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Insights into Editorial

02/01 - Excluded from financial inclusion

Summary:

It is said that the call for financial inclusion in the country has become an illusion for the disabled in the country. Despite the Reserve Bank of India (RBI) repeatedly issuing circulars to all scheduled commercial banks across the country to provide banking facilities to customers with disabilities at a par with non-disabled people, the majority of disabled people continue to be inconvenienced by the banks.

Why people with disabilities need special attention in the country?

As per the 2001 Census, there are around 2.19 crore persons with disabilities in India. They constitute 2.13% of the total population of the country. This includes persons with visual, hearing, speech, locomotor and mental disabilities. Despite these numbers, there is a lack of understanding of their needs, and people with disabilities face a number of obstacles when it comes to living a normal life, and availing banking facilities is a big part of the problem.

Making banking accessible for people with disabilities is both a best practice that should be followed, as well as a sound commercial decision. There are a large number of people in India with differing levels of disability, who would benefit from using banking services. Additionally, the number of people will only increase with time as India's young population grows old, since incidence of disability increases with age.

Hurdles for disabled people to access banking services:

- Many disabled people, especially in rural India, find it difficult to sign bank documents, and are denied ATM cards, cheque books and Internet banking.
- The majority of commercial banks have archaic rules in their statute books which debar people with disabilities from opening independent accounts.
- Persons with disabilities are compelled to produce witnesses every time they visit banks to make online transactions through real-time gross settlement and national electronic funds transfer.
- Disabled customers are also perceived as dependent on their family members; they are seen as lacking independent agency to make their own decisions.
- In many rural areas, if a visually impaired person or a person with low vision walks into a bank to open an account, most banks don't comply. Bank officials often insist that the person should open a joint bank account with a person with sight, or open an account with no ATM card/cheque book facility or both.
- The situation is worse for those with hearing impairments and intellectual disabilities. If a person who is deaf visits a bank for availing the benefits of a scheme or service, the branch more often than not lacks the manpower to understand or interpret sign language.
- People with psycho-social disabilities are the worst hit — they require a guardian to sign a contract on their behalf.



- Disabled people are also denied also loan facilities. A majority of banks refrain from offering insurance to people with disabilities.
- Despite the RBI stating that banks have to take necessary steps to provide all existing ATMs/future ATMs with ramps so that wheel chair users/persons with disabilities can easily access them, most ATMs remain inaccessible.
- A person with a learning disability, for example, dyslexia, will face severe difficulty filling out an application form (or any document for that matter) and banks are not disabled friendly in terms of the attitude of the staff towards such difficulties.
- The problem is exacerbated by the fact that around 75% of persons with disabilities live in rural areas, and only around 49% of the disabled population is literate and only 34% is employed. Although one may find some rare cases of disabled-friendly banking options in the metros, in the rural areas, there are neither facilities nor is there any sensitisation towards meeting the needs of the disabled.

What needs to be done?

- There are specific Reserve Bank of India (RBI) notifications that mandate banks to offer banking facilities in a non-discriminatory manner to all customers. The adoption of accessibility features and technologies in Indian banks today is very low, despite there being a legislative as well as executive push for the same. Banks which do not follow these guidelines are not meeting their legal requirements. RBI should ensure that all banks follow these guidelines.
- There are several international guidelines which can be referred to while formulating policy on banking accessibility, such as guidelines on ATM construction and modification (USA) and guidelines on making websites accessible for people with disabilities (the Web Content Accessibility Guidelines), as well as voluntary standards that have been taken up by banking associations in countries like Australia and New Zealand in order to make banking more accessible to people with disabilities and the elderly population.
- RBI should ensure that the bank staff is sensitised to the needs deaf customers, and know of a sign language translator who can be called if a customer requires it. Bank staff should be sensitised to the needs of blind customers, and ensure that there is a customer care executive who is present when a visually impaired customer needs assistance with a particular service.
- Another important step that needs to be taken by different banking institutions is ensuring that their ATMs and branches are accessible through a ramp, so that it is physically possible to reach from the road or other public area. Within the bank, there should be special provisions for people in wheelchairs or crutches, such as a designated queue and teller, so that they do not have to wait in queue for a long period of time.
- State and national governments should encourage opening of bank accounts by the disabled so that any funds or scholarships can be directly transferred into their account as opposed to being given to organisations which may not transfer it to the beneficiaries — this would help curb malpractices.
- Financial service providers should tailor accessibility solutions to address each kind of disability and the range of problems faced by the persons affected by them; they should look at best practices from around the world and implement solutions on their own steam instead of minimum compliance with the government or RBI requirements.

Constitutional Provisions in this regard:

Part III of the Constitution of India, which deals with the fundamental rights of citizens, recognizes the principle of equality of all people.

- Article 14 states that the government must accord equal protection of the law to any person within the territory of India. This recognition of the importance of non-discrimination means that the state must ensure that people with disabilities do not suffer disadvantages when it comes to accessing public services.
- Article 15, which deals with prohibition of discrimination on various grounds states that no citizen is to be subject to any disability, liability or restriction with regard to access to shops, public restaurants, and other public places.
- It is evident that this important constitutional protection extends to people with disabilities, and it is their right to gain equal and accessible access to all manner of services, including banking.

Way ahead:

In this age of technology, banks have embarked on a slew of innovative strategies to woo the general public. We have been witnessing a lot of tailor-made financial products and services for general customers. However, there is a common perception among bank officials that disabled people do not require banking products and services. The call for financial inclusion is a distant dream for disabled people who face harassment from financial institutions across the country. Banks and companies that offer insurance policies are not yet ready to accept disabled people as respected clients.

India is a signatory to both the United Nations Convention on the Rights of Persons with Disabilities, 2006 and Biwako Millennium Framework towards an Inclusive, Barrier-free and Rights-based Society for PWDs in Asia and the Pacific, 2002 and thus has an international obligation to ensure equal access to all members of the population. This obligation extends to giving people with disabilities the right to conduct banking services. This has been recognised by several Reserve Bank of India (RBI) directives as well, although these guidelines have not been fully implemented so far.

Conclusion:

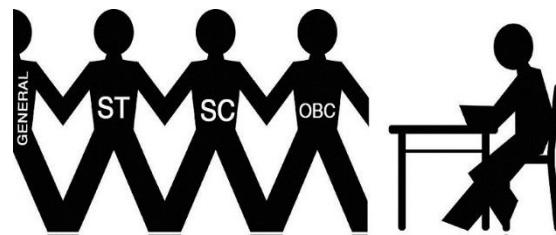
Accessibility should not be treated as a corporate social responsibility measure by the large banks and financial corporations, but as a responsibility to be fulfilled regardless of anything else. The RBI and the government need to take punitive action against those errant officials and banks that contravene the RBI's guidelines for providing banking facilities to disabled people. We must uphold the spirit of Article 41 of the Constitution (Right to public assistance for the disabled).

03/01 - Not just about a quota**Summary:**

A new survey called SARI, Social Attitudes Research for India, was recently conducted in India. The survey investigated what people in cities, towns, and villages think about reservations. SARI used a sampling frame based on mobile phone subscriptions, random digit dialling, within-household sample selection, and statistical weights to build representative samples of adults 18-65 years old.

The survey yielded the following results:

- About half of the respondents said they do not support reservation. However, support for reservation was more common among people from reserved categories.
- The lowest opposition to reservation was observed among respondents from the Scheduled Castes (SC) and Other Backward Classes (OBC), while the highest opposition is found among general caste respondents.
- The survey concluded that a majority of the most educated and historically well-to-do communities do not feel that people from marginalised groups should get government support for representation in social and public spheres.



Respondents from well-to-do communities are against reservation mainly for the following reasons?

- People from unreserved categories feel that people from reserved categories are often given a concession of a few points on exams and in interviews. This, according to them, distorts the playing field.
- Some of the respondents said that they opposed reservation because they believe in equality.
- Also, some people say that they oppose today's reservations because they believe reservation should be made on the basis of income rather than social background.

What are the main intentions behind reservations/quotas?

- People from reserved categories face many disadvantages in going to school or getting a job today. Reservation is a useful tool to level the playing field. This is also necessary because these groups have been historically deprived of education, skills, and access to other means of economic mobility and they suddenly cannot start competing with those from groups who have had access to these means for centuries.
- Social transformation and building of economic and cultural capital takes time to be passed on from one generation to another. Children who grew up in a dominant caste household are often encouraged, supported, and helped to succeed by other members of their caste groups, while reserved category students rarely have such networks to draw on.
- It is also worth noting that many reserved candidates have reached schools and jobs in spite of economic and social disadvantage as well as overt exclusion and discrimination. Because they have succeeded in the face of adversity, they bring a different and desirable kind of merit to a school or workplace. Hence, reservation is necessary for further push.
- Reservation is a policy tool that aims to ensure representation of all social groups in positions of power. When people from all social groups are represented in government, higher education, and in business, it is less likely that traditionally marginalised groups will continue to be denied fundamental rights and access to their fair share of society's resources.
- Also, reservation is provided to only a few groups like Dalits, backward Muslims, and Adivasis as they face social discrimination and exclusion that people from general caste backgrounds do not face.

Way ahead:

Questions surrounding reservation have long evoked strong and passionate responses. People come to the debate with preconceived ideas and stands, and rarely change their minds. As a result, India is left with little consensus on the

reasons for reservations and whether or not reservation is a useful policy. However, the time is now ripe for informed and logical discussions. The government's responsibility now is to conduct regular surveys and re-examine the reservation policy in the present scenario. The government can ensure wider reach of the policy if necessary and also limit its usage wherever its necessary.

Conclusion:

Reservation is a policy tool that is used not only in India. In many countries, reservation or other types of affirmative action are used to try to overcome human prejudice based on race, gender, ethnicity, religion, caste or any other group identity, and to encourage representation of and participation by groups traditionally excluded and discriminated against. One way to make these measures more acceptable and help people better understand the historic, social and cultural background behind reservation would be to educate children in schools about caste, ethnic, gender and regional diversities and the need for public policy interventions to make society more equal and fair.

04/01 - AFSPA in Manipur

Background:

Due to the disturbance and insurgency in the state, the Government of India promulgated the Armed Forces Special Powers Act 1958 in Manipur State. Since 1980, the whole of Manipur has been a "disturbed area" under the Act. Vide this Act, the security forces have been given some extra powers so as to operate against the insurgents in the disturbed areas.

Why people in Manipur are not happy with this law?

- The power under the Section 4(a) of AFSPA Act has hurt the citizens of Manipur the most as they feel that the Act confers the armed forces with broadly defined powers to shoot to kill and that this is a law, which fosters a climate in which the agents of law enforcement are able to use excessive force with impunity.
- People in Manipur feel that they have been deprived of the spirit of liberty, freedom and democracy for too long a period. The exercise by the armed forces of the unchecked powers to arrest, search, seize and even shoot to kill conferred under Section 4 of the Act has resulted in large-scale violation of the fundamental rights of the citizens under Articles 14,19,21,22 and 25 of the Constitution.
- It is alleged that security forces have destroyed homes and other structures presuming them to be used by insurgents under provisions of Section 4(b) of AFSPA. Manipuris also feel that arrests without warrants is a serious encroachment on the right to liberty of a person. The power of search and seizure under Section 4(d) has been extensively used by the armed forces in cordon and search operations leading to widespread violation of fundamental rights of citizens and the forces have kept arrested persons (Section 5) for several days in their custody.
- Due to protection under Section 6 of the Act, some security force personnel even violated the human rights of people and left the victims without any effective remedy. The failure to identify those responsible for human rights



violations and to bring them to justice has meant that some members of the security force continue to believe that they are above law and can violate human rights with impunity.

But, why AFSPA should continue in Manipur?

- If discontinued here, it will cause a chain reaction in all states where the Act has been enforced.
- No armed force would like to carry out any operation in the insurgent affected areas without proper legal protection for its personnel.
- It will demoralise the armed forces and all initiative will be lost.
- Whenever any offensive action is taken by armed forces, the militant groups will instigate the people/local authorities to initiate legal cases against the armed forces. Justice may be biased under the influence of militants.
- The militants will get an upper hand and may be difficult to contain.
- Incidents of extortion from the civilian population/government organisations will go unchecked.
- Civil administration will be overrun by the militants and there will be chaos all around.

What needs to be done now?

- The general administration in Manipur is not able to give effective justice to the people, with the result that it has to depend on the security forces for its normal functioning. Therefore, the forces operating in the state have to be honest, law abiding and must respect the rights of the people of the state.
- The commanders at all levels should follow the principle of “use of minimum force” required for effective action. They should brief their men to respect all womenfolk. In case any woman is to be arrested, then it should be done with the help of a lady police/ force personnel, who should also remain present during interrogation.
- While carrying out search operations, the force personnel should associate a local respected person and also the owner of the house, and after the search, the owner should be permitted to search the search party if he so desires.
- One must challenge before opening fire and to ensure that one fires only in self-defence. A grievance cell should be opened at Sector Headquarters/ Battalion Headquarters so that the civilians can lodge complaints against the force personnel if they so desire and the commander should take necessary action as deemed fit. Police representatives must be associated with every operation conducted by the security forces.
- The training should be of high level so that the armed force may be able to handle all types of situations with professional competence. It is high time that the state police is trained to take over operational responsibilities from the Army and the BSF.
- The normal operations may be conducted by the state armed police and only major and pinpointed operations be left for the armed forces. Junior level personnel should be properly briefed to not to over react to any sensitive situation.
- It is also important to evolve a mechanism to deal/ tackle with overground support structures that are generally well-connected with local politicians and are regarded in the society.
- Everything depends on intelligence and hence we must sharpen the skills of the armed forces for collection of hard intelligence. Senior commanders should handle civil society sensibly so as to extract sympathy and maximum information from them. This will also help in changing the perception of the local population in the larger interest of the Government/ Nation.

Conclusion:

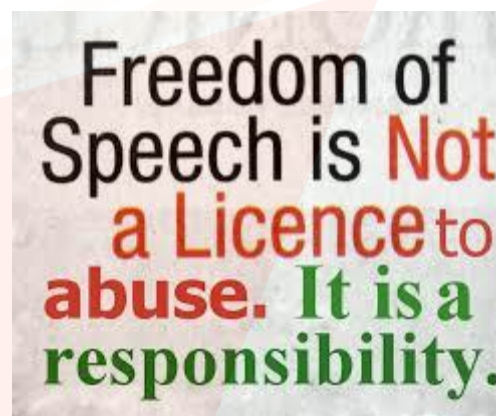
Security forces should be very careful while operating in the Northeast and must not give any chance to the militants to exploit the situation. Indiscriminate arrests and harassment of people out of frustration for not being able to locate the real culprits should be avoided. All good actions of the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

05/01 - Best antidote to fake news and hate speech is more speech**Summary:**

Some incidents in the past few years have shown that society and its conflicts manifest themselves in what has come to be known as “fake news” — and the internet does aid its rapid distribution. That is not the malaise of the internet or social media platforms, however. It is the actors, very often, competing political and other special interests which are producers of such content. But, fake news is a huge problem and demands an urgent solution.

