for emerging economies like India and China, whose policy vision and economic direction affect the global energy future. Whether their presence grows commensurate to their energy consumption growth, and whether these countries can influence the interworking of institutions like the IEA and the norms guiding global energy governance, are open questions. Their influence, which warrants close observation, will be critical at a time when inclusive governance is necessary to address the most pressing challenges of society—expanding energy access and security to all while mitigating local pollution issues and grappling with the challenges of climate change.

25.04 - The case for mediated settlements

Summary:

The Indian Public Banking System has been grappling with the problems of bad loans and is unable to find more than a band aid solution for it. Hence, the Reserve Bank of India has made it very clear to the banks that the system has to not only provide cushioning but also clean up the balance sheet. To formalize this dictum in the form of a possible regulatory move, the proposition of "bad banks" was made in the Economic Survey of India 2017-2018.



Present challenges:

- **Limiting aspect of direct negotiations between bank and debtor**, which usually run on the lines of high demands by banks and low offers by the debtor. The smaller borrower especially is faced with an imbalance in negotiating strength and is thus denied feasible, even if unattractive, settlement terms. Larger borrowers in acute distress may face similar problems. Settlement terms can be onerous which, if breached, have consequences of closure of business and sale of property.
- Another challenge is **the fear of post-decisional retributive action by way of investigation and prosecution by multiple agencies** such as the police, the Central Bureau of Investigation (CBI), the Central Vigilance Commission (CVC), the Lokpal, etc. Once initiated, the spectre of lengthy criminal trials looms, accompanied by fear of arrest, denial of bail and public ignominy. Courts respond inadequately — they do not speed up trials or consider bail applications expeditiously or penalise unnecessary prosecution. This inhibits settlements which are in the best interests of the bank but involve some concession or latitude inevitable in reaching the best compromise.

How these challenges can be addressed?

Mediation approach: A mediation approach, where an independent neutral engages with both parties, is more likely, practically and empirically, to lead to faster and better agreements. In joint and separate sittings with the mediators, this consensual, non-coercive and confidential process enables the parties to discuss options such as debt concessions, repayment schedules, interest reductions, perhaps even additional credit with safeguards.

A separate organization: Freedom to take sound commercial decisions must be statutorily structured, else all our schemes will come to naught. One way is to create a high-level body before which settlement agreements can be placed for approval. This body will examine the settlement to see if it is commercially advantageous and is in the interests of the public sector financial institutions, taking all prevailing circumstances into account. Where it comes to an affirmative conclusion, that should provide complete immunity — from the police, the CBI, the CVC, the Lokpal and the courts — for the officers of the bank who have negotiated and recommended such solution. This is a better step than oversight committees which do not provide the backbone to take the commercial decision of beneficial compromise.

Composition of the body: Such a body needs to be headed with high authority, drawn from the top echelons of the judiciary, the RBI and public sector banks, serving or retired. It should be a multi-tier body when the number of cases increases, which will happen because once you offer mediated solutions with protection for sound decision-taking, then both banks and borrowers will know that it makes eminent sense to try this approach which essentially means no risk in trying for a settlement, and no risk in agreeing to it.

Conclusion:

It should however be noted here that a bad bank can at best be one of the many tools to deal with the stressed assets. Policy makers appear to give an impression that it is single shot solution to solve the problem. The government should also ensure that all other options –DRTs, CDRs, ARCs, SDRs and SARFAESI are made effective. The extent of bad debts in the system is too large for a single tool to be effective.

26.04 - The expanding universe of IP

Summary:

Data exclusivity has become a topic of intense discussions led by large drug companies which are strongly advocating that each member country of WTO should introduce a provision for keeping the data, submitted by them to the market approval authorities, confidential for a fixed period of time. The common argument being forwarded by them is that TRIPS has stipulated a provision for data protection or data exclusivity in respect of drugs and agrochemicals.

What is data exclusivity?

Data Exclusivity refers to a practice whereby, for a fixed period of time, drug regulatory authorities do not allow the test data of the innovator company to be used to register a equivalent generic version of that medicine.

