

NEWS ITEMS ON CAG/ AUDIT REPORTS (08.06.2022)

1. India's food safety and security impracticable until FSSAI and FCI are overhauled (theprobe.in) June 7, 2022

On World Food Safety Day 2022, we look at what is plaguing India's food safety and security system. From rotting food grains in godowns to unsafe and ill-equipped food testing laboratories, the Food Corporation of India (FCI) and the Food Safety and Standards Authority of India (FSSAI) need a complete revamp. Here's why.

The United Nations, in a report released recently, warned the world of how the ripple effects of the Ukraine war had triggered food price surges and will lead to global food insecurity. Both the Food and Agriculture Organisation (FAO) and the World Food Programme (WFP) called for urgent action to prevent famine in the 20 "hunger hotspots" of the world. While the world has been paying immoderate attention to food shortage and price rise problems, the more significant conversation on food safety often gets cast aside.

Food safety refers to handling, preparing and storing food in the best possible way to prevent risks of food borne diseases. From sowing or production to harvesting, processing, storage and distribution, food items go through multiple stages where they are exposed to different contamination levels. Being aware of the consequences of this on public health and eliminating the risks involved is a major challenge for governments worldwide.

The global statistics on foodborne illness are startling. According to the World Health Organisation (WHO), more than 600 million cases of foodborne illnesses occur annually, and it results in 420,000 deaths every year. The disconcerting fact is that it is the most vulnerable amongst us, which bears 40% of the foodborne disease burden – children under the age of five. The World Bank, in a report in 2019, stated that the total productivity loss associated with foodborne disease in low and middle-income countries was estimated at US\$ 95.2 billion a year. The annual cost of treating foodborne illnesses alone is estimated at US\$ 15 billion. But food experts in the developing world say these reports only skim the surface as the actual figures related to foodborne illnesses and deaths could be much higher than the estimates.

In India, the Food Safety and Standards Authority of India (FSSAI), established under the Food Safety and Standards (FSS) Act, 2006, regulates the best and safe practices for the manufacturing, storage, distribution, sale and import of food items. But the primary challenge for the Indian food authority seems to be compliance and enforcement.

“According to the data shared by the FSSAI related to the enforcement metrics for the financial year 2018-2019, when 1,06,459 food samples were analysed, 30,415 samples were found to be non-conforming to the prescribed standards. 3900 samples were deemed unsafe for consumption, 16,870 samples were of substandard quality, and 9645 samples had labelling related issues and were misleading. But the data reveals that only 2813 criminal proceedings were launched, and this, in turn, resulted in only 701 convictions.

“As far as the quality and safety of food is concerned, we need to go a long way. We have reached a stage in India where they say that even the mother's milk that the child consumes is contaminated and why is this? It is because of the kind of food that the mother consumes. What is the solution to this? Focusing on organic food alone is not going to be enough. It's not going

to be a sustainable model. What we need is the judicious use of chemicals and fertilisers through which we can get safe food. What are the steps that we are taking to eliminate the spurious food items from our food ecosystem? I think the discussion should be centred around this during the World Food Safety Day,” says MC Dominic, the Founder and Editor in Chief of Krishi Jagran.

According to the Comptroller and Auditor General (CAG) report of 2017 related to the performance audit of the implementation of the Food Safety and Standards Act of 2006, it was found that there was a possibility of unsafe and undeclared food articles being manufactured and sold in India due to the failure from the part of the FSSAI to hold those people in power accountable. CAG notes that the Authority failed to monitor and cancel the licences of the companies involved in many cases.

As per Dominic, the problem related to India’s food safety runs deeper. He says that perhaps our priorities are misplaced. “There are a lot of people starving in India. At the same time, the paradox is that we are quite a self-sufficient country in terms of whatever we need; we are able to produce it. But the question is, are we able to distribute food equitably? It is not the insufficiency or the deficiency that is the problem. It is the distribution system and the purchasing power of the poor that needs to be looked into. Can you please tell me why the food items we export outside India are rejected? There are enough policies related to food safety in our country, but these policies are not implemented properly. The fact is our farmers are not adulterating all our food. A majority of the food items are contaminated when it gets out of the farm and reaches the whole storage and distribution process.”

According to the FSSAI, the three major challenges faced by India related to food is the threat of foodborne diseases and infections, the increasing incidence of non-communicable diseases and nutrition-related problems like undernutrition or hunger, micronutrient deficiency of key vitamins and minerals in the diet and overnutrition that results in obesity. But as far as the CAG is concerned, the FSSAI itself needs to do a lot more at the organisational level to ensure its objectives of laying down safe and standard practices related to food safety is achieved.

For instance, the CAG report on FSSAI had also found that in more than 50 per cent of cases tested and checked during the audit, licences were issued based on incomplete documentation. As far as the testing quality standards of the labs in India are concerned, it was found that out of the 72 State Food Laboratories to which FSSAI and state food authorities sent food samples for testing, at least 65 of them did not possess the National Accreditation Board for Testing and Calibration Laboratories (NABL) accreditation. The NABL is an accreditation body with its certification system established as per standard practices.

“The organisations that are supposed to be responsible for food safety, food distribution and food security must implement their policies effectively. But above all, the thing that needs to be kept in mind is for good quality production, we need to take many progressive steps. Our country is very rich and diverse, not just in terms of the lifestyle and culture but also in terms of the food we eat and the crops that are sown in our fields. But despite this diversity, our policies are not diverse. Our policies support mono-crops. If you look at our country’s food policy, we only have policies related to major crops. But we have a wide variety and diverse range of food products. We don’t have policies related to them. That is why we are unable to maintain the quality of our food products. Food must be localised. It must be seen from a very local level to address various problems that emerge at the local levels. Even the MSP is only on grains like rice and wheat and major items. What about other food items? Is MSP

implemented in all the States? These are larger issues. The government has to bring in a comprehensive policy to address all these outstanding issues of our farming community and the consumers,” says Kumar Neeraj, Co-Founder of Khetee.

The lack of data and shortage of staff seem to be some of the biggest issues facing most of the mainstream organisations within the government that are responsible for food quality control and licensing. The CAG report on FSSAI had noted that the organisation did not maintain data on whether all the notified and empanelled food laboratories in India had qualified food analysts. The audit found that the FSSAI had an acute shortage of regular staff working at various levels. Not just regular staff, the FSSAI also had an acute shortage of even licensing and enforcement officers (Designated Officers and Food Safety Officers) in the States, which adversely impacted the food safety measures in the States. Apart from these issues, it was also found that the internally generated funds by FSSAI continued to remain unutilised for a long period of time. This, even when FSSAI had collected 100.73 crore rupees by way of the licence fee, testing and laboratory fee from 2008 onwards.

The safety standards of the testing labs related to FSSAI have constantly been under question. In a report released by FSSAI, it had noted that since there have been regular concerns regarding the quality of milk sold in India, the organisation carried out a survey in 2018 through a third party. During this survey, 6432 samples of milk were collected and analysed qualitatively from all States and Union Territories. The report notes that immediately on site in mobile food testing vans it was found that nearly one-third of the samples indicated possible adulteration. FSSAI then notes that the contaminated samples were sent to the laboratory and analysed quantitatively. The interim report released by FSSAI on 13 November 2018 states that out of the large number of samples analysed, very few samples were found to be adulterated. But the catch is that when the testing labs related to FSSAI have still not conformed to the safety standards and required accreditation, how effective are the results emerging from these labs.