Why be concerned about this?

In our country, there are roughly 240 million smartphone users and over 500 million feature phone users. The Internet and Mobile Association of India estimates about 370 million internet users in our country — most of them are on mobile internet. The connected world and the internet services at this scale today have created an environment, where everyone is a publisher.



- This is a staggering community of people; all of diverse views and opposing tastes, combatants, families, friends, foes and critics, together inhabiting a world of facts and post-truths. It is in this chaotic, complex, sociological and political sphere that different actors, including the internet and social media platforms, operate. This presents both new opportunities and complex challenges for society.
- Another concerning aspect for Indians is the almost non-existent reaction from both the powerful Indian news media and the country’s vibrant tech industry. Both seem almost conspicuous through their absence in this global debate. At a time when the Indian populace has been demonstrated time and again to be highly susceptible to misleading and fake news, it is worrying that the arbiters of information in our country are keeping quiet on this rapidly escalating issue.

So, what is the risk of keeping quiet?

Almost all the solutions currently being put forward seem to be emanating from the West and primarily the US. While Silicon Valley and its ilk have generally been at the forefront of most technological upheavals in the last decade, the subject of news monitoring and filtering is just too important and delicate to be entrusted to just an elite few. Furthermore, there is also the risk that solutions devised in the West might be ill-suited for other parts of the globe due to socio-cultural differences. For example, solutions devised for balancing discourse in a two-party system such as in the US might

struggle with the subtle distinctions in a country hosting close to two thousand parties each catering to the needs of the country's myriad communities.

- Furthermore, the entwinement between industry, media and government runs far deeper in the developing world as compared to much of the West. As it is India ranks 133rd out of 180 countries in the Reporters Without Borders' Freedom of Information rankings, and has been proven time and again as a dangerous place for reporting the truth. Add to this a nebulous mix between media houses, corporate and political parties, and it is easy to see how an ill-construed mechanism hinged on the credibility of major publications can skew the balance of democratic power in a developing country.
- Hence, any solutions that do not take these nuances into account will struggle to succeed at a global level. At best they might have a lesser impact than desired, and at worst they could help dismantle already tenuous forms of information transparency in the developing world.
- Also, standing by on the sidelines, waiting for someone else to solve the problem would be akin to handing over the reins of our entire public discourse, which is today increasingly being shaped by social media, to external entities. Needless to say that the consequences of such inaction could be calamitous. We need to stand up and speak now, or else risk having our entire public discourse directed by algorithms which we had no say in designing.

But, why it's a difficult problem to solve?

By its very nature, social media and the online world at large is democratic in nature. Every user claims the right to view content s/he seems fit, and expects that right to be maintained and defended.

- If there happens to be some sort of 'corrective action' taken by a social media site such as Facebook or Twitter, users tend to go up in arms.
- Even if these actions are triggered to maintain law and order or a software bug, users would consider this as a bias against their points of view or an attempt to clampdown on dissent.

What needs to be done?

- The lasting and most powerful antidote to rumours, fake news and hate speech is more speech. That is a strong logical counter-speech — a strong rebuttal of the rumours and real-time reassurance to the affected people by the state, the community, newsmen and the media.
- The current climate also underscores the importance of independent fact-checkers. They will help nurture a culture of fact-checking and an atmosphere where each individual will be more rigorous in their assessment when engaging with different types of information on different media and diverse platforms.
- Some solutions by internet giants, such as Facebook, which focus on ensuring information is sourced from 'reliable' sources are in many ways looking to re-establish the old world order of trust in established/reputed institutions.
- Human editors are also an option and it is highly likely that any solution will have to incorporate some form of human input on a regular basis.
- There is also an effort being made to burst the filter bubbles of readers by showcasing to them news from across their reading spectrum. Projects such as Escape Your Bubble might possibly be the best way to tackle the problem as they focus on enlightening users with more varying information rather than trying to restrict or repudiate their views.

- The last gasp approach, however, might be to just censor news that is construed to be fake or misleading. This though would be a folly and would go against everything the Internet holds dear – primarily the freedom of speech. However, commercial institutions such as Facebook might find this the easiest way out as evidenced by their previous actions.

Way ahead:

Social media platforms are a modern-day Roman Forum. These platforms are agnostic wondrous architectures, enabling different forms and types of self-expression. However, the need for checks around credibility and authenticity seem to have long forgone. What stays is the need for freedom. Which is warranted, of course. Yet, at the same time, need a sense of direction. With a critical sense of objectivity. Social media services can simply not afford to step in the conversation and regulate it.

Conclusion:

Internet intends to bring people together, discover ideas, unlock opportunities and form communities. In this connected world, while we try and build all safeguards by investing in fact-checking tools and processes that prevent the spread of hate and fake news on the internet, ultimately we all have to think and reflect upon our own behaviour. We have to decide whether we want to build a Hobbesian world where a human being's life is "solitary, poor, nasty, brutish and short" or a world where we push the boundaries of openness, debate and integrity. The latter is crucial for preserving the sanity and purity of fact.

06/01 - How will EC decide on the party symbol row in SP?

Summary:

The battle in Samajwadi party has shifted to Delhi with rival camps planning to approach Election Commission to claim control over the 'cycle' symbol. The fight over party symbol in Samajwadi Party comes at a time when the Election Commission has announced poll dates.

Recognition and Reservation of Symbols:

According to certain criteria, set by the Election Commission regarding the length of political activity and success in elections, parties are categorised by the Commission as National or State parties, or simply declared registered-unrecognised parties. How a party is classified determines a party's right to certain privileges, such as access to electoral rolls and provision of time for political broadcasts on the state-owned television and radio stations – All India Radio and Doordarshan – and also the important question of the **allocation of the party symbol**.



Party symbols enable illiterate voters to identify the candidate of the party they wish to vote for. **National parties are given a symbol that is for their use only, throughout the country. State parties have the sole use of a symbol in**

the state in which they are recognised as such Registered-unrecognised parties can choose a symbol from a selection of 'free' symbols.

Under what authority does the EC decide disputes related to party symbols?

The **Election Symbols (Reservation and Allotment) Order, 1968** empowers the EC to recognise political parties and allot symbols. Under Paragraph 15 of the Order, it can decide disputes among rival groups or sections of a recognised political party staking claim to its name and symbol.

What is the legal status of Paragraph 15?

Under Paragraph 15, the **EC is the only authority to decide issues on a dispute or a merger**. The Supreme Court upheld its validity in **Sadiq Ali and another vs. ECI in 1971**.

What aspects does the EC consider before recognising one group as the official party?

The ECI primarily ascertains the support enjoyed by a claimant within a political party in its organisational wing and in its legislative wing.

How does the ECI establish a claim of majority in these wings?

The Commission examines the party's constitution and its list of office-bearers submitted when the party was united. It identifies the apex committee(s) in the organisation and finds out how many office-bearers, members or delegates support the rival claimants. For the legislative wing, the party goes by the number of MPs and MLAs in the rival camps. It may consider affidavits filed by these members to ascertain where they stand.

What ruling will the EC give after a definite finding?

The ECI may decide the dispute in favour of one faction by holding that it commands enough support in its organisational and legislative wings to be entitled to the name and symbol of the recognised party. It may permit the other group to register itself as a separate political party.

What happens when there is no certainty about the majority of either faction?

Where the party is either vertically divided or it is not possible to say with certainty which group has a majority, the EC may freeze the party's symbol and allow the groups to register themselves with new names or add prefixes or suffixes to the party's existing names.

What happens when rival factions settle their differences in future?

If reunited, the claimants may approach the EC again and seek to be recognised as a unified party. The **EC is also empowered to recognise mergers of groups into one entity**. It may restore the symbol and name of the original party.

Way ahead:

It is unlikely, however, that the Election Commission would be able to resolve the dispute ahead of the Uttar Pradesh elections. Now, the best option before the panel may be to freeze the party symbol and provide ad-hoc recognition to the two factions under names similar to the parent party.

09/01 - Security Council Resolution 2322 - Will it Strengthen Multilateral cooperation in Counter-terrorism?**Summary:**

Seeking to strengthen the international response to terrorism, UN Security Council has unanimously adopted a resolution aimed at enhancing and fortifying judicial cooperation worldwide. By resolution 2322, the 15-nation body underlined the importance of strengthening international cooperation, including by investigators, prosecutors and judges, in order to prevent, investigate and prosecute terrorist acts, and expressed concern at the use by terrorists of information and communications technologies.

- Resolution 2322 aims to enhance the efficacy of international legal and judicial systems in their fight against terrorism through operational collaboration. This is the first resolution adopted by the Security Council on the subject matter of international judicial cooperation, in order to overcome the challenges posed by existing extra-territorial terrorist networks.

The Resolution emphasises five major issues related to counter terrorist activities:

- Mutual legal assistance and extradition.
- The issue of foreign terrorist fighters and returnees.
- Financing of terrorism.
- Increasing role of information technology in gathering and sharing evidence.
- Role of multilateral agencies such as UNDOC (United Nations Office on Drugs and Crime) and INTERPOL in preventing terrorist activities.

Highlights of the resolution:

- The resolution calls upon States to use applicable international instruments as a basis for mutual legal assistance and extradition in terrorism cases and to review and update existing laws in view of the substantial increase in volume of requests for digital data.
- It emphasises the necessity of revising and simplifying bilateral and multilateral treaties of extradition and suggests the need for mutual legal assistance in matters related to counter-terrorism so as to enhance their effectiveness.
- The issue of foreign fighters and returnees, one of the principal challenges related to contemporary terrorism, particularly in the context of ISIL/Da'esh fighters in Syria/Iraq, comprises the next major focal area of the resolution.
- The resolution underlines the importance of international cooperation in stemming the flow of foreign terrorist fighters to and their return from conflict zones. It urges States to share available information regarding foreign terrorist fighters including their biometric and biographic information and emphasises the importance of providing such information to multilateral screening databases.

- The Resolution also calls for the easing of transfer of criminal proceedings from the court of one country to those countries where the main act of terrorism took place, or where most of the evidence is concentrated. It also adds that appropriate sharing and use of intelligence threat data on foreign fighters are central to counter-terrorism measures.
- As a means to curb financial assistance to terrorist networks and groups, the resolution suggests that States make financing of terrorism as a serious criminal offense in domestic law, and also enhance international cooperation to deny safe haven to terror financiers.
- It also urges States to extradite or prosecute individuals who support financing of terrorist groups directly or indirectly, and to undertake targeted financial sanctions against such groups.
- Other major proposals of the resolution include promotion of the use of electronic communication including the internet and broadening the scope of digital data in terrorism cases, and closer cooperation with UNDOC (United Nations Office on Drugs and Crime), UNESCO (United Nations Educational, Scientific and Cultural Organization) and INTERPOL (International Criminal Police Organization).

Significance of this resolution:

- Some of the proposals such as designation of national central authorities for mutual legal assistance and extradition, regional and cross-regional cooperation, appointment of liaison officers, police to police cooperation, creation of joint investigation and information sharing mechanisms are extremely significant in the present scenario.
- The resolution also emphasises the need for assisting victims of terrorism, and cautions against deprecating fundamental human rights in the name of counter-terrorism. In this regard, the resolution asks States to ensure that their counter-terrorism laws are compliant with international human rights and humanitarian laws.
- Resolution 2322 also debates one of the most significant practical challenges of countering transnational terrorism, the lack of judicial cooperation. This was one of the fundamental problems in prosecuting most terrorism cases in the past, especially in cases where foreign terrorist fighters/groups were involved.
- The proposed judicial cooperation in the resolution would help in mobilizing tangible evidence to ensure that those evidence were gathered in a form which could be used in courts.
- A systematic use of international databases, for instance, INTERPOL database on wanted persons, as proposed in the resolution, would also be helpful in preventing terrorists from entering/travel from the territory of one State to



another. This is significant in the light of the imminent threat posed by the return of foreign terrorist fighters from Syria and Iraq.

Counter-terrorism efforts of the international community has been in a stalemate for the past few years due to the following reasons:

- Lack of a standard definition of the term ‘terrorism,’ and the consequent questions such as ‘what constitute an act of terrorism’ and ‘who is a terrorist’ were the main reasons behind this stalemate.
- With different perceptions of crime, on the one hand, and diverse interests, on the other, states also often stand as a barrier to effective and coordinated counter-terrorism measures.
- Cooperation among judges is vital to counter-terrorism efforts. But, lack of judicial cooperation has been one of the fundamental problems in prosecuting transnational terrorists.
- Also, the lack of cooperation amongst police forces and absence of international databases regarding terrorist groups and their members have hampered terrorism cases significantly.

Way ahead:

The resolution, if implemented in letter and spirit, would help in getting evidence regarding their actions in Syria and Iraq rather than allegations which could not be proved in a court of law. Moreover, active legal cooperation at the international level, as envisaged by resolution 2322 would open ways to end the stalemate in extradition of wanted terrorists, and would put an end to the practice of providing safe havens to such persons by other States.

Conclusion:

The Security Council resolution on international judicial cooperation is a significant development in countering the scourge of terrorism, particularly by transnational terrorist groups. It can be viewed as the first step to overcome the practical challenges associated with the prosecution of terrorists in their country of origin or elsewhere, for their criminal activities in a foreign country. However, to make it work, it is necessary to cover the gap between adoption and implementation of the resolution, by both the UN and its member States.

10/01 - Will a universal basic income work in India?

Summary:

The persistence of high inequality and the prospect of job losses owing to automation in the advanced world has led several advanced economies to consider the idea of a universal basic income (UBI) to guarantee their citizens a minimum level of income support. The same idea seems to be gaining favour among a growing number of economists and policymakers in India.

Why the idea of UBI is good in the Indian context?

The idea of the UBI is more relevant for India than for the advanced economies which have been considering it so far since governments in India tend to ‘mess up’ when it comes to distinguishing the poor from the non-poor. As a result, the



poor get very little of what is spent in their name. Also, it is argued that many of the subsidies benefit the rich more than the poor.

But is such an idea feasible in India?

An acceptable level of the UBI could be an income equivalent of the poverty line (the Tendulkar committee poverty line), which is about Rs1,090 per month for each individual, in 2015-16 prices. The total cost of providing this income to all Indians would amount to 12.5% of GDP, which is nearly equal to the size of the Union Government's budget. Thus, such a UBI which provides poverty line-equivalent income to all Indians does not appear to be feasible because of budget constraints.

What should be the acceptable level of UBI?

As per few experts, it may not be necessary for the UBI to match the poverty line. Various studies have shown that even much lower levels of income transfer could materially improve the lives of the poor.