Case for Data Exclusivity:

- The proponent for data exclusivity put forward the argument that test data, which are submitted to the drug regulatory authorities to assess the quality, efficacy and safety of the drug, are the result of huge and risky investment made by the innovator companies. They argue, it takes around 8-10 years of intensive clinical research and trials and investment between \$800 million to \$1.2 billion to bring a new drug to the market and if such data are made available to the generic companies, it means that huge investment in Research and Development (R & D) made by the innovator companies to launch new drugs are unprotected.
- Proponents say if data is protected, it would encourage pharmaceutical giants to make massive investment in R & D which is complex, time consuming and most importantly very expensive. Such huge investment in R & D is beyond the scope of the domestic manufacturers and even outside the financial limit of the third world countries. Thus, data exclusivity will act as an incentive for such companies to make more risky and huge investment in drugs and medicines.
- It is also said that data exclusivity law will encourage and boost Foreign Direct Investment (FDI) in the country by Multi-national pharmaceutical giants and it would be good for India's economic development. Concerned over absence of data exclusivity law in the country, multinational pharmaceutical companies are of the view that India could lose out on foreign investment in the pharma sector as protection of test data was the key to company decision on location



International Law on Data Exclusivity:

The Pharmaceutical companies are demanding data exclusivity law by resorting to Article 39(3) of TRIPS. Article 39(3) of the TRIPS states that "Members when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use. In addition, Members shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that data are protected against unfair commercial use".

But, it should be remembered that Article 39(3) does not talk about "Data Exclusivity" but only about "unfair commercial use" and it is this phrase that is interpreted by Multi-national companies as containing "Data Exclusivity" provision and thus demanding data exclusivity law.

of clinical trials. India's technological and research and development will expand with resultant economic benefits if the data exclusivity law is implemented in the country.

- The proponents also argue that enactment of data exclusivity will encourage brain-gain as Indian scientists will return home to pursue innovation in their own country and will gain increased access to clinical trials in the country and hence Indian scientists will acquire global competitiveness and world class expertise in clinical trials in their own country.

Case against Data Exclusivity Law:

- Many generic drug manufacturers and public interest groups are against such data exclusivity law. Their main contention is that if such data exclusivity law is introduced in India, the Drug Controller of India (DCI), which is regulatory authority, will be barred from relying on test data, submitted by pharmaceutical giants, in granting marketing approval to generic medicines. Instead, it will ask the generic drug manufacturer to undertake its own clinical trials and submit test data to controller of drugs to assess the quality, efficacy and safety of the generic version of the drugs which takes time and is costly.
- The long gestation period undertaken by generic companies in conducting clinical trials will delay the process of arrival of life saving drugs at affordable price in the market by a number of years and would amount to monopolization of the pharmaceutical giants. It is also said that since Indian drug companies export significant amount of life saving drugs to other developing and least developed countries, any significant rise in the pricing of such drugs or delay in the introduction of generic version of such drugs in the market would significantly affect the population in and out of the country.
- It is argued that clinical trial process involves ethical questions, as the proposed drugs have to be tested on animals and then on the human beings, usually on volunteer patients, in order to determine its efficacy, quality and safety. If data exclusivity law is enacted, then generic drugs manufacturers have to undertake clinical trials for getting the marketing approval of the generic version of the same medicine and it will led to duplicative testing and it would also amount to unnecessary and possible human injury associated with clinical trial process. It is unethical to conduct clinical trials on the drugs, which have already proven effective. And it is also important to obviate social and economic costs of repetitive animal and human testing. Hence, data exclusivity law can be challenged on moral and ethical grounds also.
- It is also argued that data exclusivity law would led to ever greening of patent. The innovator companies will make minor modification of their drugs and will get it protected under data exclusivity law. Data exclusivity will encourage investment in modifying existing drugs rather than inventing new one. While patent would not cover data protection due to ever greening concept, data exclusivity is seen as new form of intellectual property right to effectively extend patent life.
- Another disadvantage of implementing data exclusivity law is that it can defeat the provision of Compulsory Licensing. The Indian Patent Act under Section 84 contains law on Compulsory Licensing which can be enforced under certain conditions such as when patented drug is available in insufficient quantity or when the price is out of the reach of common people or in order to remedy anti-competition practice and in circumstance of extreme urgency or emergency. But if data exclusivity law protects such data, then the grant of Compulsory Licensing will be of no use to generic companies, as data exclusivity law will act as a barrier to marketing approval of generic version of patented drugs thus defeating the whole philosophy behind Compulsory Licensing.