The testing practices being carried out in various government labs across the country are not as per prescribed international standards. For instance, the CAG audit found that inadequate milk testing was being conducted by an ill-equipped state laboratory in Delhi because of which food products with possible harmful contaminants impacting food safety were declared safe for human consumption.

Similarly, it was found that the State Grading Laboratory of the State Directorate of Agricultural Marketing, to whom the food safety department in Delhi had sent samples, neither had the NABL accreditation nor the necessary equipment to conduct testing.

Vipin Kumar, a volunteer with Khetee, feels there is no single solution to this problem. “It is a multi-pronged problem, and it needs multi-faceted solutions. When the government says that they can produce more food and they are capable of exporting large quantities of food outside, the question that we need to ask is, what is the amount of nutrients in these food items? Are we able to maintain the nutritional quality? Are these food items safe to consume? Do they meet the regulatory standards? Are our labs that test these food items equipped to do the standard food testing?”

According to Vipin, his village in Bihar has already borne the brunt. He doesn't agree with the government when it maintains that there is no food shortage in the country. “In my village in Bihar, wheat production has come down because farmers have been complaining about poor

soil quality. Even if our farmers are safely producing food and are transporting it as per standards and set procedures, the fact is that when these food items reach the government godowns, it gets contaminated because these godowns are not appropriately maintained. After the green revolution, our soil has lost its fertility and strength because of the excessive use of chemicals and fertilisers. Climate change has only added to the woes of our farmers. Because of these issues, the production capabilities in India are reducing, and that is why there is undoubtedly a food shortage in the country today, whether we want to accept it or not. This is the ground reality.”

The FSSAI has been asked to frame transparent and standard operating procedures (SOPs) for all laboratories’ empanelment and ensure that all empanelled laboratories have qualified food analysts. Though some steps have been taken in this direction, the FSSAI has still not been able to achieve much in this regard.

“Because of the war, many countries are food deficient, but I feel India finds itself in a comfortable position despite the heatwave reducing the production. We should be very content that we are not standing with a begging bowl. But having said that, there is no denying that food quality is of paramount importance, and on World Food Safety Day, we must renew our pledge that we should produce safe and healthy food for our population. I am only peeved at one development year after year. When India exports Basmati, some consignments come back, and we say that we used too many pesticides and then the government comes up with a plan to reduce the use of pesticides keeping in mind the export targets. But the point I would like to make is why are we so concerned about the people outside our country. Why are we not worried about the people within our country? We must ensure that consumers in India get the best quality of food. When America exports its food, it first feeds its own population and also its animals and then what is left over is what is shipped. On the other hand, India feeds its people inferior quality, and the good quality is kept aside for exports. I find it strange. Why can’t we feed good quality food to our own people? If we can do it for exports, we can also do it for domestic consumption. Right?” asks agriculture expert Devinder Sharma.

According to Sharma, there are many solutions to the problem if only the government has the will to implement them. “We have to get away from the intensive farming systems that we have been made to practise. Those intensive farming systems come laden with pesticides and chemical fertilisers, and so on. I think we must now move into agro-ecological farming systems. Andhra Pradesh already has a massive programme to convert farmers from chemical to non-chemical farming, and I think they have already converted seven lakh farmers from chemical to non-chemical modes of farming. If Andhra can do it, I am sure the rest of the country can also do it, but it needs a government push for policies and effective implementation of those policies.”

While the FSSAI, which falls under the Ministry of Health and Family Welfare, has been facing issues, even the Food Corporation of India (FCI), run by the Ministry of Consumer Affairs, Food and Public Distribution, has received a lot of flak for poor management of its functions. To a large extent, the government also seems to be the reason for the messy affairs in the FCI. According to the CAG report of 2017 on the Food Corporation of India, it was found that the organisation lost 35,701 crore rupees from 2011 to 2016 because the government had delayed the payments.

The report also mentions that the FCI had allowed five lakh tonnes of food grains to rot in Punjab. The audit found that the labour at various depots was handling a very high number of

bags per day, ranging from 998 to 1776 when the bag handling norm was limited to 105 per day. The auditors felt that this indicated the existence of proxy labour in depots which has led to exorbitant incentives being paid to some labourers.

Though the purpose of both the FSSAI and the FCI is different, their intent is the same – to serve the public with good quality food. But this objective will remain a distant hope until the government overhauls the two organisations and makes them accountable. <https://theprobe.in/indias-food-safety-and-security-impracticable-until-fssai-and-fci-are-overhauled/>

2. Audit picks holes in Kerala PCB's financial performance ([thehindu.com](https://www.thehindu.com)) June 8, 2022

Lapses detected in collection of consent fee from institutions as per environmental rules

An audit of the accounts and records of the Kerala State Pollution Control Board (PCB) by the Principal Accountant General has revealed lapses on the part of the board in collecting the mandatory consent fee from various institutions as per the environmental laws.

Consent fee, which remains a major revenue source for the board, is collected to meet part of the expenditure involved in its functions, including processing and issue of consent to establish / operate certificates, conducting inspections, and to analyse effluent and water samples. It is fixed based on the capital investment for the project.

The audit carried out by the Office of the Principal Accountant General (Audit-II) in Thrissur showed that the non-levy of the mandatory consent fee from ports and fishing harbours amounted to 10.86 crore. The inspection covered the period from August 1, 2016 to February 28, 2022.

The audit estimated that around ₹3.29 crore was pending in terms of consent fee from railway stations / goods yards. While the consent fee to be collected from railway stations was about ₹2.96 crore, the amount pending under the section of goods sheds / rake sidings is nearly ₹1 crore.

The non-collection of consent fee from operators of poultry stalls will work out to around ₹9.24 crore based on the inference that Kerala has over 16,000 poultry stalls (included under the orange category of classification). The amount of ₹9.24 crore was arrived at based on the calculation of a fee of ₹550 per unit yearly for a period of 10.5 years.

The non-collection of consent fee from quarry operators was estimated at ₹6.63 crore. The inspection also revealed that no consent fee was collected from scrap merchants during the period, and the shortfall amounted to around ₹5.25 crore based on the inference that the State has more than 10,000 scrap collection centres.

PCB Chairman A.B. Pradeep Kumar said the reply to queries raised in the audit would be furnished before the auditors. <https://www.thehindu.com/news/national/kerala/audit-picks-holes-in-kerala-pcbs-financial-performance/article65503414.ece>

3. Councils fail to maintain record of expenditure; defalcation suspected ([theshillongtimes.com](https://www.theshillongtimes.com)) June 8, 2022

SHILLONG: The Comptroller and Auditor General of India (CAG) has blown the lid off yet another case of corruption in Meghalaya, this time involving the three autonomous district councils.

Training its gun on the three ADCs, the CAG said the councils do not prepare accounts and maintain records of expenditure on time which consequently delays implementation of corrective measures recommended by the auditors based on the findings of the audit and mismanagement, misappropriation, wasteful expenditure etc., continue unchecked for years.