- A pilot study conducted by UNICEF and the Self Employed Women's Association (SEWA) in a few villages in Madhya Pradesh in 2011 showed that a monthly unconditional grant of Rs300 to each adult and Rs150 to each child led to considerable improvement in their lives and reduced distress driven out-migration.
- Adjusting that amount for inflation, adopting an equivalent UBI amounting to around Rs450 per person per month in 2015-16 prices would cost 5.1% of GDP. This calculation is based on a universal entitlement of Rs 450 for adults and children as a variable UBI (with different entitlements) would add an additional function for the bureaucracy.
- Hence, the **proposed UBI would amount to Rs1,800 per month for a family of four**, in 2015-16 prices.

What should the governments do?

Presently, the central and state governments together spend 4.2% of GDP on a set of major explicit subsidies, which includes the subsidy cost under the Public Distribution System (PDS), fertilizers, railways, electricity, sugar, LPG, kerosene and water. This does not include social sector spending such as that on education and healthcare.

- Even if the central and state governments agree on phasing out half of these subsidies, say by retaining subsidies relating to the PDS, which benefit the poor more than other subsidies, it will generate savings worth at least 2% of GDP.
- If the Centre and the states can also agree on a relatively flat tax structure without exemptions for the goods and services tax (GST), this will help generate additional tax revenues worth 2.7% of GDP, according to the calculations of the Subramanian committee on GST.
- Additionally, the plan to phase out corporate tax exemptions could fetch the government another 0.5% of GDP. The total savings worth 5.2% of GDP would therefore be roughly equal to what is required for the limited UBI worth Rs450 per person per month.

The idea of a universal basic income to replace subsidies appears appealing but may be hobbled by implementation hurdles. Several challenges involved in implementing such a radical plan are as follows:

- One big challenge relates to the phasing out of food-related subsidies. Any plan to replace food related subsidies has to contend with the implications of such a move on food security of the country. Also, whether farmers will continue to produce enough foodgrains in the absence of price incentives remains a big question.
- UBI is also inevitably linked with government withdrawal from other channels of public service delivery. However, withdrawal of government support from public goods and necessities like health, education is not justifiable as the weaker section have varied needs which cannot be met simply by transferring money.
- It is also argued that unconditional cash transfers might raise wages due to the decline in the supply of casual labourers. There is also question of whether a shift towards it should be a substitute for all existing subsidies or whether it should complement the existing ones.
- The other big challenge relates to co-ordination between state and central governments. Any plan to phase out subsidies and tax exemptions (relating to the GST) will require an extraordinary degree of co-operation between the states and the Centre.
- Also, any pre-specified commitment by the government such as an inflation-indexed UBI worth Rs450 per person could generate fiscal stress during an economic downturn.

Conclusion:

A UBI handout by itself would not solve the fundamental problems the poor face in India. Also, the context for a UBI in India is very different from that faced in more developed countries, where a valuable natural resource or a highly advanced productive sector may be leveraged to sustain a UBI. In contrast, the value of a UBI for India has to be evaluated in terms of creating the conditions for its own redundancy—by enabling the poor in India to step out of the “low-reform, low-income trap”. Besides, the real value of a UBI for the poor in India rests on our ability to solve the economic problems and political incentive challenges.

11/01 - PAC: watchdog for govt spending; panel of consensus, controversy

Summary:

After asking the RBI Governor tough questions and threatening to call in the PM to explain demonetisation, Parliament's PAC is back in the news. Though the Public Accounts Committee (PAC) is quite often referred to as a post-mortem committee, it has a significant role in India. The committee's job of scrutinising accounts is a continuous process and it enjoys the prerogative of looking at the present as well as the future.

About PAC:

The **Committee on Public Accounts** was first set up in 1921 in the wake of the **Montague-Chelmsford Reforms**. W M Hailey was its first president, and Bhupendra Nath Mitra its first Indian president. The last president before Independence was Liaquat Ali Khan.



- With the Constitution coming into force on January, 26, 1950, the Committee became a Parliamentary Committee functioning under the Speaker with a **non-official Chairman appointed by the Speaker from among the Members of Lok Sabha** elected to the Committee.
- It is the oldest of all House panels and its job is to keep a vigil on the spending and performance of the government, to bring to light inefficiencies, wasteful expenditure, and indiscretion in the implementation of policies and programmes approved by Parliament, and to make recommendations to streamline the administration for efficient, speedy and economical implementation of policy.
- This **22-member Committee comprises 15 members and 7 members from Lok Sabha and Rajya Sabha**, respectively. **No Minister is allowed to be a member of this panel.** The objective behind this standard practice is to eliminate the chance of ruling party influencing or manipulating PAC's decisions.

Roles & Responsibilities of the PAC:

- Since PAC's job is to keep a tab on where and how the public money is being spent, it has the authority to examine the accounts relating to the Railways, Defence, and other ministries.
- It is the primary role of this parliamentary panel to assess whether the government has judiciously spent the money.
- If it comes to the notice that there has been an overspending or underutilization of funds, the Committee examines the justifications put forward by the government and analyses the circumstances that could have caused such digressions.
- Be it the cases of financial irregularities or tax evasion, the Committee refers and scrutinizes CAG (Comptroller and Auditor-General) reports before making its observations.

Importance of PAC:

The Public Accounts Committee examines the accounts of the Government. The Government expenditures are thoroughly examined and ensured that the Parliamentary limits are not breached. The Government and ministers stay alert while making expenditures because they know that the financial breaches, if any, will be revealed during the examination by P.A.C.

- Because of the overwhelming importance of the Public Accounts Committee (P.A.C.) both the government and the opposition try to gain control over the P.A.C. The government has an inbuilt advantage in that, inevitably the majority of members of the P.A.C. belong to the ruling party.
- But the opposition also has an advantage. It has now become a convention that the chairman of the P.A.C. is a member of the opposition. But since the chairman is nominated by the Speaker, whether an effective and assertive member of the opposition will be the chairman depends on the strict neutrality of the Speaker.
- The independent functioning of the PAC enables it to come up with unbiased reports. The panel remains a vital entity that helps the Parliament exercise its control over the revenues and expenditures of the government.

Functioning of the PAC:

The panel performs a crucial exercise, which is to prepare and submit a report to the Lok Sabha on the basis of the irregularities observed. The report is then tabled in the Parliament for discussions and future recommendations. However, before the PAC starts working on the accounts details of any particular ministry, it interrogates the representative. In the process, the committee is assisted by the CAG.

- As a mechanism for effective oversight, the public accounts committee makes recommendations to the government, following which the latter submits action taken notes to the panel.
- In certain circumstances, the Committee appoints sub-Committees or working groups to examine specific issues.

Challenges:

- Lack of consensus is the biggest problem plaguing the PAC's functioning over the past few decades. Members from different political parties in the panel often have contradictory views over the same issue. While the PAC cannot finalise any report without consensus, the lack of consensus has frequently seen controversy over the role of the Chairman.
- While other Department Related Standing Committees can adopt reports with dissent notes by some members, the PAC must adopt all reports by consensus. This is unique about the PAC, and helps it maintain neutrality. This has, however, led to the slow functioning of the committee in the recent past.
- The lack of technical expertise also hinders the PAC's examinations. Officers are sometimes able to dodge PAC summons, which has prompted suggestions that it should have the power to hand out harsher punishments.
- It is also argued that PAC has been reduced to being a toothless watchdog. The fault lies at the door of the government. This has resulted in shying away from accountability to Parliament and the people.

What needs to be done?

- PACs have larger role in the auditing of governments' accounts. At the moment, PAC's procedures are not open to the media or to the public. Their procedures should be made more transparent.
- PACs feel that their reports are not being taken seriously by the government departments at the Centre or at the States. Governments have to come out with explanations for not considering their reports seriously.
- A broad platform should be built to share and learn from the experiences of PAC functioning and discuss, debate and find solutions to enhance the level of functioning.
- They should be given 'Constitutional Status' similar to that of the Election Commission and the Comptroller and Auditor General.
- The panel should also be given more teeth to efficiently monitor the government spending. It should have powers to examine Public-Private Partnership projects. Services of experts should be availed on technical matters.
- It is also felt that since each PAC operates in a specific political context and faces issues unique to the legislature it serves, its major focus should be on the administration of policy rather than policy itself, to avoid political wrangling.

Conclusion:

The Public Accounts Committee has kept the executive accountable to Parliament, thereby lending an additional dimension to the nation's fiscal policies and programmes. The committee has been able to bring to light certain cases where parliamentary authority on the administration of tax laws had been diluted by the executive fiat, and other cases of the government not carrying out the intentions of Parliament as expressed in laws. Therefore, it is necessary to further strengthen the committee which leads to general efficiency of the administration.

12/01 - Supreme Court rejects plea to make it mandatory for parties to declare source of funds

The Supreme Court of India has rejected a plea to make it mandatory for parties to declare source of funds. With this political parties will continue to enjoy income tax exemption for the funds they collect. The court has observed that there is no illegality in the exception made to keep parties out of the tax net.

- The decision puts to rest the debate over whether the exemption was an unfair privilege granted to political parties. The apex court said the matter was one of executive determination and parties needed money to propagate their beliefs.

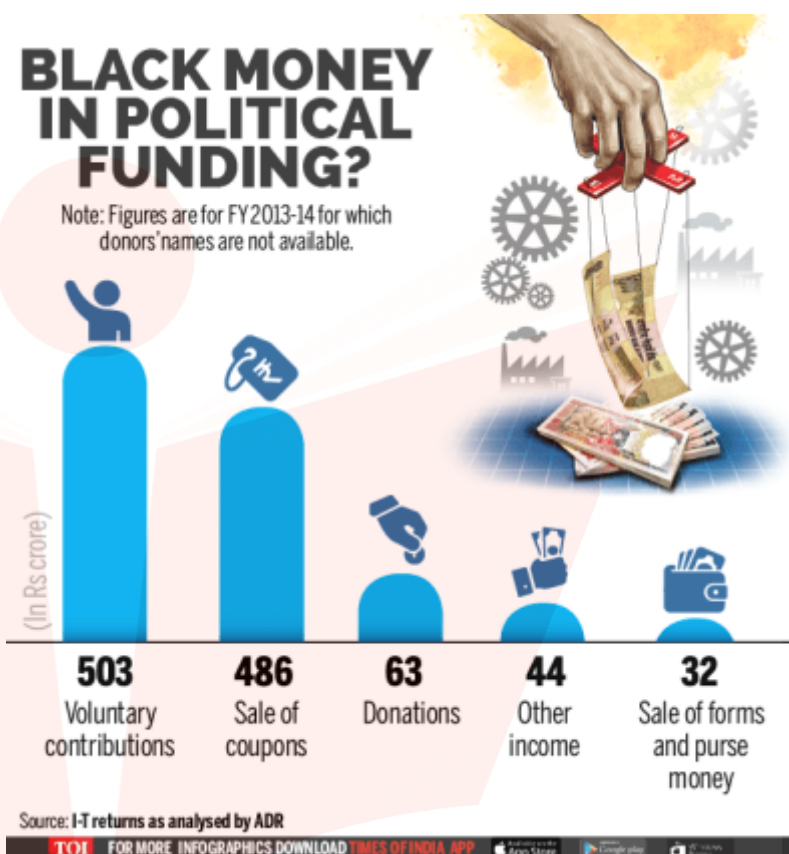
Background:

A petition was filed in the Supreme Court challenging the constitutional validity of Section 13A of the Income Tax Act which grants exemption to political parties.

Section 13A of the IT Act says *any income of a registered political party which is chargeable under the head "income" from house property or from other sources or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party.*

Why are funds to political parties not taxed?

- As per current rules, political parties in India are barred from undertaking any commercial activity and thus they are not deemed to be engaged in acts that make them liable to pay any income tax.
- Also, CBDT says exemption is provided in recognition of the role played by organised political parties in the democratic set-up of the country and to provide further necessary incentives to promote the activities of such political parties as are recognised by the Representation of People Act, 1951.
- Political parties also require funds in order to carry out a variety of activities including contesting of elections, organising meetings and rallies, publishing literature among others. Also these activities are both of a regular nature, such as organising of rallies and bringing out publications, and also periodic with respect to certain matters such as conducting elections. Accordingly political parties have been granted certain exemptions and deductions to that they are able to utilise maximum funds for the public purpose of political activity.



What are the main concerns now?

- Donations below 20,000 rupees, currently, are not required to be reported to the ECI but they have to be reported in the ITR. Political parties are essentially not required to disclose details of those donating below 20,000 rupees. This exemption is being misused by political parties. Simple study of IT returns of any political party will show that maximum donations to them are from such 'unknown' sources.
- With this exemption parties can take money and show them as donations below 20,000 rupees and try to convert it into white money for a 'cut'.
- Section 80GGB is a new insertion in the Income-tax Act, 1961. This enables Indian companies to get full deduction in their income-tax assessments for contributions made to political parties. Interestingly, there is no ceiling fixed on the amount of such contribution. Section 80GGC gives similar deduction for non-company taxpayers. This has also raised concerns among others.
- Presently, there are 1,848 registered political parties and some parties misuse the law to hold unaccounted money.

What needs to be done to increase the transparency?

- Tax exemption limit should be reviewed. The government should consider lowering the current limit of Rs 20,000 for anonymous donations.
- Parties that have been inactive and are suspected to be using their status largely to launder unaccounted and illegal money should be de-registered.
- The Income tax details of parties should be made public. This will need an amendment to the Representation of Peoples act and the IT act.
- Unrecognized political parties can be brought under the tax net. There are now close to 2,000 political parties in India and there is no reason why a de-recognised party should get this benefit, at a time when there is concern at the proliferation of parties and votes getting split because of non-serious contenders being in the contest.
- The mother-of-all-reforms is to clean up political funding. Every political party should disclose its spending and sources of financing those expenses. These claims can be contested by other parties and watchdog bodies, with the Election Commission making the final verification.

Conclusion:

Poll funding has been a source of funnelling black money and cleaning up the poll process is necessary. Looking at the number of parties in India, it is easy to suspect that some of them have been floated by national or state parties to park their income from dubious sources, because such parties are not subject to the Election Commission's scrutiny.

The strange paradox of democracy is that while it is a tool to create an equitable society, its props, of which political parties are the main, sometimes give rise to opposite forces. So it is strong institutions such as the Election Commission that can provide a cushion against the forces than can subvert democracy. Legitimate political funding holds the key to stemming the generation of black money.