What can be done?

Since the matter is very controversial and each side has their own valid points, it must be remembered that the issue relates to the accessibility and affordability of the life saving drugs to millions of people in third world countries and any rigid or adamant attitude from any side will adversely affect all especially the common people. Each side should try to find a middle-path formula so that interest of all can be reconciled with the larger interest of the common people in developing and third world nations.

The best possible solution to the matter in hand is that the Compensatory Liability Model (CLM) should be adopted. Generic manufacturers must compensate the originator of data for the use of the data. After all such test data are products of long and intensive research, which involves considerable amount of expenditure, and commercial exploitation of such data without the consent of innovator companies is nothing less than "unfair commercial use" under Article 39.3 of TRIPS Agreement. The compensatory model seems to be appropriate in the circumstances, as this would make generic companies share the fair cost of bringing a new drug in the market and the innovator company

will be able to earn a fair return on its investment. But amount of compensation must be reasonable and must be well within the financial limits of generics manufacturers.

Conclusion:

Data exclusivity has become the next big tool for pharmaceutical industry to indirectly seek market exclusivity. Increasing the period of data exclusivity is the absolute best and indirect way of delaying generic competition. It is time for the Indian government to evaluate where it stands on making drugs affordable for its ever growing population and bring in policy in relation to that. India has a desire to grow its pharmaceutical sector. It certainly has the capabilities. However, to reach the next level, and to create the new medicines that will treat the needs of people right here in India, the country needs to create the right environment to stimulate research.

27.04 - Indian heritage's economic potential

Summary:

Built heritage is a **significant public good** and is recognized as such in the Constitution's Seventh Schedule. It nurtures our collective memories of places and is a significant constituent in the identity of cities. It has invaluable potential to contribute to our knowledge of not just history and the arts, but also science and technology. Several buildings and sites throughout the country, even entire areas or parts of historic cities, are examples of sustainable development. They demonstrate complex **connections of man with nature**.

Need to protect heritage sites:

Unlike other intangible forms of cultural inheritance, our built **heritage is an irreplaceable resource**. It is **site-specific**. Knowledge gained from such resources can provide constructive ways to address development challenges.

- India, with several millennia of history, boasts of a diverse and rich built heritage. Each region of our subcontinent boasts of monumental buildings and remarkable archaeology. Yet, less than 15,000 monuments and heritage structures are legally protected in India—a fraction of the 600,000 protected in the UK.
- Persistent oversight of the values of our heritage is one of the major paradoxes of physical planning and urban development in post-colonial India. **Conservation of heritage is not seen as a priority to human need and development**. Heritage sites are more often than not seen as consumables and usually end up as the tourism industry's cash cows and little else.
- Even those structures considered to be of national/state or local importance in India and protected as such remain **under threat from urban pressures, neglect, vandalism and, worse, demolition, only for the value of the land they stand upon**.
- This poor state of preservation of a large part of our national heritage is a result of the inability of those entrusted with their care and management to unlock the economic potential of these sites and demonstrate that conservation efforts can lead to meeting development objectives in a more sustainable manner.

What needs to be done now?

- The government must ensure that visits to monuments and archaeological sites **are exciting for visitors**. It is required that the cultural context and intangible heritage—music, food, ritual, dress, personalities, sport, festivals—associated with the sites be explained to the visitor. Cultural events that would usually attract large numbers should be organized at less visited monuments and heritage enthusiasts encouraged to buy annual

passes that allow unlimited repeat visits. Funds spent on introducing such measures and facilities will quickly yield rich dividends.