The non-maintenance of accounts is an indication of financial mismanagement and points towards embezzlement of funds in the three ADCs, it said.

The CAG also revealed that the deficiencies were communicated to Chief Secretary RV Suchiang on March 17, 2022, the chief executive members of the respective Councils on March 23, 2022 and Chief Minister Conrad K Sangma on March 30, but no action was taken by any of the authorities.

After waiting for two months, the CAG has now written to Governor Satya Pal Malik, explaining the failure of the three ADCs in the state to prepare their accounts on time and seeking his intervention into the anomalies.

In a letter addressed to the Governor on June 1, a copy of which is available with The Shillong Times, the CAG said as many as ten accounts — two of KHADC, three of JHADC and five of the GHADC are still pending for submission as on December 31, 2021.

The Garo Hills Autonomous District Council has not submitted accounts from 2016-17 to 2020-21, the Jaintia Hills Autonomous District Council has not submitted accounts from 2018-19 to 2020-21 while the Khasi Hills Autonomous District Council is yet to submit the accounts for 2019-20 and 2020-21.

The letter to the Governor mentions that as per Para 7(3) of the Sixth Schedule, the accounts of these ADCs are to be maintained in the format prescribed which are then audited by the CAG teams.

“The format of maintenance of the accounts has already been prescribed and my reports on the same are being submitted. This effectively has constrained the audit function entrusted to us and also rendered the functioning of these ADCs opaque,” the CAG wrote in the letter.

The CAG further observed that inadequate maintenance of basic records i.e., cashbook, vouchers, registers, ledgers etc., are the major concerns, projects remaining incomplete entail wasteful expenditure and deprives beneficiaries of intended benefits of government welfare initiatives have been highlighted in the audit several times.

“The audit reports are either not tabled or tabled belatedly and are not discussed by the Councils; hence the infractions escape the desired scrutiny and executive accountability,” the CAG said, while exhorting the Governor to take steps to ensure that an oversight mechanism is evolved to provide reasonable assurance on governance to the stakeholders on the same lines as in the state government.

The CAG also urged the Governor to issue suitable directions to the concerned authorities to ensure timely and correct preparation of accounts as well as to establish an oversight mechanism like the Public Accounts Committee in State Legislature to discuss and monitor action taken on the audit reports.

Prior to this, Additional Deputy CAG, Smita S Chaudhuri had brought the discrepancies to the notice of the CM.

In her letter to the CM dated March 30, 2022, Chaudhuri said the accounts of the three ADCs are to be maintained in the format prescribed by the CAG who also audits the same and accordingly, a separate audit report is prepared and forwarded to the Governor for tabling in the Council.

Pointing out that certain issues need attention at the highest level, she said that all the ADCs do not prepare accounts on time.

“A consequence of this delay is that any corrective measures, based on the findings of the audit, take years to be put in place and mismanagement, misappropriation, wasteful expenditure etc. continue unchecked for several years,” she said.

The official had made a special mention about the JHADC which has not maintained cashbook and basic account records from 2009 onwards due to a suspected misappropriation in 2004-05.

“As a result the CAG reports up to 2012-13 have been prepared without proper audit of the accounts. The same is not a healthy practice for the next eight years i.e. up to 2020-21. The steps being taken by JHADC to get the records recreated and accounts prepared, needs to be completed on a priority,” she said.

In her letter to the CM, Chaudhuri had mentioned that the Accountant General, Meghalaya has already apprised the chief executive members of the ADCs and the Chief Secretary of the same in detail.

“I am to request you to take cognisance of the matters enumerated above and consider discussing these issues with the chief executive members of the three ADCs and the chief secretary to sensitise them on these vital issues of transparency, disclosures and proper utilisation of funds. The nodal District Council Affairs department of the state can then take the lead and monitor the progress and the action taken,” she had added. <https://theshillongtimes.com/2022/06/08/councils-fail-to-maintain-record-of-expenditure-defalcation-suspected/>

4. Shaky ground ([law.asia](https://www.law.asia)) June 7, 2022

When Supertech, one of the New Delhi-NCR region’s largest real estate developers, was declared insolvent on 25 March 2022, it sent shockwaves across the sector. The National Company Law Tribunal (NCLT) issued the order in response to a plea by Union Bank of India and a group of 100 homebuyers.

The mega realty developer had defaulted on a payment of INR4.3 billion (USD56 million) to Union Bank for construction of the company’s Eco Village II project in Greater Noida, in Uttar Pradesh state. The project is being developed at a cost of INR11 billion, and out of 38,041 flats, 27,111 were delivered to homebuyers. The homeowners were in a quandary as they were

paying a pre-equated monthly instalment before receipt of the flats and, because they had taken loans, were being forced to pay those or risk of huge penalties.

After Supertech, the NCLT initiated insolvency proceedings against Logix Blossom Zest, allowing a plea by operational creditor Colliers International (India) Property Services. Logix's project in the New Okhla Industrial Development Authority (Noida) was launched in 2011, and consists of 3,400 units spread across 14 towers, of which nine are incomplete. Several homebuyers had been unable to get their units registered because of the developer's pending dues with the Noida city authorities. There were several irregularities stalling land allotment and development clearances due to a nexus between builders and Noida officials.

The Comptroller and Auditor General's (CAG) report said: "Nearly 80% of the total allotments of plots in the commercial category between 2005-2018 were secured by three real estate firms named Wave, Three C and Logix Group. Despite repeated violations by these companies in terms of outstanding dues that accumulated to INR149 billion, the authority failed to take any action against them."

The CAG observed that Noida's authorities had weakened and changed rules to suit real estate developers and ignored the interests of homebuyers who had invested their savings. Hundreds of homebuyers who had booked properties belonging to the three companies have been unable to find their homes, even after a decade, and the companies were facing many cases in the courts.

Several other big names in the real estate industry such as Amrapali, Jaypee Group and Unitech have also been taken to the bankruptcy court.

Real estate is one of the top sectors where corporate insolvency resolution processes (CIRPs) have been initiated. In December 2020, a total of 1,600 cases were pending, while only 462 resolution plans were closed/approved and 350 CIRPs are still operating under the Insolvency and Bankruptcy Code, 2016 (IBC).

Several real estate projects are failing to pay debts to creditors or, in the case of homebuyers, provide units as per buyers' agreements. Both are urging the NCLT to initiate the resolution process so creditors can be repaid and incomplete projects completed.

Once a company/real estate developer (referred to as a corporate debtor by the IBC) is admitted to the resolution process, a legal moratorium or stay applies to all suits and proceedings against it, thus denying any potential litigant or claimant recourse outside the CIRP. The only remedy left is for creditors to file claims with the interim resolution professional within statutory prescribed timelines under the IBC.

In addition to cases before the Real Estate Regulatory Authority, a legal moratorium or stay applies on all cases, such as civil suits, and cases pending under the Consumer Protection Act, 1986 and its successor legislation, the Consumer Protection Act, 2019 (under which litigants can seek remedies including compensation against developers).

The government enacted the IBC in 2016, which redefined the existing insolvency and bankruptcy regime. It has since regularly updated the IBC by bringing in new amendments, including adding homebuyers to the category of creditors so they can be treated on par with financial creditors.