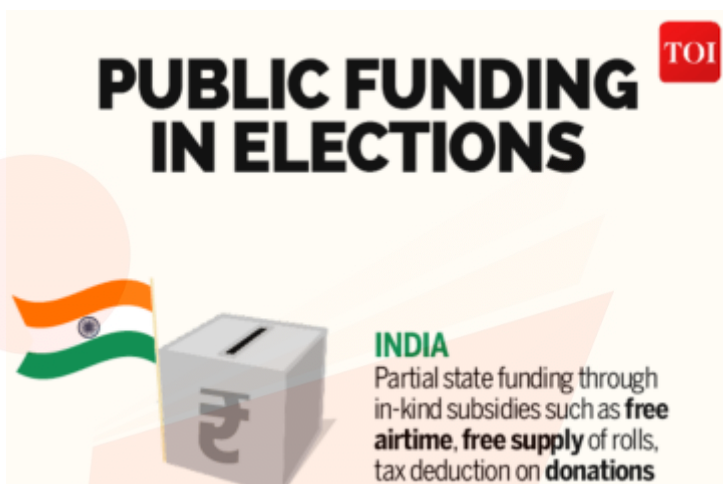
13/01 - How to make publicly-funded elections a reality

Summary:

Competitive political parties and election campaigns are central to the health of democracies. Parties and campaigns require significant resources to be effective. India has developed complex election expenditure, political party funding, and reporting and disclosure laws. However, these laws may have perverse impacts on the electoral system: they tend to drive campaign expenditure underground and foster a reliance on unaccounted funds or “black money.” This tends to lead to an adverse selection system, in which those willing and able to work with black money dominate politics. In this context, experts have suggested to go for publicly-funded elections.

What is state or public funding of elections?

This means that government gives funds to political parties or candidates for contesting elections. Its main purpose is to make it unnecessary for contestants to take money from powerful moneyed interests so that they can remain clean. In some countries, state funding is extended to meeting some specific forms of spending by political parties, not confined to electioneering alone. Countries keep changing laws relating to state funding depending on experience and financial condition.



What is direct and indirect state funding of elections?

Direct funding means giving funds directly to political parties (or candidates). Indirect funding takes the form of various subsidies or access. Indirect funding can take the form of subsidized or free media access, tax benefits, free access to public spaces for campaign material display, provision of utilities and travel expenses, transport, security etc. If both these types are included then very few countries in the world remain with absolutely no state funding, direct or indirect.

What is the status in India?

There has been little progress on this in India. Current state funding measures include provision of free time on public broadcasters for national parties in general elections and for registered state parties in state legislature elections. Besides this, national parties are provided some benefits like security, office space, utility subsidies etc. Another form of indirect state funding available in India is that registered political parties do not have to pay income tax, as laid down in S.13A of the Income Tax Act.

What have various commissions and committees said about this?

Some major reports on state funding include those given by the Indrajit Gupta Committee on State Funding of Elections (1998), Law Commission Report on Reform of the Electoral Laws (1999), National Commission to Review the Working of the Constitution (2001) and the Second Administrative Reforms Commission (2008).

- Except for the 2001 report, all other recommended partial state funding only, given the economic situation of the country.
- The 1998 report said that state funds should be given only to registered national and state parties and that it should be given in kind only.
- The 1999 report concurred with this but also recommended first putting a strong regulatory framework in place including internal elections, accounting procedures etc.
- The 2001 report said that first a regulatory framework needs to be established before thinking about state funding.

Why public funding is good?

- Political parties and candidates need money for their electoral campaigns, to keep contacts with their constituencies, to prepare policy decisions and to pay professional staff. Therefore, public funding is a natural and necessary cost of democracy.
- Public funding can limit the influence of interested money and thereby help curb corruption.
- Public funding can increase transparency in party and candidate finance and thereby help curb corruption.
- If parties and candidates are financed with only private funds, economical inequalities in the society might translate into political inequalities in government.
- In societies where many citizens are under or just above the poverty line, they cannot be expected to donate large amounts of money to political parties or candidates. If parties and candidates receive at least a basic amount of money from the State the country could have a functioning multi-party system without people having to give up their scarce resources.

Is it a good idea?

There are divergent views on the efficacy of state funding of elections. Some have been dismissive of the idea. Those against this idea wonder how a Government that is grappling with deficit budgets, can provide money to political parties to contest elections.

- They also warn that state funding would encourage every second outfit to get into the political arena merely to avail of state funds.
- Also, given that state expenditure on key social sectors such as primary healthcare is “pitifully small”, the very idea of the Government giving away money to political parties to contest polls, is revolting. Therefore, opponents ask the government to channelize public resources towards and not diverted from such essential services.

What can be done?

- The government should consider state funding of political parties contesting elections. But such funding should be limited to parties recognised as ‘national’ or ‘State’ by the Election Commission of India, and to candidates directly fielded by such recognised parties.
- Budgetary constraints could come in the way. Therefore, a good start could be made with partial funding — that is, with the state taking care of certain expenditures of the recognised parties. The aim should be to discourage political parties from seeking external funding (except through a nominal membership fee) to run their affairs, carry out their programmes and contest elections.

- A separate Election Fund with an annual contribution of some Rs 600 crore by the Centre and a matching amount by all States put together should be created. Only those parties which have submitted their income tax returns up to the previous financial year could avail of state funding.
- Every candidate of the party eligible for state funding should be given a specified quantity of fuel for vehicles during an election campaign and a specified quantity of paper to prepare electoral literature.

Conclusion:

It isn't India alone that has been struggling with the idea of state funding of political parties; other democracies too have grappled with it. Some like Finland, Italy, Israel, Norway, Canada, the US, Japan, Australia and South Korea implemented the concept with mixed results. Italy, Israel and Finland, for instance, did not see any significant reduction in state expenditures due to public funding, despite the many checks and balances. In most of these countries, the argument against state intervention has been that political parties, being a free association of citizens, are independent entities, and that they cannot be bound by financial strictures. It's an argument that can well be applied to India by anti-state interventionists.

The opaque and gargantuan nature of electoral finance is at the root of the twin evils of corruption and black money. The only permanent solution is to strike at its foundation.

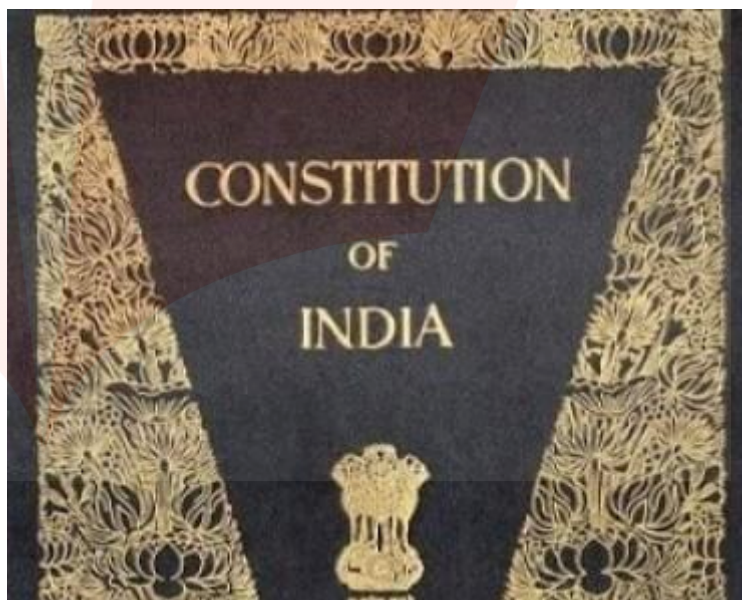
14/01 - Issue of bringing water into concurrent list being discussed with States

The Union Ministry of Water Resources has for long been arguing for a shift of water to the Concurrent List without any serious expectation of its happening, but has now begun to pursue the idea more actively.

Present constitutional position in relation to water:

The general impression is that in India water is a State subject, but the position is not quite so simple.

- The primary entry in the Constitution relating to water is indeed **Entry 17 in the State List**, but it is explicitly made subject to the provisions of **Entry 56 in the Union List** which enables the Union to deal with inter-State rivers if Parliament legislates for the purpose.
- This means that if Parliament considers it "expedient in the public interest" that the "regulation and development" of an inter-State river, say the Ganga or Yamuna or Narmada, should be "under the control of the Union", it can enact a law to that effect, and that law will give the Union legislative (and therefore executive) powers over that river. That enabling provision has not been used by Parliament. No law has been passed bringing any river under the control of the Union.



- Under Entry 56, Parliament did enact the **River Boards Act 1956** providing for the establishment of River Boards for inter-State rivers, but no such board has been established under the Act. That Act is virtually a dead letter. The reasons are political, i.e., strong resistance by State governments to any enhancement of the role of the Central government.

Is the present constitutional division of legislative power relating to water between the Union and the States satisfactory?

The Centre does not think so. The Sarkaria Commission thought that a change was unnecessary.

- The erstwhile Planning Commission has also suggested water law on the lines of the European Union where water is under one directive.
- The Public Accounts Committee (PAC) has also recommended bringing water in the concurrent list of the Constitution. The panel, in a report titled 'Water Pollution in India', urged the Centre to come up with a national legislation on water.
- The Parliamentary Standing Committee on Water Resources too had urged the Centre to initiate "earnest" efforts to build a national consensus for bringing water into the Concurrent List of the Constitution so that a comprehensive plan can be prepared for water conservation.

Why this may not be good move?

- A move to put water into the Concurrent List at this stage will be generally regarded as a retrograde step that runs counter to the general trend towards decentralisation and enhanced federalism, and it will face serious political difficulty because there will be stout opposition from the States.
- Besides, an entry in the Concurrent List will mean that both the Centre and the States can legislate on water, but the Centre can already do so in respect of inter-State rivers under Entry 56 but has not used that power. It seems sensible to use that enabling provision, and also re-activate the River Boards Act, rather than pursue the difficult idea of a constitutional amendment to bring water on to the Concurrent List.

But, why water should be placed in the concurrent list?

- Water as a subject is larger than rivers; ponds and lakes, springs, groundwater aquifers, glaciers, soil and atmospheric moisture, wetlands, and so on, are all forms of water and constitute a hydrological unity. Hence, keeping the environmental, ecological, social/human, and rights concerns relating to water, it seems necessary to place this subject under the concurrent list.
- In the recent past, there have been serious concerns relating to groundwater — rapid depletion of aquifers in many parts of the country, the emergence of arsenic and fluoride in many States, etc. It is also interesting to note that there is no explicit reference to groundwater or aquifers in the Constitution. Hence, in this context, some experts want the subject to be moved to the concurrent list.
- The sense of water scarcity and crisis now looms large. It is clear that while action will be called for at the State and local levels, the perception of a crisis casts a great responsibility on the Centre: national initiatives will definitely be called for.
- A new factor not foreseen even a few decades ago is climate change and its impact on water resources. This is a subject which is still under study and research, but it is clear that coordinated action will be called for not only at

the national level but also at the regional and international levels. The Central government has necessarily to play a lead role in this regard.

- Finally, it appears that to the Constitution-makers 'water' meant essentially river waters and irrigation. This is quite evident from the wording of the entries. In that context, it might have appeared appropriate to assign the primary role to the States, and provide a specific role for the Centre in relation to inter-State rivers. But, since most of our important rivers are in fact inter-State, and inter-State river water disputes are on rise, it is argued that the centre should assume a greater role.

Way ahead:

There is a need to recognise water as a finite and vulnerable resource. The Government should take urgent action to set the stage for enactment of a comprehensive national legislation on water after evolving a broad national consensus to bring it in the concurrent list and formulate an over-arching national legal framework for effective water management, conservation, development and equitable distribution with adequate provisions for devolution necessary authority to the lower tiers of Government. The existing legislations on water should also be comprehensively reviewed.

Conclusion:

Putting water into the Concurrent List is not necessarily an act of centralisation, though it could lead to such a development. That danger is real and needs to be avoided. Legislation and executive action must continue to be undertaken at the appropriate level (Central, State or local) in each case. The subsidiarity principle, i.e., the principle that decisions must be taken at the lowest appropriate level, will continue to be valid.

The theoretical case for water being in the Concurrent List is thus unassailable. Of all the subjects that are or ought to be in the Concurrent List, water ranks higher than any other. The practical and political difficulties of shifting it there remain, but these would need to be overcome.

16/01 - Why Norway is discarding FM for digital radio

Summary:

Norway is all set to become the first country in the world to start shutting down its FM radio network in favour of digital radio, a bold move watched closely by other countries around Europe.

Background:

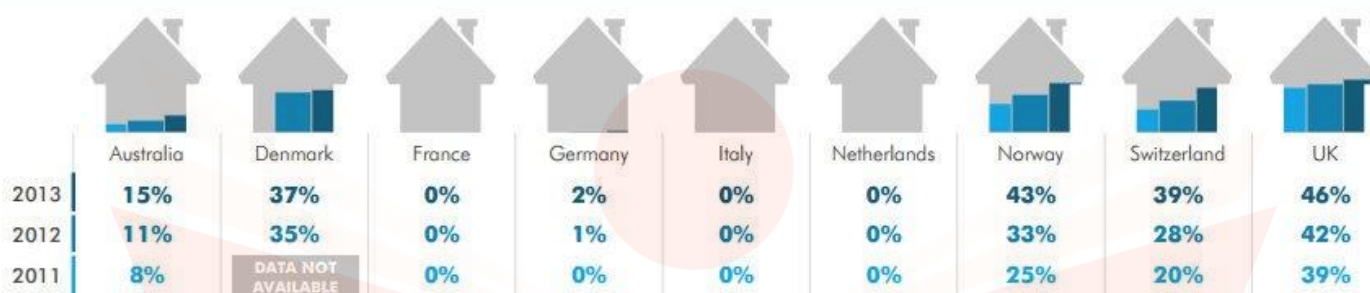
FM or Frequency Modulation was invented in the United States 1933 and made widely available in the 1950s. Digital audio broadcasting (DAB) was developed by researchers in the 1980s.

Norway, generally a technology-friendly country, has been preparing for the switchover for years — DAB and FM have existed side-by-side since 1995. There are currently 22 national digital stations, along with around 20 smaller ones.

Why Norway is shifting to DAB?

- Part of the reason Norway is the first country to switch away from traditional analogue transmission is to do with topography – it is expensive to get FM signals to a small population scattered around a landscape riven with fjords and high mountains.
- The issue of cost savings is also involved. It is estimated that there will be around 200m Norwegian kroner (£19m) savings a year. The savings let broadcasters invest more in programming, and give listeners a better and more reliable sound that will be more easily receivable in a country with lots of mountains and rocks.
- Digital audio also offers better quality without all the fuzziness between stations.
- Digital allows for more stations. Norway only has five stations on FM, compared to 26 on DAB.

DAB/DAB+ HOUSEHOLD PENETRATION YEARS 2011 – 2013



Sources: Commercial Radio Australia, Digital Radio Norway, Danmarks Radio, WDR, MCDT (Switzerland), DRUK, RAJAR

What is digital radio? Is it better than AM and FM radio?

Digital radio is to normal radio what digital television is to your standard analog TV. It's the most significant upgrade to happen since the introduction of FM in Australia in the 1970s and the leap in quality is comparable to FM versus AM. Digital radio works by turning sound into digital signals for transmission and then decoding them at the other end using digital radio receivers; the result is close-to-CD-quality sound output.

While AM/FM radio quality can suffer from interference caused by signals bouncing off walls, buildings, hills and other structures, digital radio receivers have built-in technology that cleans and filters transmissions, making interference practically non-existent. The downside is that you either get signal or you don't.