- To pass on our built heritage to future generations in a better condition than we inherited it, **liberalization of the cultural sector** needs to be brought in and responsibility entrusted to private entities, universities, non-profits, even resident welfare associations. A combination of non-governmental partners engaging the specialists required and government agencies supervising conservation efforts could ensure that the highest standards are met.
- Heritage buildings everywhere utilize local materials; the skills to work upon these are in the local communities. Obviously, **any conservation effort then has to source locally—creating employment and economic opportunities**. Many an Indian ruler commissioned forts, palaces and temples in times of drought as a life-saving economic incentive for the populace. “Make in India” objectives will thus be met by any well planned and implemented conservation effort while simultaneously creating an economic asset that continues to pay rich dividends for years to come.
- Central government grants could be made available to **fund conservation efforts by the states and private owners**. Property tax waivers, permission for change of land use and transferable development rights are amongst other incentives those residing within the 100m “prohibited zones” of nationally protected monuments could receive. Besides being used as hotels or museums or libraries, heritage buildings could also easily be adapted to serve as schools or clinics—lending economic value to local communities. While representing a higher aesthetic and building quality, it is always more economical to convert a building than to build afresh.
- To be meaningful, **conservation works need to be coupled with urban improvements, improved transport infrastructure, providing economic opportunities, and improving health, education and sanitation infrastructure**. Only then will heritage assets be valued by those living around them. Conservationists have often expected local communities to contribute towards the conservation effort while not offering any incentives and imposing heavy restrictions. Such an approach is never likely to succeed.

Conclusion:

As the **Vienna memorandum on world heritage and contemporary architecture** adopted by UNESCO points out, the historic cities are in continuous use and have to ‘respond to development dynamics.’ The challenge is to ‘enhance the quality of urban life without compromising existing values of the historic city.’ Planning measures have to be quickly devised but before that steps should be taken to recognize historic cities as cultural artifacts that are worth protecting. Just as anywhere else in the world, our built heritage can be leveraged for economic gain through tourism dollars as well as opportunities for craftsmen and local communities.

28.04 - Cities at crossroads: Starving the municipality

Summary:

According to a recent study, property tax is grossly under-exploited in India, even though it remains the largest source of revenue for urban local bodies.

Significance of service tax:

Property tax is the single **most important source of revenue for municipal corporations and municipalities**. It accounts for 30% of “own” municipal revenues in India.

While property tax is levied and **collected by the urban local bodies, the state government has the power to design the property tax regime** including the tax rates, exemptions and rebates, the tax base, and the basis for the valuation of properties as well as their revaluation every few years to account for rising prices.

What’s the concern now?

However, in recent times political parties vying for power are often tempted to promise a waiver or reduction in the property tax or grant of exemptions in order to win support during election time, thereby creating huge vulnerabilities for municipal finances subsequently. The largest source of revenue for the urban local bodies, therefore, tends **to get**



caught in the wheels of the election cycle. The resulting collapse of municipal services hurts voters, but they do not realise how it is directly linked to the populist decision to cut property tax or house tax as it is commonly called when levied on residential properties.

Various attempts by state governments in this regard:

- The Delhi Chief Minister had recently announced that if the AAP came to power in municipal corporations, the Delhi state government would waive house tax for all residential properties — big or small, rich or poor.
- Rajasthan abolished property tax in February 2007. However, the tax was brought back within six months in a new incarnation as “urban development tax” to recoup the loss of revenue resulting from the property tax abolition, and also to retain access to Jawaharlal Nehru National Urban Renewal Mission (JNNURM) funds for urban infrastructure.
- In Punjab, house tax on self-occupied residential houses, which form the bulk of the properties covered under the tax, was abolished in the late 1990s. In 2006, attracted by the desire to access JNNURM funds to build infrastructure in Amritsar and Ludhiana, the government in Punjab entered into an agreement with the GoI to put in place a reformed property tax regime in these cities but was not able to implement the agreement.
- Property tax was finally introduced in 2013, although following the familiar pattern, property tax rates were cut by almost half and many categories were exempted during the campaign for the general elections in 2014.
- Haryana and Himachal Pradesh have also each had a bash at blowing the budgets of their municipalities by giving major exemptions in their property tax regimes.

What needs to be done now?