In 2020, the IBC was amended to include a second provision in section 7(1) to empower homebuyers to jointly initiate a CIRP against erring builders with a filing prerequisite of not less than 100 allottees under the same real estate project, or not less than 10% of the total number of allottees under the same real estate project.

CHALLENGES IN TACKLING INSOLVENCIES

(1) Committee of creditors. The interim resolution professional constitutes a committee of financial and corporate creditors after assessing its financial position to reconcile all received claims against the corporate debtor and prepare a resolution plan. The success of any resolution plan depends on garnering sufficient votes from the committee of creditors (CoC) and the decision is likely to be driven by the CoC's composition. The Insolvency and Bankruptcy Board of India (IBBI) has said since CoC decisions impacted on the life of a company and consequently its stakeholders, they needed to be fair and transparent.

In an August 2021 discussion paper, the IBBI pointed out instances where the conduct of a CoC or financial creditors was questionable. For example, in *M/s Andhra Bank v Sterling Biotech Ltd & Ors*, absconding and ineligible promoters attempted to take over the company in the guise of a one-time settlement with the approval of a 90.3% vote share of the CoC. In *Bank of Baroda v Mr Sisir Kumar Appikatla & Ors*, the CoC's resolution plan was rejected on the grounds it was a ploy to gain control of the corporate debtor by the person who had pushed it into insolvency. In the CIRP of *Varrsana Ispat*, the lead financial creditor recovered debt from the company's account during a moratorium and pressured the liquidator into paying them INR260 million against the NCLT's instructions.

In light of such cases, the IBBI proposed establishing "a code of conduct for CoCs that shall elevate accountability and responsibility" and ensure transparency in their functioning. The IBBI's draft code requires that CoC members maintain integrity in the discharge of their roles and functions under the IBC, not misrepresent any facts or situations, refrain from getting involved in action that is detrimental to the IBC's purpose, maintain fairness in decision making, disclose details of any conflicts of interest, not adopt illegal or unfair means, cooperate with a resolution professional, and not acquire any assets of the corporate debtor without disclosure to stakeholders.

(2) Hindrance in the bargaining process. When a project's construction has been severely delayed, a homebuyers' group may form a majority, and any CoC decision would depend heavily on their consent. Corporate lenders that generally provide 60%-80% of finance would then find it difficult to take decisions that would favour maximum recovery of their debt (generally through selling defaulting developers' assets). The objective of financing banks would be recovery, while homebuyers would like the project completed. Including homebuyers as financial creditors provides a forum for negotiation between homebuyers and other secured creditors for an effective resolution of the corporate debtor, but that introduces the hold-out problem, where negotiations can be hampered due to non-alignment of incentives between the two main classes of creditors – homebuyers and secured creditors. It is challenging for interim resolution professionals to decide how to efficiently allocate resources between construction and payment to secured creditors.

(3) A difficult task to file petitions. A buyer faces difficulties obtaining contact details of others invested in a project given the prerequisites of more than 100 allottees, or more than 10% of allottees, under the same project to meet the threshold for initiating proceedings under the IBC.

By the time a buyer locates other homebuyers, which will be time consuming, the time to file a claim petition may have lapsed. It would be difficult for homebuyers to track every sale and thus practically impossible to initiate proceedings under the IBC.

(4) Single representation. The IBC amendment that designated homebuyers as financial creditors also introduced provisions for class representation and voting. Section 25A was added to the IBC, which provided for an authorised representative to be elected to represent the class in the CoC. The authorised representative was required to obtain voting instructions from each member of the class beforehand, and vote in accordance with those instructions. As the IBC provides for a single representative to represent the entire group of homebuyers, it is difficult to represent a multiplicity of views in the CoC. The IBC class voting provisions do not allow for a multiplicity of views to be represented through the voting mechanism. Consequently, homebuyer groups tend to seek to influence the process by approaching the NCLT, resulting in increased litigation and delays to the resolution process.

(5) Delays in resolutions. For the CIRP, the IBC prescribed a strict timeline of 180 days, extendable by 90 days at the discretion of the adjudicating authority. That was further extended to 330 days by an amendment to the IBC in 2019. However, the IBBI's reports suggest the average time taken for CIRPs that resulted in resolution plans was 406 days (excluding time permitted by adjudicating authorities). Those that ended up in liquidation took an average of 351 days for conclusion. Many cases took much longer. A consequence of the delays has been more liquidations than resolution plans. The delays in most cases were caused by repeated judicial interventions, such as in Amrapali and Unitech.

(6) Threat of liquidation. Compulsory liquidation may not apply equally to both classes of creditors if resolution cannot be achieved within the statutory timeframe. Homebuyers may not be treated equal to lenders because they are categorised as unsecured creditors while financing lenders having charge on the assets are categorised as secured creditors. Hence homebuyers fall below secured lenders in getting their money back from the sale of builders' assets in the liquidation process. The interests of creditor banks and homebuyers often clash when real estate companies fail to complete projects on time and repay loans, and both start legal action against the developer, depending on accounting rules and contractual aspects in various states. Thus, the threat of liquidation is applied disproportionately to secured lenders and homebuyers favouring liquidation rather than attempting resolution. In *Jaypee Kensington Boulevard Apartments Welfare Association v NBCC (India) Ltd (2021)*, in response to the particularly susceptible position homebuyers find themselves in during liquidation, the court evolved a judicial principle that liquidation should be considered only as a last resort for real estate disputes involving large numbers of homebuyers.

CONCLUSION

Real estate has become the second-largest sector for filed insolvency petitions. Although homebuyers have protections under the code, the CIRP process is long and arduous and possibly without resolution. Concurrently buyers need to repay their individual home loans. Before taking adverse action against developers, the authorities need to ensure buyers are protected. Equally for secured creditors, a delay in resolution reduces the value of corporate debtors' assets and increases their losses.

The IBC model provides that a company's business be continued irrespective of the insolvency resolution process. The model also applies to real estate, resulting in the company continuing to build and deliver homes despite CIRP, and enabling cash flow to settle homebuyers' claims.

There are concerns that difficulties in obtaining timely resolution may discourage investment in future real estate projects by secured creditors and homebuyers.

Real estate companies face difficulties resolving claims under the IBC, but the IBC's structure can be sustainable for the real estate sector. To meet the challenges faced by homebuyers in real estate insolvency, the IBC may need to be further developed to increase their confidence. <https://law.asia/shaky-ground/>

5. 'Midnight' construction near airport raises eyebrows (dailypioneer.com) June 8, 2022

BHUBANESWAR: Even as urban areas have been expanding in the capital city Bhubaneswar and the State Government is on the search for more land to accommodate the growing population and teeming migrants, some powerful people are flouting all norms in nexus with unscrupulous Government officials to grab prime lands.

Even Lord Lingaraj's properties have not been spared by the land grabbers. It is no surprise that 116.370 acres of the Lord's land in the city is under encroachment, said the Comptroller and Auditor General (CAG) of India in its report on General and Social Sector for the year ended March 2020.

But the matter of concern is that the Lingaraj Temple Trust Board and the Executive Officer are not taking adequate measures to safeguard the property of the Lord.