As well, digital radios are also usually easier to tune — instead of fiddling with a dial to find the strongest frequency for a station, listeners choose a station by name from a menu, with the digital radio automatically locking on to the appropriate frequency at a push of a button.

Why DAB is good?

- Supporters of Digital Audio Broadcasting say DAB offers better sound quality and more channels at an eighth of the cost of FM (frequency modulation) transmission, which was first launched in the U.S. in 1945.
- The authorities also say DAB offers better coverage, allows listeners to catch up on programmes they have missed and makes it easier to broadcast emergency messages in times of crisis.
- Along with the song, DAB also lets radio stations broadcast other digital information like which song is currently playing, the name of the artiste, album art etc, which can be displayed on the screens of phones or cars.

- Along with being much clearer, digital signals are also easier to tune, as users don't need to browse through a frequency range in order to locate their favourite radio channel. They can instead just pick the radio station or broadcast they want from a menu.

Why are some people against this move?

A poll in December 2016 found 66% of Norwegians are against shutting down FM, with only 17 %in favour. There are varying reasons for this:

- While around three quarters of the population have at least one DAB radio set, many motorists are unhappy as only about a third of cars currently on the road are equipped. Converting a car radio involves buying an adaptor for between 1,000 and 2,000 kroner (110 to 220 euros), or getting a whole new radio. Hence, they feel the move is expensive and the shift is premature.
- While the switchover is expected to reduce the cost of transmission for broadcasters, it is the listeners who will pick up much of the cost of the transition.
- Many fishermen for whom radio is vital, are also said to be ill-equipped. Critics have warned that emergency traffic messages – often vital in Norway's inclement winters – may go unheard.
- Although DAB has the potential to provide better sound quality than FM, in reality, governments may end up filling the DAB bandwidth with as many channels as possible which may divide the bit-rate (the rate of data transfer) among these broadcasts. As a result, if the DAB bandwidth is choked, it may suffer a drop in quality.

Way ahead:

The process will be watched closely in Europe by Switzerland, Denmark and Britain, where listeners have taken strongly to digital radio and which all plan plan to shut down FM radio broadcasts at some point in the future.

The UK has not set a date but has said it will switch off the FM signal when 50% of all radio listening is digital – the figure is currently over 35% – and when the DAB signal reaches 90% of the population.

17/01 - Smoking e-cigarettes is injurious to health

Summary:

The World Health Organisation (WHO) has red flagged the growing market for e-cigarettes in India, underlining that the use of the devices is no less harmful than traditional cigarettes.

- Market research projects the compound annual growth rate of the Indian e-cigarette industry at 63.38% in the period 2013-2018 (Research and Markets Report on E-cigarette Market in India 2014-2018).

What are e-cigarettes?

An electronic cigarette (or e-cig) is a battery-powered vaporizer that mimics tobacco smoking. It works by heating up a nicotine liquid, called "juice."

- Nicotine juice (or e-juice) comes in various flavors and nicotine levels. e-liquid is composed of five ingredients: vegetable glycerin (a material used in all types of food and personal care products, like toothpaste) and propylene

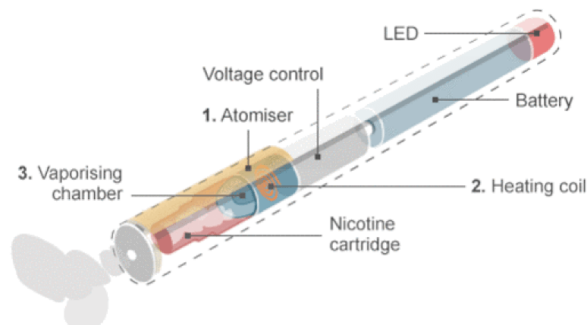
glycol (a solvent most commonly used in fog machines.) propylene glycol is the ingredient that produces thicker clouds of vapor.

- Proponents of e-cigs argue that the practice is healthier than traditional cigarettes because users are only inhaling water vapor and nicotine.

Why are some countries banning e-cigarettes?

- Many states are banning the use of e-cigs indoors. Since e-cigs are new, there haven't been enough studies conducted on the long-term health effects. Another argument against e-cigs is the candy-like flavors, which experts argue will lure children into smoking.
- Although they are projected as 'tobacco cessation' products by various sellers, including tobacco giants themselves, the lack of concrete evidence in support of this claim coupled with the absence of any regulatory approval for their use make them a serious public health threat.

What's inside an e-cigarette?



What are the main concerns now?

- In India smoking devices are easily available through online shopping portals and with little information out in the public domain about the ill-effects of e-cigarettes there is a misconception that it is less harmful than traditional cigarettes.
- Smart marketing and inadequate information on the nicotine content in e-cigarettes has created a false impression that these devices are not as harmful as regular cigarettes. In the absence of a regulation the use of e-cigarettes has grown; they are easily accessible to even the non smokers.
- Along with the traditional cigarette manufacturing, there is a parallel industry of e-cigarette like devices growing in India, which is under-regulated.
- The WHO has also expressed concern over the notion that e-cigarettes aid in kicking the habit; it has cautioned that there is not enough evidence to conclude that e-cigarettes help users quit smoking.

Harmful effects of e cigarettes:

- Although they are generally thought to be less harmful than smoking real cigarettes, because they contain no tobacco, they do still contain the addictive chemical nicotine. Scientists have confirmed that e-cigarette vapours to contain the same potentially dangerous chemicals.
- Research has also confirmed that e-cigarette vapours contain free radical chemicals previously thought only to be found in tobacco cigarettes and air pollutants. Free radicals are highly reactive agents that can damage DNA or other molecules within cells, resulting in cell death. Cigarette smoke contains 10¹⁴ free radicals per puff. Though e-cigarette vapour contains far fewer free radicals than cigarette smoke – one percent as much – their presence in e-cigarettes still suggests potential health risks.

Why its hard to regulate them?

As e-cigarettes contain nicotine and not tobacco, they do not fall within the ambit of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA), which mandates stringent health warnings on the packaging and advertisements of tobacco products.

What needs to be done?

The current unregulated sale of e-cigarettes is dangerous for a country like India where the number of smokers is on the decline (WHO Global Report, 2015) as it increases the possibility of e-cigarettes becoming a gateway for smoking by inducing nicotine addiction and perpetuating smoking by making it more attractive, thereby encouraging persons to become users of tobacco as well as e-cigarettes.



- In the absence of clearer evidence on the effect of e-cigarettes on tobacco cessation, it is imperative that their sale be accompanied by accurate health warnings. This is especially relevant in India, where data in the Global Adult Tobacco Survey 2009-2010 suggests that tobacco control laws, particularly the pictorial health warnings and advertisements, mandated under COTPA, have been highly effective in increasing awareness of the health risks of tobacco (smoking as well as non-smoking).
- The government should also impose appropriate restrictions on the sale and advertisement, online and otherwise, of e-cigarettes, including proper health warnings, in order to plug the existing regulatory vacuum. This should be done with immediate effect, and simultaneously the government should also commission independent scientific research on the benefits and risks posed by these products in the Indian context.

18/01 - Delhi air pollution: Why graded action is a good idea, but tough to implement

Summary:

The EPCA, empowered by the Centre to roll out the graded response action against air pollution in Delhi and NCR towns, may come out with the first set of directives shortly. The union Environment Ministry recently notified a 'Graded Response Action Plan' against air pollution for Delhi and the National Capital Region. The plan puts governments under the lens and holds out the promise of improvement in air quality, if followed properly.

Background:

The plan was prepared by the Supreme Court-mandated Environment Pollution Control Authority (EPCA), which held meetings with stakeholders from all states over several months.

The formation of Environment Pollution Control Authority (EPCA), an SC-mandated body that has over a dozen members, was notified in 1998 by the Union Environment Ministry under the Environment Protection Act.

What does a 'graded response' to air pollution mean?

A graded response lays down stratified actions that are required to be taken as and when the concentration of pollutants, in this case particulate matter, reaches a certain level.

- At the current level of pollution, that is oscillating between poor and moderate, the measures that are to be enforced under GRAP include strict ban on garbage burning, closing brick kilns, mechanised sweeping of roads, enforcing ban on fire-crackers among others.
- If pollution climbs to the next level, very poor, tougher measures are to be enforced including hiking parking fees by up to 4%, banning diesel generator sets and increasing frequency of metro.
- Under the plan, odd-even car rationing scheme and halt on construction activities may be imposed across Delhi-NCR if air quality remains at the emergency level for 48-hours.
- Importantly, unlike the two rounds of odd-even car rationing scheme implemented last year, any such future action under the graded plan when pollution touches emergency level will also have two-wheelers under its ambit.
- The plan is not restricted to just the Centre and the state government of Delhi. Neighbouring states also have to play their parts as environmental problems always spill over borders.



How will the system work practically?

The concentration of pollutants will be communicated to EPCA by a task force that will primarily comprise officials from the respective pollution control boards and India Meteorological Department. This will be an average for the entire city.

- The job of ensuring implementation of the action plan will be EPCA's, which will delegate the responsibility to the concerned departments. According to EPCA's report, at least 16 agencies will have to work together to implement the various parts of the plan.
- These include the municipal corporations of all NCR towns, the traffic police, police, transport departments, Delhi Metro Rail Corporation, Delhi Transport Corporation, Resident Welfare Associations, Public Works Departments and Central Public Works Department, Chief Controller of Explosives, and the Petroleum and Explosives Safety Organisation. Each body has been set a task that it will have to carry out when EPCA asks it to, based on the concentration of pollutants.

What are the challenges in implementing the plan?

A large number of agencies, from different states, will have to work together — this in itself is a huge challenge. That a coordination agency — EPCA — has been appointed is the silver lining.

- Some agencies have already pointed out problems in implementing the plan. During an air quality emergency, for example, odd-even has to be imposed. The Delhi government has, however, stated that it will be very difficult to

implement the scheme without a notice of at least a week, so that alternative arrangements for public transport can be made and an awareness drive launched.

- The municipal corporations, which have to hike parking rates by 3-4 times if the air quality is very poor, have to hold an elaborate meeting each time they change these rates.
- A system will have to be devised, experts say, to smooth out these problems. The next month is expected to see a flurry of meetings involving all concerned agencies, especially pollution control authorities and state governments.

Way ahead:

Now that the situation is alarming, India's fight against air pollution must assume a sense of urgency. Examples around the world, particularly Beijing in the recent past, show that air quality can improve if governments make it a priority. It's important to, in the first place, have accurate air quality measurements all across our cities to give us a real-time indication of the extent of the problem. Only that, in combination with trying out a variety of measures suggested by experts, can tell us what works and what doesn't.

Given the stakes involved and the fact that environmental fallouts cannot be confined within state borders, all stakeholders must work together to improve air quality in India. They should also search for long-term solutions which minimise economic costs. Enhanced investment in public transport, for instance, can mitigate the environmental fallout and also yield economic benefits.

Conclusion:

Involvement of Supreme Court in this issue is a significant moment in India's battle for clean air, emphasising the need for a comprehensive plan presenting systemic solutions and reminding governments that a plan can be executed successfully only if all stakeholders work in tandem. This template should also be adapted for other Indian cities that suffer appalling air quality. Air pollution extracts an enormous price in terms of health, particularly of children. Combating it must become a governance priority.

Question

What role could the Supreme Court play in addressing the problem of increasing pollution in Indian metros? Will it have any impact? Critically analyse. (200 Words)

19/01 - Sovereign digicoïn: a road map for RBI

Summary:

Given the social cost of cash payment, and privately issued bitcoins' challenge for "trust," the argument for central bank's digital currency seems natural. In fact, several central banks have already changed their operations, or started developing digital currencies in coordination with the private sector.

- In this context, the report of committee on digital payments, which was recently submitted to RBI, has asked the Reserve Bank of India (RBI) to evaluate the possibility of RBI-issued digital currency and testing proof of concept. The report notes several benefits of introducing a central bank digital currency (CBDC).

Design of CBDC:

The report of committee on digital payments notes that a CBDC would be like “e-cash”, essentially a non-interest-bearing liability of the central bank issued in digital form. That is correct but it need not be issued merely as e-cash. The central bank may choose to issue the CBDC as an interest-bearing instrument as well.



- Experts say, it would be more consequential to financial stability and more relevant to monetary policy if the RBI were to issue it as an interest-bearing instrument. Issued simply as “e-cash”, it would function exactly as physical cash functions presently, as a medium of exchange between peer-to-peer and peer-to-business transactions and as a counter-cyclical store for value.
- Issued as an interest-bearing instrument, it would compete with the deposits issued by commercial banks. Given that it would be issued by the central bank, it is possible that subject to its widespread accessibility, it would raise the cost of capital for commercial banks as households may flock to it.
- If it is as easily accessible as bank deposits or “mobile money”, it may catalyze capital structure changes in the way commercial banks fund themselves by eating into their current and savings account ration. If so, they may have to fund themselves on the wholesale markets, thus introducing much-needed market discipline through bondholder monitoring and run-risk.
- Over time, if the flight to CBDC is substantial, the need for deposit insurance may also require a rethink, thus saving taxpayer money.

Mechanics of issue?

Three elements appear critical here:

- Unlike private currencies that do not have a specific issuer and essentially rely on the trust of the participants to circulate, a CBDC will create a **liability on the balance sheet of the RBI**. Operationalizing the CBDC would also sequentially require validation and settlement.
- **Validation** is necessary to avoid the so-called “double-counting” problem that arises in the context of digital currencies. Simplified, it means ensuring that the payer has not already used the “same” CBDC to pay another payee prior to the current transaction. Borrowing from the Bitcoin architecture, the RBI may choose to outsource the validation function to several licensed nodes on the blockchain. Again, on the lines of Bitcoin, these payment system participants may perform the validation function against the incentive of receiving CBDCs, the value whereof is contingent upon the complexity of the mathematical code-crunching that goes into validation.
- Finally, **settlement finality** is critical; the RBI may develop a standard consensus procedure that determines the precise moment at which the “transfer” from the payer to the payee is completed; this may involve determining the number of “nodes” necessary to validate the transfer for it to be deemed complete by the payment-system participants. A key challenge would be to balance the competing interests of latency and robustness.

However, there are few concerns associated with digital currency backed by RBI:

- First, banks could lose their dominant position in the payments business if individuals have direct access to the central bank clearing house for a digital currency.
- Second, people directly holding base money with the central bank will undermine bank business models that are based on credit creation through the fractional reserve system.
- Third, the existing monetary policy consensus could be overturned as central banks shift back to directly targeting money supply rather than interest rates.

Need for a central bank digital currency (CBDC):

The emergence of cryptocurrencies like Bitcoin have led central banks around the world to develop a research agenda around digital currencies, both private and sovereign.