- There is need to set up a **property tax board** in each state which could set out better and more transparent methods of assessment, valuation and collection of the tax, using GIS and other IT tools.
- There is also need to add a **municipal finance list** in the Constitution which should specify taxes that are exclusively in the domain of the local government.
- Above all, there is need to heed the sage advice of the **Fourteenth Finance Commission**: “The state government should not provide exemptions to any entity from the tax and non-tax levies that are in the jurisdiction of local bodies. In cases where the grant of such an exemption becomes necessary, the local bodies should be compensated for the loss.” State governments will then not be able to play politics with municipal finances.
- **Financial** autonomy to set user charges to cover costs of delivering public services is also crucial if we are to see a process of turnaround in the state of service delivery in our cities. In fact, state governments should match increased local revenue effort with larger grants.

Conclusion:

The urban local governments have remained hamstrung by the lack of funds and the situation is going from bad to worse. If Indian cities are to deliver a better quality of life and improved investment climate, they need to have business models which are financially and environmentally sustainable.

29.04 - What sort of new FRBM do we need?

Summary:

The report of **N.K. Singh committee** to review the Fiscal Responsibility and Budget Management Act ([FRBMA](#)), 2003, has been made public. However, there’s no indication as to whether the government will accept these recommendations.

Important recommendations made by the committee:

- A **debt-to-GDP ratio** of **40%** for the central government, 20% for the state governments together and a fiscal deficit of 2.5% of GDP (gross domestic product), both by financial year 2022-23.
- There be some flexibility in the deficit targets on both sides, downwards when growth is good and upwards when it isn’t.

- Enact a new Debt and Fiscal Responsibility Act after repealing the existing Fiscal Responsibility and Budget Management (FRBM) Act, and creating a fiscal council.
- Compose a three-member fiscal council to prepare multi-year fiscal forecasts for the central and state governments (together called the general government) and provide an independent assessment of the central government's fiscal performance and compliance with targets set under the new law.
- **Revenue deficit-to-GDP ratio** has been envisaged to decline steadily by 0.25 percentage points each year from 2.3% in 2016-17 to 0.8% in 2022-23.
- To deal with unforeseen events such as war, calamities of national proportion, collapse of agricultural activity, far-reaching structural reforms, and sharp decline in real output growth of at least 3 percentage points, the committee has specified deviation in fiscal deficit target of not more than 0.5 percentage points.

What's good about these recommendations:

- The committee has recommended reducing the Centre's debt to GDP ratio from 49.4% in 2016-17 to 40% by 2022-23. The states' debt ratio is targeted to remain at around 20%. The combined debt of the Centre and the states is targeted to go down from 68% in 2016-17 to 60% by 2022-23. The 60% debt target for the Centre and the states combined is an improvement from 68% in 2016-17, but it is still much above the average of about 40% for similarly rated emerging market countries. However, since our growth rate is also much higher, a 60% debt ratio may be accepted as a reasonable target.
- The committee has considered the need for flexibility in fiscal targets. This is important because a fixed deficit target can pose problems if there is a cyclical downturn in GDP. Lower growth means lower revenue, which means expenditure has to be reduced to keep the absolute level of the deficit on target. The lower GDP will also reduce the denominator in the fiscal deficit ratio, which means the absolute size of the fiscal deficit will have to be lower than originally projected to keep the deficit as a percentage of GDP at the targeted level. Both factors will force a contraction in expenditure, which would worsen the cyclical downturn.
- The committee has therefore recommended an "escape clause" which would enable departure from the fiscal deficit target in specific circumstances. The proposal clearly improves over past practice because the escape will be possible only on the recommendation of the Fiscal Council (on which more below) combined with some assurance of a planned return to the original target.
- The recommendation to create an independent Fiscal Council is a major institutional reform. Many countries have established such councils and our doing so will add to the credibility of the new system.

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.
- As per the act, the government has to provide 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.

Need for a new act:

A new Act is needed because the existing FRBMA has proved ineffective. It was suspended with impunity in 2009, for several years, during which the fiscal deficit went out of control. There was also non-transparency which allowed the deficit to be seriously understated. The lesson is not that fiscal rules are useless, but that the old Act was flawed, and we need something better.

Conclusion:

It is then clear that the country needs a new fiscal framework. We can rue the fact that it should have happened sooner. But as the cliché goes: Better late than never.