In an example, the the State Government had stopped the overnight constructions by a mining contractor's wife on a patch of land (Plot No. 54/ 286), on the the Biju Patnaik Airport road under the Airport police station in the capital city, which is owned by the Lingaraj Temple Trust. The land was sold off despite the matter being sub-judice.

Former Revenue Secretary Bishnupada Sethi had also said the aforesaid land of Lord Lingaraj was recorded in the name of private persons through false affidavits. Sethi had also asked the Khordha district Collector, who is also the Chairman of Shree Lingaraj Temple Trust to refer the matter to the Crime Branch for investigation into the wrong recording of land.

The Collector was asked to make a detailed verification of Lord Lingaraj's property and furnish a status report. But despite this a sale deed was issued in the name of Prabhakaran's wife.

But the Tesildar and other officials turned a blind eye to Debottar property grabbed at a stone's throw distance from Chief Minister Naveen Patnaik's residence Naveen Niwas.

But following media reports a hue and cry was raised by the members of the BJP and Congress. The opposition parties alleged that the prime land worth Rs 50 crore , owned by Lord Lingaraj was sold illegally to Tamil businessman B Prabhakaran's wife for a paltry Rs 6 crore.

Following the protests, the Revenue and other concerned officials on the directions of the Member, Board of Revenue had clamped Section 144 of CrPC, put up red flags, dug a trench and posted notices to stop the construction work.

However, surprisingly now constructions are again being carried out with JCBs and other machines on the same plot at late night brazenly flouting the law. This has raised many

eyebrows as how the Government rules are being openly flouted in the heart of the city and why the authorities are silent over it. <https://www.dailypioneer.com/2022/state-editions/---midnight---construction-near-airport-raises-eyebrows.html>

6. Ranchi राज्य में खनिज और खनन के प्रबंधन पर एजी ने स्पेशल ऑडिट शुरू किया (samacharnama.com) June 7, 2022

राज्य की खदानों एवं खनिजों के परिवहन एवं प्रबंधन (विभाग की पूरी प्रक्रिया) का विशेष लेखा-जोखा शुरू किया जाना है। रांची स्थित प्रधान महालेखाकार कार्यालय ने विशेष ऑडिट की प्रक्रिया शुरू कर दी है। नियंत्रक एवं महालेखा परीक्षक (CAG) दिल्ली के निर्देश पर खान एवं खनिज प्रबंधन द्वारा ऑडिट कराया जाएगा। इसके लिए, एजीए ने खान राज्य सचिव को एक पत्र लिखकर खनन और परिवहन पर एक विस्तृत रिपोर्ट प्रदान करने के लिए कहा है। इस रिपोर्ट के मिलने के बाद स्पेशल ऑडिट टीम पूरी जांच करेगी।

पता चला है कि राज्य में खनन और खनन में कथित अनियमितताओं की शिकायत के बाद सीएजी ने स्थानीय एजी के कार्यालय को एक पत्र भेजा था। तीन हफ्ते पहले सीएजी ने मुख्यमंत्री हेमंत सोरेन, उनके मीडिया सलाहकार अभिषेक प्रसाद श्रीवास्तव उर्फ पिंटू और मुख्यमंत्री के बरहाट विधायक के प्रतिनिधि पंकज मिश्रा के खनन पट्टा मामले पर भी रिपोर्ट मांगी थी।

खनन और परिवहन के साथ-साथ संबंधित पहलुओं की विस्तृत रिपोर्ट की जांच की जाएगी।

जिले से लेकर मुख्यालय तक खनन विभाग का विस्तृत ऑडिट होगा।

अवैध खनन एवं विभिन्न प्रकार के पट्टा आवंटन एवं व्यय के प्रकरणों की जांच की जायेगी <https://samacharnama.com/city/ranchi/AG-starts-special-audit-on-management-of-minerals-and/cid7767601.htm>

SELECTED NEWS ITEMS/ARTICLES FOR READING

7. World Bank trims India growth forecast to 7.5% (financialexpress.com) June 8, 2022

The World Bank on Tuesday scaled down its FY23 growth forecast for India to 7.5% from 8% predicted in April, citing the damaging impact of rising inflation, supply-chain disruptions and the Russia-Ukraine conflict. These headwinds would offset “buoyancy in the recovery of services consumption from the pandemic”, it said.

With this, the multilateral body has revised down its India growth projection for a second time since the Ukraine war began — it had cut its forecast by 70 basis points in April. The country’s GDP grew 8.7% in FY22, albeit on a sharply-contracted base.

In its latest issue of the Global Economic Prospects, the World Bank pegged India’s FY24 growth at 7.1%, up 30 bps from its April forecast but slower than the latest projected growth of 7.5% for the current fiscal.

It has also scaled down its global growth projection by as much as 120 bps to just 2.9% for 2022. It warned that the Ukraine conflict has added to the miseries of the pandemic and many countries could potentially face recession.

As for India, the multilateral body, however, added that growth will be supported by fixed investment undertaken by both the private sector and the government (the latter has introduced incentives and reforms to improve the business climate).

With this, the World Bank joined a number of agencies that have trimmed their growth projections for the country in recent months, after the Ukraine war pushed up global prices of commodities, especially oil. Moody's recently scaled down the GDP projection to 8.8% for the calendar year 2022 from 9.1% earlier. S&P cut its FY23 projection to 7.3% from 7.8%. The International Monetary Fund had in April revised down its India forecast to 8.2% from 9% earlier.

The Bank said growth in India slowed in the first half of 2022, as economic activity was disrupted both by a surge in Covid cases, coupled with more-targeted mobility curbs, and by the Ukraine war. The recovery is facing headwinds from soaring inflationary pressure. Retail inflation hit an almost eight-year high of 7.79% in April, while wholesale price inflation scaled an over 30 year high of 15.08%.

While the unemployment rate has dropped to the pre-pandemic level, the labour force participation rate remains below the pre-Covid level and workers have shifted to lower-paying jobs.

The focus of government spending in India has shifted towards infrastructure investment. Labour regulations are being simplified, underperforming state-owned assets are being privatised, and the logistics sector is expected to be modernised and integrated, the multilateral body said. <https://www.financialexpress.com/economy/world-bank-trims-india-growth-forecast-to-7-5/2552071/>

8. What a big GDP growth figure does not reveal of the economy ([livemint.com](https://www.livemint.com)) June 8, 2022

All's well on the economic front. Or so the 8.7% real gross domestic product (GDP) growth for 2021-22 seems to say. GDP is a measure of the size of an economy during a particular period. The last time India grew faster than 8.7% was in 1999-00, when Lakshya Sen, India's latest badminton star was yet to be born and the superstar actor Alia Bhat was six going on seven. The point being it was a while back.

Of course, our 8.7% growth was a statistical aberration primarily because GDP had contracted by 6.6% in 2020-21. So, while talking about annual economic growth of 8.7% is important, what is more important is also mentioning the fact that the size of the economy in 2021-22 was just 1.5% bigger than in 2019-20, the pre-pandemic year.

Nonetheless, such details shouldn't come in the way of a great story, which is that the Indian economy grew at its fastest in more than two decades. As David Pilling writes in *The Growth Delusion: The Wealth and Well-Being of Nations*: "In modern times... GDP has become a proxy for a country's well-being. If the economy is growing, then things must be good. If it is shrinking, then not so much." There is an obsession to look at just the GDP growth figure and draw conclusions from it. The trouble is that the devil, as always, is in the details.