Development of digital currencies around the world:

- **Nederland:** In March 2016, National Bank of Nederland (DNB) published it would develop a prototype of digital currency, called “DNBcoin,” by applying blockchain.
- **Russia:** In October 2016, Central Bank of Russia published it had successfully developed a prototype block chain for transactions confirmation, called “Masterchain,” with leading financial market players.
- **Canada:** In June 2016, Bank of Canada published it was partnering Canadian banks, fintech entrepreneurs and other companies to test this.
- **United Kingdom:** In June 2016, the Governor of Bank of England(BOE) stated it would explore the use of digital currency in bank’s core activities, including the operation of real-time settlement system.
- **China:** In January 2016, People’s Bank of China published it had a “mid-term” strategy of issuing its own digital currency, and would try to launch it as early as possible.

Way ahead:

These are still early days. Digital currencies still have a lot of issue, and the wild swings in bitcoin prices are not exactly a good advertisement as far as those who are bothered about monetary stability. These are teething problems in what could be a dramatic shift in the way the world transacts, if the technology needed for digital currencies keeps pace with demand from the new payments ecosystem. These are interesting times for monetary thinkers.

Conclusion:

The various prerequisites for an eventual move towards a cashless economy are gradually falling into place. India already has a new digital platform for mobile payments that is perhaps one of the best in the world. It has now decided to join the revolution. A bit of futurism would not be a bad idea at all. A few US economists have talked about a Fedcoin— or a Fed version of the bitcoin. Maybe it is time for a similar discussion in India.

Question

Should RBI consider issuing digital currency? What are the benefits of introducing a central bank digital currency (CBDC)? Examine. (200 Words)

20/01 - Startup India's flaws are beginning to tell

Summary:

Government's ambitious 'Startup India, Stand Up India' campaign aimed at boosting entrepreneurship marked its first year anniversary on January 16. The Startup India initiative had received only 1,368 applications by mid-December 2016, of which only 502 were recognized as startups by the Department of Industry Policy and Promotion (DIPP).

What is "Startup India, Stand Up India" campaign all about?

Start-ups and entrepreneurship are critical to India's efforts to restart private investment into the economy, in the face of risk aversion, stalled or slow investments from corporate India. Start-up India' initiative was launched in January 2016 by Prime Minister Narendra Modi in a move to help start-ups and catalyse entrepreneurship.



- The Start-up India Action Plan lists out a comprehensive set of structural and regulatory reforms – Income tax exemption, easing compliance through reduction of regulations and having fixed qualifications as to what a 'start-up' is.
- The action plan also provided an 80% waiver on patent filing fees by start-ups and advisory services, It also created a Rs.10,000 crore fund-of-funds which is to be managed by professionals drawn from the private sector.

Why the scheme has not been able to meet the expectations?

- A tax break of three years has been given in the scheme. Anyone who has business sense knows that only a few of start-ups will be profitable in the first three years and so this handful can avail themselves of the tax break.
- When it comes to the 'fund of funds' under the initiative, Rs500 crore has already been provided as fund corpus in 2015-16 and Rs. 600 crore has been earmarked for 2016-2017. Cumbersome procedures to access funds from the Rs. 10, 000 Cr. corpus have, however, made the plan a non-starter and Sidbi has committed only Rs. 129 crore to VCs so far so the progress has been slow.
- Under the scheme, bank only puts in 15% of the total corpus, while it is the VC that has to bring the remaining 85% to the table. And, this year, VCs have struggled to raise that kind of money—as a result, funding has almost halve.
- There is also the government's requirement that participating investors have to be registered with the Securities and Exchange Board of India. But some of the biggest VCs aren't, and the government has essentially shut them out.
- There is still no exemption is MAT (Minimum Alternate Tax) which could've helped businesses to cut losses.
- A lot of entrepreneurs and investors think that demonetization and the lack of exits in start-ups by investors are adding to the gloom; After demonetisation, the investors are afraid to exit their investment due to slump in the IPO (initial public offering) market.
- The scheme sets up an 'Inter-Ministerial Board' led by the Department of Industrial Policy and Promotion which 'validates' the innovative nature of an enterprise, thereby qualifying it as a start-up – an involvement of government in this ecosystem that is hardly desirable.

- It also exempts start-ups from inspection under a fixed number of labour laws — six to be specific. But, there are about 45 laws at the central level and about four times this number at the state level. The Centre needs to work with the States to ensure a smooth rollout of the benefits under the Action Plan and avoid discord between policies at the two levels.
- The Action Plan requires an enterprise or partnership to be innovative by developing and commercialising a new product or service — a step to promote truly innovative ideas. But it institutes an inter-ministerial body led by DIPP to examine whether an enterprise is 'innovative'.
- It also requires a 'recommendation' from an incubator setup by the government or be supported by an incubator in a post-graduate institution recognised by the government — this need for validation and recommendation goes against the very steps the Action Plan takes to reduce government involvement. This additional layer of bureaucracy could slow down the starting up process and needs to go.

Way ahead:

Around 800 start-ups founded after 2011 have shut shop already, signaling a deteriorating health of the sector. The year 2015 had seen an 87% increase in the number of startups being founded, the number dropped by 67% in 2016. Funding has also decreased in 2016 by around 47.7%.

A year on since the launch of Startup India Stand Up India campaign, the mood is slightly muted, the momentum slowed a bit and the talk shifted from bombastic projections of crossing Silicon Valley to more realistic targets of making India an innovation hub. But entrepreneurs and investors acknowledge that after the January 16 event last year, the needle on entrepreneurship has certainly dramatically moved. Over the last year there was lot of out-of the box thinking and a sense of direction given.

This year's Budget to be announced next month is expected to be a big one for start-ups. The startup ecosystem is expecting the government to announce initiatives to support them like: Widening of the tax-free regime to five years from three years.

Conclusion:

While initiatives like start up certification, roping in bodies like CBDT to give tax breaks to entrepreneurs, setting up incubators and tinkering labs have been lauded there is a lot more that could have been done. While the progress is slow, the ecosystem feels much supported as the government put light on their struggles and achievements. However, there is a lot more that can be done in programming and implementation of start-up India action plan.

Start-up India is consistent with the PM's call for innovation when he launched Digital India. The Start-up India Action plan is a good start to this – but will need continued support and evolution to make this a true, deep revolution for the youth of India.

21/01 - Jallikattu protests- What is the uproar in Tamil Nadu all about?

Thousands of protesters took to the streets in Tamil Nadu to demand removal of the ban imposed by the Supreme court in 2014 on the traditional bull taming sport of Jallikattu.

- The effects of the jallikattu protests in Tamil Nadu were also felt in Delhi as Tamil Nadu Chief Minister O Panneerselvam met Prime Minister Narendra Modi seeking an ordinance allowing the traditional bull-taming report.

Background:

The environment ministry in 2011 had added bulls to its 1991 notification banning the training and exhibition of bears, monkeys, tigers, panthers and dogs. The notification was challenged in the Supreme Court and was upheld in 2014. Protesters across Tamil Nadu have been demanding lifting of the ban imposed on Jallikattu by the apex court.

What is Jallikattu ?

Also known as Eruthazhuvuthal or Manju virattu, Jallikattu is a traditional bull-taming sport organised in Tamil Nadu during Pongal. According to some historical accounts, the practice dates back to as far as 2000 years ago. It mainly was active in the districts of Madurai, Tiruchirappalli, Theni, Pudukkottai and Dindigul of Tamil Nadu until its ban in 2011.

How is it played?

The sport involves a natively reared stud that is set free inside an arena filled with young participants. The challenge lies in taming the bull with bare hands. Participants often try to grab the bull by its horns or tail and wrestle it into submission. A few also tend to latch on to the bull by clinging to the hump at the back of its neck. Calves are specially reared to become bulls fit for Jallikattu by feeding them a special diet.

The controversy over Jallikattu:

In recent times, Jallikattu has attracted protests from animal rights organizations in India. People for the Ethical Treatment of Animals (PETA) and Federation of India Animal Protection Agencies (FIAPA) have been at the forefront of opposing Jallikattu since as long back as 2004.



- The Animal Welfare Board of India (AWBI) first filed a case in the Supreme Court of India for an outright ban on Jallikattu because of the cruelty to animals and the threat to public safety involved. The AWBI argued that the sport exploits the bulls' natural nervousness as prey animals by deliberately placing them in a terrifying situation and forcing them to run away. It also pointed out that sometimes, spectators get injured or even die. There have also been cases of bulls getting injured.
- On November 27, 2010, the Supreme Court permitted the Tamil Nadu government to allow Jallikattu for five months in a year, and directed the District Collectors to make sure that the animals that participate in Jallikattu are registered to the Animal Welfare Board. An AWBI representative was also allowed to be present at Jallikattu events.

- However, in 2011, the Ministry of Environment and Forests under the UPA government banned the use of bulls for sport, thereby effectively banning the festival. However, the Tamil Nadu Regulation of Jallikattu Act 2009 enabled Jallikattu to carry on unabated in the state.
- Between 2010 and 2014, at least 17 people were killed and 1000-odd injured during Jallikattu events.
- Finally, in May 2014, the apex court struck down the 2009 Act, and banned the practice. It further said that any flouting of the ban would result in penalties under the Prevention of Cruelty to Animals Act, 1960. The Supreme Court also ruled that cruelty is inherent in these events, as bulls are not anatomically suited for such activities and undergo ‘unnecessary pain and suffering’ as a result of the festival.
- The tug of war between the apex court and the Central government continued however, with the government on January 8, 2016 allowing the practice of Jallikattu under certain conditions, through a notification. The Supreme Court then reimposed the ban on the event in July of the same year.

Why did the Supreme Court ban Jallikattu?

The Supreme Court said “bulls cannot be allowed as performing animals, either for Jallikattu events or bullock-cart races in the state of Tamil Nadu, Maharashtra or elsewhere in the country.”

- The SC order also identified “the five freedoms” of animals, including freedom from hunger, thirst and malnutrition, freedom from fear and distress, freedom from physical and thermal discomfort, freedom from pain, injury and disease, and freedom to express normal patterns of behaviour.
- Also, through various reports, affidavits and photographs, The Animal Welfare Board of India(AWIB) had argued that Jallikattu bulls are physically and mentally tortured for the pleasure and enjoyment of human beings. They had also produced visual evidence for torture and cruelty to bullocks in Maharashtra’s bullock-cart races.
- According to AWBI, Jallikattu or bullock-cart races conducted in this way have no historical, cultural or religious significance in Tamil Nadu or Maharashtra, and that the Prevention of Cruelty to Animals (PCA) Act, 1960, must supersede any such practice.
- A research conducted by PETA’s investigators also found that the bulls were being disoriented, deliberately. The bulls’ tails were allegedly bitten and twisted; stabbed, punched and dragged on the ground.

What’s the present outrage all about?

In 2016, the Environment Ministry modified its earlier notification and declared that the sport could continue despite the existing ban. This was in direct contravention with the top court order, and was duly challenged by animal welfare organisation such as People for the Ethical Treatment of Animals (PETA).

- Subsequently, a stay order was issued by the court. Questioning the “necessity of such festivals”, the Supreme Court bench had restrained the Tamil Nadu government from conducting Jallikattu.
- Protests in favour of Jallikattu began once again in early January 2017, before Pongal. The Supreme Court on January 12 rejected a plea by lawyers seeking urgent ruling on a batch of petitions filed before it against the ban on Jallikattu. This prevented Jallikattu from taking place during Pongal and infuriated large sections of the Tamil Nadu populace.

- Defying the Supreme Court ban, the event was held in some places in the state, especially in Madurai, where the police arrested hundreds of people. The protest which began in the rural areas, soon found support from the students, IT professionals and even sports persons and actors in urban areas.

Why are Tamilians protesting the ban on Jallikattu?

- They consider it symbolic of Tamilian pride as it is an ancient tradition that has been carried on for years. Jallikattu witnesses thousands of participants, attempting to tame the bulls by latching to their horns or humps. Its innumerable references could be found in Dravidian Literature and the indigenous population of Tamilnadu has held this event for years. The Jallikattu protests are fuelled by the view that the ban impinges on the cultural identity of the populace.
- The Supreme Court's decision to ban Jallikattu has brought down prices of the sport bulls. From Rs 2 lakh to Rs 3 lakh, they began selling at mere Rs 5,000. This has stirred anger amongst the people.
- Apart from the cultural angle, there is a small economy involved. Rearing of sport bulls not only give small farmers and the rural poor a chance to make a low investment in a calf and get a big return if it performs well in a Jallikattu; rearing a Jallikattu bull also supports a range of rural poor who make accessories for the bull.
- Decades ago, the government started discouraging rearing of native breeds of bulls through various laws. Cows of the native breed yield far less milk than the cross-bred cows such as Jersey and Holstein Friesian. Increasing foreign cattle breeds was one government measure to raise milk yield in India. But supporters of native breeds argue that foreign breeds might not be a better option in the long run. And Jallikattu is one big way people keep on rearing native cattle.
- Also, since the government wanted to encourage cross-bred cattle, it had forcibly neutered native bulls to decrease the number of native cows or put stringent controls on breeding through native bulls. The supporters of native breeds argue that this has led to foreign companies creating monopoly on semen. Artificial insemination, where semen from one bull can impregnate scores of cows, is criticised because it is believed to destroy the genetic diversity of cattle. Events such as Jallikattu incentivise people to rear native bulls which ultimately helps preserve genetic diversity.
- The milk of native breeds is also believed to be more nutritious than of the foreign breeds. In the future, the low-yield milk of native cows can generate a huge demand as increasingly people perceive it to be more nutritious. If native breeds are preserved, as Jallikattu does, it can lead to a new phenomenon in the dairy sector in future. People may be willing to pay more for the milk of a native cow which can offset the loss due to low yield.

Way ahead:

Tamil Nadu Governor has now promulgated an ordinance for the conduct of jallikattu. The Union government has also cleared the state's draft ordinance to amend the Prevention of Cruelty to Animals Act, 1960, enabling the conduct of jallikattu.

The state government has issued ordinance after obtaining the necessary prior instructions of the President as envisaged under Article 213 of the Constitution. Now, the jallikattu will be conducted with the customary fervour all over the state with all necessary safeguards.

Conclusion:

The protesters say their fight is for their culture and Tamil pride and reject the allegation that Jallikattu is cruel to the bulls. They have also demanded that animal rights organisation PETA, which has lobbied against Jallikattu, be banished from the state. The protesters say the law on cruelty to animals must be amended to include Jallikattu bulls on a list of trained animals used in the military or for educational and scientific purposes.

The Jallikattu has emerged as a lightning rod for a spectrum of issues, ranging from drought relief to farm debt in the state. In fact, protestors across Tamil Nadu have hinted that their passion for Jallikattu stems from anguish over rural distress. In dealing with the street protests, the political establishment in Tamil Nadu ought not to be blind to the big picture.

The proper course for the Centre and the State government is to persuade the Supreme Court that a jallikattu that does not involve, or at least almost eliminates, cruelty to animals and that guarantees the safety of spectators and participants alike is indeed possible. It is all right if popular sentiment can influence legislation, but it cannot undermine the rule of law.