One way of measuring GDP is adding up private consumption expenditure, government expenditure, investment and net exports (minus imports, i.e.). India's investment to GDP ratio (in nominal terms, not adjusted for inflation) has been falling over the years, having peaked at 35.8% in 2007-08. For the period between 2015-16 to 2019-20, it stagnated between 28% and 29%. It crashed to 26.6% in 2020-21 due to the covid pandemic. In 2021-22 it recovered to 28.6% which is where it was back in 2019-20 as well. A higher investment to GDP ratio signals higher economic activity and job creation.

Investment by households, which is a good measure of small firms operating in the economy, has been falling since 2011-12, when it was at 15.9% of GDP. By 2020-21, it was down to 10.3%. The figure for 2021-22 isn't yet available, but it can't be significantly different from the 2020-21 figure.

What this tells us is that informal businesses have been shrinking for a while now and that means fewer jobs available for those entering the workforce. This is visible in the falling labour force participation rate (LFPR), or the proportion of our population aged 15 and above that is economically active. Data from the World Bank suggests that India's LFPR was 53% in 2011 and fell to 46% in 2021. This primarily implies that more and more individuals who enter the workforce cannot find jobs and in the process stop looking for one.

Of course, we miss these details if we choose to look just at just the overall GDP growth number. Over and above this, the post-covid and post Ukraine-war economy that is emerging seems to be K-shaped: parts of it are doing well and moving upwards while other parts move downwards.

Take the case of companies listed on the stock market. Data from the Centre for Monitoring Indian Economy shows that net profit for the 30 companies that make up the BSE Sensex, India's most popular stock market index, went up by 40.1% in 2021-22. Their operating margin (profit before tax as a percentage of total income) stood at 19.5%, the highest since 2007-08. Companies that constitute the Nifty 50 index have shown an even better performance. India Inc's listed companies haven't had it so good in many years.

Now contrast this with workers demanding work under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), a backstop for rural residents in need of pay. The number of households demanding work in 2021-22 was around 8.5% lower than in 2020-21, when the economy contracted. Nonetheless, it was 34.4% more than the work demanded in the pre-pandemic year of 2019-20.

In fact, the number of households demanding work in April-May 2022 was 2.4% more than in April-May 2021. Given that the scheme is self-selecting, i.e., only those who want to do manual unskilled work volunteer for it, this tells us that our rural economy is still in trouble. Of course, the overall GDP growth number doesn't reveal this.

Finally, while this is boom time for skilled employees working in the IT sector, those in the informal economy are struggling. Too many earn too little. A recent news report by Press Trust of India pointed out that over 94% of the 276.9 million informal workers registered on the labour and employment ministry's e-shram portal earn up to ₹10,000 a month. This means nearly 260 million individuals earn less than ₹1.2 lakh a year, which is significantly lower than India's per capita income (or the average income of an Indian) of ₹172,913 in 2021-22.

To conclude, as Pilling puts it: "Our economic mirror is broken." Clearly, all is not well and there is a need to look in-depth as well as beyond the GDP data while trying to figure out which way our economy is going. The trouble is that many individuals and organizations in the business of economic narratives aren't doing that. Are they being ideological or opportunistic (or both)? Your guess is as good as mine. <https://www.livemint.com/opinion/columns/what-a-big-gdp-growth-figure-does-not-reveal-of-the-economy-11654621472460.html>

9. In centrally-sponsored schemes, government saves Rs 10,000 crore in interest income ([newindianexpress.com](https://www.newindianexpress.com)) June 8, 2022

Central government saved Rs 10,000 crore in 2021-22 by effectively monitoring the implementation of centrally-sponsored schemes (CSS), finance ministry officials told TNIE.

Due to effective monitoring through the newly-implemented single nodal agency (SNA) system, Rs 1.2 lakh crore meant for centrally sponsored schemes in 2021-22 is still lying with the bank. "This has helped the Centre save Rs 10,000 crore in interest income," says a senior official in the expenditure department of the ministry.

"Earlier, it would be difficult to track the funds allocated to states for these schemes. But with the SNA system in place, we can monitor the disbursement at every level, and accordingly release funds," explains another official from the department.

Centrally-sponsored schemes are partly funded by the Centre and the rest by the states. Under the SNA system, the Centre releases funds to a state's account maintained with the RBI, and through that account, money flows to accounts of each scheme.

With the system in place, the Centre can not only monitor the money that has flowed from RBI to states' accounts but also keep track of states that have contributed their share in the account. The Centre releases funds to the states' accounts strictly based on the balance available in it. If a state doesn't spend the amount, the Centre could delay the further release of funds. Also, if the state has not contributed its share in the account, the central government can stop the release of funds.

"With SNA system, each scheme has only one account instead of multiple accounts, in which money used to go earlier. Earlier, 30 lakh bank accounts were maintained across different levels for centrally-sponsored schemes, but with the SNA system the number of accounts have come down to just over 3,000 accounts," said the second official. <https://www.newindianexpress.com/business/2022/jun/08/in-centrally-sponsored-schemes-government-saves-rs-10000-crore-in-interest-income-2463050.html>

10. Mines ministry eases rules for non-coal minerals licensing ([financialexpress.com](https://www.financialexpress.com)) June 8, 2022

Since the mandatory auction regimed kicked in with the amendment of the MMDR Act, 1957, around 180 mineral blocks have been auctioned so far.

To give further impetus to the non-coal, non-fuel mining sector, the mines ministry has proposed another set of reforms including dispensing with the need for the states to obtain Centre's prior approval for awarding composite licence (prospective-cum-mining) for blocks bearing bauxite, limestone, manganese and iron ore through the mandatory auction route.

The ministry proposes to do away with the section 10B (2) of the governing Mines and Minerals (Development and Regulation) Act that mandates the states to seek prior approval as it feels appropriate “to remove the redundant process” since only reconnaissance survey (G4) level of exploration is required for initiating auction process for composite licence (CL).

Through a number of reforms initiated last year, the Centre allowed auction of blocks for CL at G4 level of exploration instead of previously prescribed G3 (preliminary exploration) level.

“As the level of exploration has been reduced at the CL stage, it would be appropriate to remove the redundant process of obtaining previous approval of the central government before putting a block for auction of CL. This will enable the state governments to put blocks in auction for CL at a faster pace. Accordingly, section 10B (2) of the Act may be amended,” the mines ministry said in a note put for stakeholders’ comment.

Since the mandatory auction regimed kicked in with the amendment of the MMDR Act, 1957, around 180 mineral blocks have been auctioned so far.

The mines ministry also proposes to do away with the requirement of forest clearance for exploration, agreeing to the suggestion of a high-level committee of the NITI Aayog that had recommended,” there should not be any requirement of forest clearance for undertaking exploration.”

The ministry of forest and climate change had, in a consultation paper, issued in October last year also proposed, “particularly in such activities where the impact is not perceptible, the provisions of the Act (Forest Conservation Act, 1980) may not be applicable.

“In order to enable auction of more blocks and to enhance production of minerals, more exploration is required to be conducted. Mining operations can be undertaken in an area only after the existence of mineral is established in the said area. Necessary forest clearance would anyway be taken before start of mining operations,” the mines ministry note said.

The mines ministry is also proposing to allow captive miners to allow selling of 50% of their annual production without any restriction. Brought in through MMDR Amendment 2021, the government had allowed captive miners to sell up to 50% of the annual production “after meeting the requirement of linked plant.”

The condition attached is being interpreted as if the sale would be allowed only after the requirement of the end-use plant is fulfilled.

“Also, in cases where the linked end-use plant is not ready or is shut down due to some reasons for a short period, such as maintenance or if there is a fall in demand of the end product, the miner cannot continue the production and sale of minerals. Thus, the objective of ensuring optimal mining of mineral resources and facilitating increase in production and supply of minerals get defeated,” the mines ministry argued for choosing to omit the conditionality and end with the ambiguity. <https://www.financialexpress.com/economy/mines-ministry-eases-rules-for-non-coal-minerals-licensing/2552062/>

11. Denial will not help ([livemint.com](https://www.livemint.com)) 07 June 2022

India has been rated the worst performer among 180 countries, ranked by an index of environmental performance put out by Yale and Columbia universities for 2022. Denmark tops the chart, with a score of 77.9, while India's 18.9 is not just the lowest; it marks a decadal decline. The index uses 40 indicators in three categories. On ecosystem vitality, our rating was dragged down by a biodiversity drop, most acutely in species habitat, compounded by wetland, grassland and tree-cover losses. Fisheries, a strong point, saw a fall over the past decade. On health, while air quality was a big let-down, we notched up gains in sanitation and drinking water. We did rather poorly on climate policy, mostly with carbon emissions to blame.

As is its wont, the government may be tempted to reject these findings as flawed. Every such study would have something that can be challenged. But the shock of a bottom rank, deserved or not, mustn't detract attention from a need to double down on climate action. Energy shortages have worsened our economic trade-offs, and going green will be a stiff challenge. We must get our act together. And acknowledging a problem squarely is key to solving it. <https://www.livemint.com/opinion/online-views/denial-will-not-help-11654622275575.html>

12. The Inefficiencies of India's Justice System ([thewire.in](https://www.thewire.in)) 08 June 2022

Aryan Khan's case reflects what is wrong in India's system of justice. He was caught for allegedly being part of a nexus with international or national drug dealers. Much hype followed since he is the son of a mega movie star. Media, political parties and the general public presented, commented and followed the case.

As suddenly as the case erupted, it has been closed with the argument that no narcotic drugs were found. It is common knowledge that drugs flow in parties like the one that was planned on the ship. But, here a particular group of youngsters were targeted and it was not a general raid. What was the plan?

Message and Extortion

A Minister in the Maharashtra government accused the agency of using such cases for extortion. He was later arrested for having dealings with the family of a notorious don. If the allegations against him are true, he would know about use of drugs and the ways of functioning of the agency involved. So, his allegations about extortion are likely to be correct. The question then is, who was the real target and has a deal been struck?

The public will never get to know the truth but, what an inefficient way of doing things. It cannot be that some officer initiated the case on his own for extortion and harassment of a high profile person. Could the extortion not have been done quietly without media hype and public exposure? Mafia is known to extort without advertising their action. For the powers that be, it was also necessary to send a message to their detractors. The case is symptomatic of what the system is capable of.

Opposition leaders are often targeted by the agencies before important events, like, elections. Not that leaders do not commit illegality and financial irregularity. But when cases are initiated and then mostly kept in cold storage, if they do the bidding of the ruling dispensation, including joining the party then suspicion arises that politics is being played. Credibility of the cases and

the agencies is dented in the public eye. Much time and energy is wasted and it is costly to the nation.

Cost to the Nation

What is the cost to the nation? Quite substantial. Agencies, courts, media, politicians and the public spent enormous amount of time discussing, reporting and debating the Aryan issue. If the time spent and the resources used is accounted, it could run into hundreds of crores of rupees. This would be the direct cost. For the moment, disregard the distress caused to the family and friends of the incarcerated. If various cases like this one are aggregated the sum would run into thousands of crores.

There are indirect costs too. If cases like these signal to the wealthy that they can also face similar situations, more would leave the country and become NRIs. 23,000 high net worth individuals (HNI) left the country between 2014 and 2017. 5,000 more left in 2018. According to one report, there were 270,000 HNI's in India in 2017 so, 8.5% of them had left India. The rich have not just been voting with their feet but also indulging in flight of capital. They not only take their capital out legally through the Liberalized Remittance Scheme (LRS) but also illegally through tax havens, as reveled in the various information hacks from Panama, BVI, Liechtenstein, etc. So, India is exporting capital when the poor in India are struggling to get capital for continuing their production.

Efficiency Dented

When those in power play favourites, the efficiency of use of capital is impacted. Threats can not only be used to extort but also to force entrepreneurs to sell out to the favoured businessmen. Such beneficiaries also get various other concessions from the system, like, loans for acquisition and expansion. That too, without due diligence and even if they do not have the experience of running such businesses. That is how in the past the banking system got saddled with huge non-performing assets (NPAs). Steps to clean up the NPAs since 2015 have set back the economy since credit availability declined setting back investment and production.

These various facets of the situation not only dent the investment climate but also the ease of doing business. This impacts the rate of growth of the economy and employment generation. The investment rate dropped from a peak of about 36% in 2012-13 to about 32% pre pandemic. So, the economy is not only not able to achieve its potential, it retrogresses further. For every 1% drop in the official rate of growth of the economy, the loss currently is Rs.2.5 lakh crore per annum. For a 4% drop in the rate of growth, the loss is Rs.10 lakh crore annually. This sum would be enough to take care of poverty in the country and unemployment.

There is an impact on international competitiveness. Inefficiencies mentioned above lead to higher costs. So, in spite of very cheap labour, many Indian products are unable to compete in price and quality terms with products of other countries. The result is a trade and current account deficit. India did not join RCEP at the last moment due to fear of competition from China.

Systemic Costs

A justice system manipulated by the powerful for their personal ends is bound to lead to high costs and inefficiency. First, there is the direct cost of putting in place the broken justice system

and administering it. And then there is the cost of manipulating it while trying to carry on the pretense of justice. The system of justice delivery has to function contrary to its stated purpose resulting in additional costs.

Till now the reference was to how the system functions for the elite who are a part of it. What the non-elite who are at the margins of the system face is another matter.

Use of bull dozers without due process, shooting or killing people in custody, arrest of people without much evidence and invoking sedition and UAPA suggest that the government is implementing instant justice ('thok do'). This lowers the cost of administering justice and makes justice delivery efficient. Partisans of the rulers are also encouraged to follow the government's example and have been delivering instant justice by killing and beating up people suspected of wrongs, imagined or otherwise.

The exclusion of the marginalized has its own costs. Societal tensions rise and people's alienation grows leading to a diminution of faith in the system. That makes it difficult for those in power to make their writ run and causes policy failure which adds further to costs.

Why Have Laws?

If the present broken system is costly and inefficient, would it not be better to do away with laws and the justice delivery system. Those in power could then do what they would like to and would not have to justify their actions. Tens of thousands of crore spent on the police, judiciary and the regulatory agencies could be saved. That would also lead to 'minimum government and maximum governance'.