24/01 - Trump moves to pull U.S. out of TPP

US President Donald Trump made abandoning the Trans-Pacific Partnership (TPP) trade deal a key part of his election campaign and on his first day in office, he has proved as good as his word.

What is TPP?

Twelve countries that border the Pacific Ocean signed up to the TPP in February 2016, representing roughly 40% of the world's economic output.

- The pact aimed to deepen economic ties between these nations, slashing tariffs and fostering trade to boost growth. Members had also hoped to foster a closer relationship on economic policies and regulation.
- The agreement was designed so that it could eventually create a new single market, something like that of the EU.
- But all 12 nations needed to ratify it, before it could come into effect.
- Member states include: Japan – the only country to have already ratified the pact – Malaysia, Vietnam, Singapore, Brunei, Australia, New Zealand, Canada, Mexico, Chile and Peru.

***How big a deal was the TPP?***

The 12 countries involved have a collective population of about 800 million – almost double that of the European Union's single market. The 12-nation would-be bloc is already responsible for 40% of world trade.

- The deal was seen as a remarkable achievement given the very different approaches and standards within the member countries, including environmental protection, workers' rights and regulatory coherence – not to mention the special protections that some countries have for certain industries.
- The US pulling out will be seen as big blow for other nations that signed up.

Which goods and services are involved in the TPP?

Most goods and services traded between the countries are named in the TPP, but not all tariffs – which are taxes on imports – were going to be removed and some would take longer than others. In all, some 18,000 tariffs were included.

- For example, the signatories said they would either eliminate or reduce tariffs and other restrictive policies from agricultural products and industrial goods.
- Under the agreement, tariffs on US manufactured goods and almost all US farm products would have gone almost immediately. But some “sensitive” products would have been exempt until a later agreed date.

Without the US does it definitely fail?

To take effect, the deal would have had to be ratified by February 2018 by at least six countries that account for 85% of the group’s economic output. The US would need to be on board to meet that last condition.

- Some countries, including New Zealand, have suggested some sort of alternative deal may be possible without the US.
- But Japan’s Prime Minister Shinzo Abe has said a TPP without the US – and its market of 250 million consumers – would be “meaningless”.

What’s good about TPP?

Those in favour say this trade deal will unleash new economic growth among countries involved. It is being said that the TPP has high potential to promote economic growth and improve people’s living standards by facilitating the free cross-border movement of key factors of economic activity, such as goods, people, money, and information. Failure to bring the TPP into force would be a great loss to not only the TPP countries such as Japan and the US but also the global economy they argue.

Why Trump is against this deal?

Trump thinks such deals will hurt American workers and undercut US companies. His stance on trade is protectionist: he has vowed to shield Americans from the effects of globalised trade by slapping hefty tariffs on cheap Chinese imports of up to 45%.

Trump says, “The TPP creates a new international commission that makes decisions the American people can’t veto, making it easier for our trading competitors to ship cheap subsidised goods into US markets – while allowing foreign countries to continue putting barriers in front of our exports.”

Implications of this move:

TPP, unlike regular bilateral FTAs, has “open architecture,” which means Washington would have been able to attract new members over time and generate a race to the top in terms of trade pacts regionally and even globally.

- Strategically, TPP’s failure will reinforce doubts about American credibility in the region amid a rising China, as several Asian leaders including Singapore’s Lee Hsien Loong have warned.
- It will also undermine Washington’s efforts to strengthen the capabilities of its Asian allies and partners, who desire both diversification in their foreign relations as well as reforms domestically that TPP would have induced.

- It will also make U.S. Asia policy seem unbalanced, since TPP was the major plank in the economic realm of the Obama administration's so-called rebalance, even though there were less significant initiatives as well that did not get as much attention.

Implications for India:

Walking out from TPP threatens the US strategy of rebalancing Asia, which amounted to India-Japan-US security cooperation. This will force India — where US anchored its Asia-Pacific policy — to rethink its Look East Initiative.

- India was not part of the TPP, but it has been an important instrument of realpolitik for Washington and New Delhi as they sought to counter the rise of an assertive China without hurting their economic equations with the country. In the rebalancing of its resources in Asia-Pacific, the US saw India's role as the "lynchpin" of the strategy.
- The US' "Pivot to Asia" and India's "Act East" policies conflate. Washington sees India as having a greater role in providing security and stability in the region. The two strategies have been shaping the security order in the region as India was reinvigorating its ties with Asian powers like Japan and Australia that has rattled China greatly.
- Now, India should not be complacent because of the current uncertainty surrounding TPP. We must fully understand the implications of the various TPP disciplines and how we should strategise ourselves in response to the very many ways they can impact us.

Way ahead:

US participation was the major linchpin for the deal. It may be possible for the other countries to forge a smaller scale pact in its place, but it can't go ahead in its current form.

What happens to TPP after U.S. withdrawal, however, is less clear. Several TPP signatories, including Malaysia and Vietnam, have been signaling that the agreement is essentially dead without the United States, whose inclusion was the very reason why the agreement — which initially began as a pact between just four countries, Brunei, Chile, New Zealand and Singapore — got the heft that it later did. Yesterday, Japan's Prime Minister Shinzo Abe, who recently became the first foreign leader to meet with Trump, joined this chorus of voices, saying that the TPP "has no meaning" without the United States. As for the United States itself, some have been quick to suggest that the United States would essentially be excluding itself from Asia's ongoing economic integration and passing the torch of free trade to China.

Conclusion:

While the consequences of U.S. TPP withdrawal are dire, it is important not to exaggerate them as some are already doing. While China's economic influence is growing, Asian countries desire diversification, and the United States' large market is still attractive. TPP also offers the other eleven signatories benefits that other agreements like the Regional Comprehensive Economic Partnership (RCEP) they may end up wanting to preserve in spite of Washington's withdrawal from it. And though Trump has rhetorically suggested a hard line on TPP itself, we still do not know what his administration will do in terms of economic policy. It may thus still be too early to declare TPP's end.

25/01 - Review of FRM Act

The government appointed five member committee to review the working of FRBM Act has submitted its report to the government.

Background:

It was over a decade after the Fiscal Responsibility and Budget Management (FRBM) Act kicked in both at the Centre and in the states, the government had announced a five-member committee to review the law in keeping with its budget promise.

Besides reviewing the working of the FRBM, the committee was also mandated to examine the feasibility of having a fiscal deficit range rather than a fixed number as a percentage of the GDP, as is the case now.

What is FRBM Act?

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

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

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, and remains close to 5%. Meanwhile, the revenue deficit is nowhere near being eliminated.

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.

Way ahead:

There is no denying that the Act has helped focus attention on the issues relating to fiscal consolidation — thanks to the mandatory medium-term and strategy statements that the government of the day is required to present annually before Parliament. But with regard to the larger objective of ensuring macro-economic stability, the record has been less than ideal. Both headline consumer price inflation and the debt-servicing costs for the Central government were, at different points in the post-FRBM era, at divergence with the performance of fiscal deficit, raising questions about the over-emphasis on a cast-in-stone target number.

The nub of the issue is this: has the law allowed the government the elbow room needed to use all the fiscal tools at its command to ensure that the growth momentum is maintained, without either significantly fuelling inflation or curtailing spending on vital and socio-economically relevant development programmes? If it has not, this may be the time to review the Act, and if necessary, amend it significantly.

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.

26/01 - Trump makes it official: He will renegotiate NAFTA

US President Donald Trump has pledged to begin renegotiating the North American Free Trade Agreement (NAFTA) in upcoming talks with the leaders of Mexico and Canada. Trump has called NAFTA the “worst trade deal in history,” and blames it for the loss of manufacturing jobs in America's Rust Belt. He has pledged to negotiate “tough and fair” trade agreements with the goal of creating more U.S. jobs as a top goal.

What is NAFTA?

NAFTA is the initialism for the North American Free Trade Agreement, an agreement signed by Canada, Mexico, and the United States that reduced or eliminated trade barriers in North America. (Since the U.S. and Canada already had a free trade agreement (signed in 1988), NAFTA merely brought Mexico into the trade bloc.)

Negotiations for the trade agreement began in 1990 under the administration of George H.W. Bush and were finalized under Bill Clinton's presidency in 1993. The agreement went into effect on January 1, 1994.

What was the purpose of NAFTA?

In 1993 the European Union (EU) created a “single market”—one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. This allowed every country and business in the EU to have access to more than 500 million consumers.

- NAFTA, which was approved that same year, was designed to have a similar effect, providing a way to allow the exchange of goods and services to flow more freely across national borders without the artificial restrictions.
- NAFTA provided for progressive elimination of all tariffs on any goods qualifying as North American. The deal also sought to protect intellectual property, establish dispute-resolution mechanisms, and, through corollary agreements, implement labor and environmental safeguards.

Why is NAFTA controversial?

NAFTA was controversial when first proposed, mostly because it was the first [free trade agreement] involving two wealthy, developed countries and a developing country. Some people felt that allowing free trade with a developing country provides an incentive for U.S.-based business to move their operations to that country.

Since its implementation NAFTA has remained a prime target of trade protectionists (those who advocate taking measures such as taxing imports to “protect” domestic industries from foreign competition).

What has been the effect of NAFTA on the economy?

The net overall effect of NAFTA on the U.S. economy, while positive, appears to have been relatively modest. NAFTA accounts for an annual increase in GDP of about 0.1 to 0.5%. The primary reason the effect is so negligible is that trade with Canada and Mexico accounts for a small percentage of U.S. GDP.

What has been the effects of NAFTA on jobs?

Because of the complexity and variables involved, evaluating the impact of trade can be difficult—especially when trying to account for alternative effects. For example, many economists agree that while some low-wage American jobs were moved to Mexico, they were leaving anyway and would have likely gone to China or another Asian country.

But opening trade with Mexico also created additional jobs—many that are higher paying than those lost—that would not have existed without NAFTA. However, contrary to the claims of protectionists like Donald Trump, the number of jobs lost is rather minimal and the overall effect of the agreement has been positive.

According to a study of NAFTA’s effects, about 15,000 jobs on net are lost each year due to the pact. However, for each of those jobs lost, the economy gains roughly \$450,000 in the form of higher productivity and lower consumer prices because of NAFTA.

Why its difficult for US to come out of NAFTA?

For many companies, the US pulling out of Nafta would mean having to unwind long-term investments. It would also mean losing access to cheap labour in Mexico, which many executives see as vital to their ability to compete against China and other low-cost producers.

So what if Trump just pulls America out of NAFTA unilaterally?

NAFTA's Article 2205 presumably allows the president to pull the U.S. out of the trade deal without any input from Congress. All he has to do is provide six-months written notice.

However, America hasn't walked away from a commercial treaty since 1866. And it's an open legal question whether the executive branch can really just unilaterally withdraw from a treaty. So the White House could get sued right out of the gate by any number of businesses who rely on trade across the North American continent.

Congress also passed a number of laws to put NAFTA's terms into effect. Those would remain regardless of NAFTA's fate, and would have to be scrapped by the normal legislative process.

But if Trump does unilaterally end U.S. involvement in NAFTA, Canada and Mexico would presumably revert to their pre-NAFTA trade status. For Mexico in particular that could mean new tariffs, which brings us back to Mexico's threat to retaliate.

So no matter which route Trump picks, it will be a big mess that probably ends with higher barriers and less trade.

Conclusion:

Renegotiating NAFTA would be a massively complex undertaking. Not only would Congress have to agree to the new terms, but so would the Canadian and Mexican governments. Getting the former to come to the bargaining table might not be too hard, though. However, given the context a careful reconsideration is required.

27/01 - Rolling back Ordinance Raj

Summary:

The Constitution Bench of the Supreme Court, in Krishna Kumar Singh's case, has reiterated the principle that re-promulgation of ordinances is a fraud on the Constitution and a subversion of the democratic legislative processes.

- The *raison d'être* for this dictum is that re-promulgation represents an effort to overreach the legislative process which is the primary source of law-making in a parliamentary democracy.

Background:

The Supreme Court's seven-judge constitution bench gave the verdict in this case while examining the validity of the Bihar ordinance which was re-promulgated seven times since 1989 by the state government to confer certain benefits on Sanskrit teachers. It was later allowed to expire. Though it was talking about a state ordinance, this judgment will be binding on ordinances promulgated by the president as well.



What are Ordinances?

Ordinances are temporary laws which can be issued by the President when Parliament is not in session. Ordinances are issued by the President based on the advice of the Union government. The purpose of Ordinances is to allow governments to take immediate legislative action if circumstances make it necessary to do so at a time when Parliament is not in session.

Ordinance Making Power of the President:

The President has been empowered to promulgate Ordinances based on the advice of the central government under Article 123 of the Constitution. This legislative power is available to the President only when either of the two Houses of Parliament is not in session to enact laws. Additionally, the President cannot promulgate an Ordinance unless he 'is satisfied' that there are circumstances that require taking 'immediate action'.

Ordinances must be approved by Parliament within six weeks of reassembling or they shall cease to operate. They also cease to operate in case resolutions disapproving the Ordinance are passed by both Houses.

Concerns associated with the use of ordinances:

The temptation to use the power vested in the President and the Governors under Articles 123 and 213 of the Constitution is generally a result of one of the following three reasons: reluctance to face the legislature on particular issues, fear of defeat in the Upper House where the government may lack the required numbers, and the need to overcome an impasse in the legislature caused by repeated and wilful disruption by a vociferous section of the Opposition.

- Constitutional experts, the Opposition and the media are against the government issuing ordinances. Generally, their opposition is based on the grounds that an ordinance is an undemocratic route to lawmaking, which is the job of the legislature. Therefore, any executive attempt at lawmaking is bad, they argue.
- The danger of re-promulgation of ordinances lies in the threat which it poses to the sovereignty of Parliament and the state legislatures which have been constituted as primary law-givers under the Constitution. Open legislative debate and discussion provides sunshine which separates secrecy of ordinance-making from transparent and accountable governance through lawmaking.
- Also, more often the power to make ordinances has been abused to subvert the democratic process. A failure of a legislature to confirm an ordinance, therefore, in the court's ruling, is fatal both to the validity of the law, and also, unless public interest otherwise demanded, to the rights and liabilities that may have accrued from such a law.
- Critics also say, the government uses its ordinance-making power as virtually an alternative tool of legislation.

Important observations made by the court in *Krishna Kumar Singh v. State of Bihar* case:

The Supreme Court had already declared in 1986, in D.C. Wadhwa, that repeated re-promulgation of ordinances was unconstitutional. Now, in *Krishna Kumar Singh v. State of Bihar*, it goes deeper and concludes that the failure to place an ordinance before the legislature constitutes abuse of power and a fraud on the Constitution.

- The judgment widens the scope of judicial review of ordinances. The court can go into whether the President or Governor had any material to arrive at the satisfaction that an ordinance was necessary and to examine whether there was any oblique motive.
- The court also observed that re-promulgation is fundamentally at odds with the principal of parliamentary supremacy. Article 123 of the Constitution spells out requirements before resorting to the extraordinary measure of promulgating an ordinance. The government has converted the emergent power under Article 123 into a source of parallel law-making that is antithetical to the scheme of the Constitution.
- This also runs contrary to the intent of our founding fathers and the mandate of the Constitution. The founding fathers were cognisant that the ordinance making power is a “negation of the rule of law” and envisaged that the aid of Article 123 and 213 of the Constitution will be taken in emergent circumstances when the legislature is not in session and extraordinary circumstances warrant the exercise of authority in order to avoid a situation of constitutional vacuum.
- Failure of governments, at the Centre as well as states, to place ordinances before Parliament and state legislatures would itself constitute a fraud on the Constitution, the court observed.

Way ahead:

As the Supreme Court has pointed out, the power to issue an ordinance is essentially an emergency power to be used only in extraordinary situations. If employed otherwise, it is a naked subversion of Parliament and a violation of the constitutional structure, under which it is the job of the legislature to make laws and the task of the executive to implement them.

The Constituent Assembly debates leave no manner of doubt that the said power ought not to be exercised merely to circumvent a failure to muster support in the legislature. The satisfaction of the president at the time of the promulgation of an ordinance is within the purview of judicial review. The government will have to satisfy the Court about whether the satisfaction for re-promulgation was based on some relevant material.

In the meantime, it would augur well for the government to strictly abide by the Supreme Court’s ruling in Krishna Kumar’s case or else will run the vice of unconstitutionality. Parliamentary supremacy and the power of judicial review are the cornerstone of our democratic republic. The Constitution Bench judgment of the Supreme Court is a vindication of the supremacy of Parliament and a reminder to the executive about the threat posed to the sovereignty of the Parliament by re-promulgation of ordinances.

Conclusion:

The practice becomes unacceptable when it degenerates into an “ordinance raj”, where ordinances are seldom brought before the legislature but are re-issued again and again, violating the spirit of the Constitution. The court’s verdict has to be seen as placing a vital check on what has until now been a power rampantly abused by the executive.

30/01 - Outer Space Treaty: 50 years later

Summary:

Space exploration is governed by a complex series of international treaties and agreements which have been in place for years. The first and probably most important of them celebrated its 50th anniversary on January 27, 2017 – The Outer Space Treaty.

- This treaty, which was signed in 1967, was agreed through the United Nations, and today it remain as the “constitution” of outer space. It has been signed and made official, or ratified, by 105 countries across the world.

About the treaty:

The treaty was initially signed by the United States of America, the United Kingdom and the Soviet Union on January 27, 1967 and it came into effect from October 10, 1967. The treaty was initially called ‘Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial bodies.

- The Outer Space treaty is the constitution related to the international space law. According to the treaty, no country can place the weapons of mass destruction in the orbit of the Earth, Moon or any other celestial body. Moreover, the treaty also states that the Moon and other outer space celestial bodies shouldn't be subjected to weapon testing or military manoeuvring.
- The treaty further defines limits off moon and other celestial bodies, stating that no government can claim a celestial body as they are the common heritage to mankind. Exploration of outer space should be done in order to benefit all countries and the space is free for exploration by all countries. The country is liable and fully responsible for any damage in the space caused by their space object.

Treaty Terms:

The treaty forbids countries from deploying “nuclear weapons or any other kinds of weapons of mass destruction” in outer space. The term “weapons of mass destruction” is not defined, but it is commonly understood to include nuclear, chemical, and biological weapons. The treaty, however, does not prohibit the launching of ballistic missiles, which could be armed with WMD warheads, through space.

The treaty's key arms control provisions are in Article IV. States-parties commit not to:

- Place in orbit around the Earth or other celestial bodies any nuclear weapons or objects carrying WMD.
- Install WMD on celestial bodies or station WMD in outer space in any other manner.
- Establish military bases or installations, test “any type of weapons,” or conduct military exercises on the moon and other celestial bodies.

Other treaty provisions underscore that space is no single country's domain and that all countries have a right to explore it. These provisions state that:

- Space should be accessible to all countries and can be freely and scientifically investigated.
- Space and celestial bodies are exempt from national claims of ownership.
- Countries are to avoid contaminating and harming space or celestial bodies.

- Countries exploring space are responsible and liable for any damage their activities may cause.
- Space exploration is to be guided by “principles of cooperation and mutual assistance,” such as obliging astronauts to provide aid to one another if needed.

Amendment to the treaty:

Like other treaties, the Outer Space Treaty allows for amendments or member withdrawal. Article XV permits countries to propose amendments. An amendment can only enter into force if accepted by a majority of states-parties, and it will only be binding on those countries that approve the amendment. Article XVI states a country’s withdrawal from the treaty will take effect a year after it has submitted a written notification of its intentions to the depositary states—the United States, Russia, and the United Kingdom.

Challenges so far:

Although there are many points to consider in the treaty, one of the most important is that outer space is to be used for “peaceful purposes” – weapons of mass destruction cannot be used in space. Another is that celestial territory (such as the moon or Mars), is not subject to “national appropriation” – in other words, no country can lay claim to them.

- These points have been subject to challenges since the treaty came into play – the first example of such a challenge was the Bogota Declaration in 1976. A group of eight countries tried to claim ownership of a segment of an orbit that was in the space situated above their land – since if their borders projected into the heavens, any “stationary” satellite there would always be within their borders.
- They claimed that this space did not fall under the definition of “outer space” by the Outer Space Treaty and was therefore a “natural resource”. This declaration was not seen as an attempt to undermine the treaty, but rather to say that orbits that go around the Earth’s equator, or in the direction of the Earth’s rotation, must be owned by the countries beneath. However, this was eventually dismissed by the international community.
- In 2007 China was thought to have violated the treaty when it shot down one of its own weather satellites with a “ground-based medium-range ballistic missile”. This was seen as “aggressive” by Japan, but since the missiles did not come under the definition of “weapons of mass destruction”, it was found that it did not violate the treaty. There was, however, international outcry because of the debris cloud it caused within the orbit.

Challenges ahead:

The Treaty precludes at least some military activity in space. While the interpretation of this ranges from absolutely no military activities in space to allowing activities that are passive in nature, the result is that military activities are curtailed and limit space as a realm for employing national security activities. The environment of the Cold War between the United States and the former Soviet Union certainly motivated this ban on military activity at a time when fractional orbital bombardment and other orbital nuclear delivery systems were being considered.

- However, the utilization of space has increased dramatically since the Cold War to the extent that everyday activities from telecommunications to financial markets to civilian navigation rely heavily on space infrastructure. Protecting these space assets is important given that their destruction would not only affect the military but could also effectively cripple economies.

- The prime danger to these space assets are anti-satellite weapons. Although technically the treaty does not allow these types of weapons (considering the ban on military activities), the fact is that these have been under development at times in the past, and may be so today. In order to protect these assets, it may be necessary to claim zones around these space assets as national territory in order to protect them. However, such a notion would clearly fly in the face of the res communis doctrine of the Outer Space Treaty.
- Furthermore, there is the additional danger of terrorism. One of the lessons of the 9/11 attacks on the United States is that terrorist activity has become increasingly sophisticated and it stands to reason that, eventually, terrorist groups may gain the technical ability to affect US space-based assets or even use space itself as a launching point for their attacks. To that end, it is necessary to develop the means to impede that activity but that would require more military activity in space, something the res communis doctrine of the Outer Space Treaty discourages and eventually looks to eliminate.

The treaty has worked well so far but challenges have increasingly started to crop up. So will it survive another 50 years?

The Outer Space Treaty, like all international law, is technically binding to those countries who sign up to it. But the obvious lack of “space police” means that it cannot be practically enforced. So, a country, individual or company could simply ignore it if they so wished. Implications for not complying could include sanctions, but mainly a lack of legitimacy and respect which is of importance in the international arena.

However, it is interesting that, over the 50 years of its existence, the treaty has never actually been violated. Although many practical challenges have been made – these have always been made with parts of the treaty in mind, rather than seeking to undermine it entirely.

Other concerns:

Despite its importance, we must recognise that the Outer Space Treaty does have some specific failings in the modern era – mainly since it is focused on countries only. Many private companies have exploited this and have offered to sell plots of land on celestial bodies such as the moon. Agents doing this justify their activity because the treaty says that territory is not subject to national appropriation – and therefore, this technically means that private companies or individuals could however make claims to celestial territory, since they are not countries.

In an attempt to tackle some of the modern-day shortfalls of the treaty, the US government passed the Space Act of 2015, which says that US citizens may engage in the commercial exploration and exploitation of space resources. Although this seems to undermine the space treaty’s ban on anyone owning celestial territory, the Space Act has a clause stating, in simple terms, that the US does not lay claim to, or own, any such thing. This conflict, that indicated that the US “may” be able to claim celestial territory, while not violating the treaty, remains an issue of key debate.

Conclusion:

Despite these obvious legal loopholes and challenges, the treaty has long formed the basis for an international law with regards to outer space and it remains as the important backbone of outer-space governance. The intention that it embodied when it was first written, to create law in space, remains important – and whether any changes will be made in the future to reflect changing political and commercial circumstances is yet to be seen.

31/01 - The hidden agenda of benevolence

Summary:

Ahead of the forthcoming budget on February 1, there is a buzz surrounding the feasibility of a universal basic income (UBI) in the Indian context. Simply put, a UBI is a sum of money provided by the State to all citizens to take care of the bare necessities of life. This measure is intended to provide a safety net preventing any citizen from sinking below a basic minimum standard of living. This idea has gained sufficient traction to reportedly feature in the Economic Survey that is released before the budget.

Main intentions behind the idea of UBI:

In the West, the UBI is being discussed as a solution to two problems: unemployment due to automation; and growing social unrest caused by extreme inequality and precarity. It is expected to solve the unemployment problem by decoupling subsistence from jobs, freeing human beings to realise their true potential, preferably through entrepreneurship. It would address the second by supplying monetary resources to access the necessities of life. This, in a nutshell, is the popular understanding of the UBI.



Is the idea new to India?

Back in 2008, Arvind Subramanian, the present Chief Economic Adviser of the government, along with economists Devesh Kapur and Partha Mukhopadhyay, had argued that the ₹1,80,000 crore spent annually on centrally sponsored schemes and assorted subsidies should instead be distributed as cash directly to 70 million households below the poverty line. Put simply, the UBI in India is nothing but the old wine of direct cash transfer in a fancy new bottle.

Its objective remains the same: to eliminate the public distribution system (PDS) and with it, the food, fuel, and fertiliser subsidies. The same old arguments for replacing the PDS with cash transfers are now being trotted out in favour of the UBI. The addition of the word 'universal' signals greater ambition but alters neither the substance nor the motive.

However, the idea is not free from concerns. Main concerns include:

- The most eloquent advocates of UBI today are free-market enthusiasts and capitalists. They are mainly happy because the additional resources for UBI is not being generated by taxing wealthy. This forces the government to cut its welfare spending.
- In Finland, UBI is given only to the unemployed. It does not cover all working individuals. And it only replaces the already existing basic unemployment allowance and labour market subsidy — it is not an add-on benefit. In India, too, the UBI is not an add-on. On the contrary, it is about giving in a different form (cash), and under one umbrella, what is already being given (in-kind and cash benefits) via different channels.

- What constitutes a basic income? Amount that is required to take care of basic life needs. While different numbers have been bandied about, there seems to be a broad consensus around the Tendulkar committee poverty line of ₹33 a day. This works out to a basic income of ₹1,000-₹1,250 a month or ₹12,000-₹15,000 a year. But even this modest figure is estimated to cost 11-12% of the GDP. In contrast, all the government's subsidies put together account for only 4-4.5% of the GDP. This place huge fiscal burden on the government.

What makes India ready for a UBI now?

The Jan-Dhan Yojana set out to make every Indian accessible to global finance. The Aadhaar card set out to make every Indian identifiable and enumerable as data — the currency of global tech. The high mobile penetration has connected every Indian to the global digital network. An element that was missing was consumer behaviour, which the recent demonetisation sought to address, by force-feeding 'cashless' to a cash-dependent population. The UBI fits perfectly in this scheme of things, as it seeks to compress the whole gamut of welfare benefits into one, and mount it on a singular JAM (Jan-Dhan, Aadhaar, Mobile) platform.

Why India may not be ready for a UBI yet?

It is assumed that the amount of money being spent on various kinds of subsidies today is justified, and the only issue is of targeting, which can be addressed by the transfer of basic income to every citizen. This is not correct. The widely quoted 2003 National Institute of Public Finance and Policy study showed that both Centre and state government subsidies amount to about 14% of GDP. The idea should be to reduce expenditure on non-merit subsidies and use the savings to boost capital spending that India badly needs. Differently put, just because the government has been misallocating resources over the years is no reason why it should continue to do so—this time more efficiently.

Also, it is said that reduction in revenue forgone can augment resources for UBI. Again, this may not happen. The revenue forgone is basically a reflection of problems in our tax administration which need urgent reforms. For instance, India has one of the highest rates for corporate tax among its peers.

But why a UBI now?

There are mainly two reasons for this, according to experts:

- One explanation could be the immense pressure on India in secretive free trade negotiations. The developed nations have for long wanted India to wind up its food security-related provisions — both state procurement of foodgrains, and their subsidised distribution via PDS. A UBI would pave the way for the elimination of these measures, dealing a death blow to food security and deepening farm distress.
- Another is that the Indian state is stuck with welfare commitments it cannot renege on without political and legal consequences. The efficiency/inefficiency argument for scraping PDS and MGNREGS never acknowledges that these are rights-based social entitlements with specified outcomes — and that is not accidental. Shifting the welfare paradigm to UBI would loosen the bonds of legal and social accountability. Under the PDS, for instance, the state must provide a specified quantity of foodgrains to the poor no matter what. With UBI, it has the option letting the payout slide behind inflation.

Way ahead:

India may not be ready yet to welcome the idea of a UBI. India needs to invest resources in building productive capacity in the economy rather than doling out cash to the entire population. Further, the government needs to be careful about unintended consequences. For instance, what will be the impact of UBI combined with programmes like the Mahatma Gandhi National Rural Employment Guarantee Act on the labour market? It is unlikely to help India's case as a low-cost manufacturing destination.

Instead, the government should focus on increasing the use of conditional cash transfers with better targeting, which will not only help the poor but will also plug leakages. Progressively, the state would do well to rebalance its spending in favour of augmenting productivity and economic growth which will lift people out of poverty more decisively.

Conclusion:

If the UBI is only about reducing inequality and poverty, then there are many things the state could do at a fraction of what the UBI would cost — from enforcing the minimum wage law, to releasing funds on time for MGNREGS. But if a dispensation hostile to these tried and tested anti-poverty measures develops a sudden zeal to eliminate poverty through UBI, a measure of scepticism is in order.

One size does not fit all. We should be open to the possibility that different policies could work well in different contexts.