Much money would be saved in selecting and manipulating the executive to choose spineless people in positions of authority. The cadres of the ruling party can be placed in the executive so that they could unhesitatingly implement the diktat of the rulers. There would also be no leakage of information to the media.

Courts would also become efficient where presently crores of cases are stuck. In jails, most of the prisoners are under trials, wasting much resources. Since in a majority of court cases government is the litigant immediate settlement would follow. Under trials would be in or out of jails, one way or the other thereby decongesting the jails. How efficient.

When diversity, federalism, democracy, human and civil rights are seen as impediments, they have to be subverted. But presently, pretense of respecting them has to be maintained and that makes the systems inefficient. In fact, some people close to the ruling elite have suggested that citizens only want good services and they will get them from us, so what is the need for elections. If that happens, another Rs 50,000 crore would be saved.

In brief, the present system of justice delivery is inefficient because it has to be manipulated by the rulers to achieve their goals. It is not a joke but the present constitution and the laws need to be amended to enshrine 'might is right' which would be unambiguous, clear, simple and efficient. It would be 1984 only 40 years later. <https://thewire.in/political-economy/the-inefficiencies-of-indias-justice-system>

13. 'Uncalled For': Military Insiders Warn Against 'Agnipath' Recruitment Scheme ([thewire.in](https://www.thewire.in)) 07 June 2022

The Union government is expected to imminently announce a new short-term lapsable recruitment policy for the country's military, despite opposition from serving and retired service officers who believe these 'tourist soldiers' will adversely impact the armed forces' organisational ethos and operational effectiveness.

The latter also believe that this new plan will 'degrade' the overall character of the Indian armed forces, especially the Indian Army (IA) – which is expected to be the first to implement it – and cautioned against its initiation. One two-star IA officer even advised the government to seriously rethink its implementation, as the force was not an 'adventure camp' for people seeking jollies and temporary employment, but one that dealt with matters of life and death.

Termed the 'Tour of Duty' (ToD) – or more grandiosely the Agnipath recruitment scheme – it was envisaged in 2020 by the Department of Military Affairs (DMA) headed by the late Chief of Defence Staff General Bipin Rawat. Its objective was primarily to reduce the ballooning services pension pay-outs in order to effect savings in India's declining annual defence budget to finance long-postponed military modernisation.

Last weekend, the three service chiefs reportedly briefed Prime Minister Narendra Modi regarding the contractual recruitment of personnel below officer rank (PBOR) for four years after which they would all be discharged. However, a quarter of all the released jawans would be re-inducted for full-time employment, eventually reducing pension payouts.

For several decades, pensions have averaged around a fifth of India's overall defence budget. They have steadily proliferated in recent because of hikes brought about by sustained agitations by retired officers. In financial year 2022-23, for instance, service pensions equalled Rs 119,696 crore of the overall defence outlay of Rs 525,166, or a whopping 22.79%, leaving limited resources for acquiring desperately needed materiel or upgrading existing equipment.

Nevertheless, the ToD, which will also kickstart service recruitment, suspended for two years due to the COVID-19 pandemic, largely encompasses enrolling PBOR – initially in the IA – and ultimately in the Indian Navy (IN) and the Indian Air Force (IAF), followed by six months of training and deployment thereafter to diverse units.

After 48 months, these draftees would be de-mobilised. After a short break lasting a few weeks or possibly even several months, a quarter of them would be shortlisted to complete their colour service, which would entitle them to full retirement benefits. Other than pension, this would include, amongst other perquisites, access to free medical care and subsidised commissary facilities around the country.

However, their prior four years of service would not be considered for determining either their new pay and consequent pension, thus affecting savings, but several years hence. The majority 75% of discharged soldiers, for their part, would receive a gratuity or severance package of around Rs 10 lakh each, in addition to varied training to enable them to pursue alternate careers. They would also be accorded priority in joining the paramilitaries and state police forces, alongside securing other governmental jobs.

And though normal armed forces recruitment is expected to continue apace, army officers said the draftees would increasingly take up the slack to meet the shortfall of some 1.2 lakh service personnel spawned by the pandemic since 2019 after all intake was halted. This follows reasoning by the DMA that the saving on a soldier if he served for four years instead of the standard 17, would amount to around Rs 11.5 crore or an overall cost-cutting of Rs 11,500 crore for 1,000 PBOR.

The DMA is currently headed by a three-star IA officer in the rank of additional secretary after General Rawat died in an IAF helicopter crash in December 2021.

But this reasoning is dismissed by numerous service officers as ‘fanciful’ and one that needed more than just ‘theorists’ and ‘bean counters’ seeking merely to mitigate India’s increasing unemployment woes and win political plaudits.

“The disastrous performance of the largely conscript Russian army in the Ukraine war reveals the pitfalls in having a partially or inadequately trained force fighting a determined enemy,” said Brigadier Rahul Bhonsle (retired) of the Security Risks consultancy in New Delhi. Besides Russia, he cautioned, can choose which wars it wants to fight and how it wants to fight them, but India cannot. It needs a ‘dedicated’ and well-trained army to deal with palpable threats from Pakistan and China in inhospitable terrain.

And though the contours of the Agnipath scheme remain opaque, service officers said the six months of training these recruits would be imparted was ‘wholly inadequate’ compared to the 2-3 years it took to suitably train jawans. “The draftees’ inexperience and responses would be an impediment in forward areas for the rest of their units,” said a one-star army officer. Such a handicap would definitely increase pressure on the more experienced soldiers of ‘minding’ these novices in ‘hot situations’, he added, declining to be named.

Lieutenant General (retired) Harwant Singh was even more forthright in his criticism of the Agnipath plan. Writing in *The Tribune* on June 7, the former Indian Army Deputy Chief of Staff questioned whether these four-year tenure recruits would have the “essential motivation and willingness to lay down their lives” when needed, as they were aware of being in service for a limited period.

“Will they imbibe the regimental spirit and the unit’s battle cry which makes them carry on through a hail of bullets and exploding shells, with comrades falling left and right and moving up impossible slopes to drive cold steel into the enemy,” he asked impassionedly.

The former armoured corps officer goes on to state that the IA’s class fighting units had reached their present standard of battle worthiness after nearly two centuries of toil and sacrifice. They had lived by their calling centred on ‘Naam, Namak and Nishan (honour, loyalty and identity)’, further accentuated by their respective units’ battle cry. This ferocity would simply not be there in the Agnipath recruits, he declared, adding that the officials responsible for such ‘uncalled for schemes’ had little idea of the military’s calling and were determined to “downgrade or perhaps destroy” it.

Alongside, the Agnipath arrangement is also expected, in due course to discard the specific class composition of several IA regiments and create an All-India, All-Class (AIAC) system, which many veterans believe strikes at the heart of the forces esprit de corps and battlefield tenet. Embryonic attempts in the mid-1980s by Army Headquarters in New Delhi to create

AIAC units following mutinies by Sikh Regiment troops in Bihar and Rajasthan in June 1984 – following the attack on the Golden Temple – were hastily abandoned. The army found it unworkable and unviable as AIAC units unfavourably impacted common bonds, group spirit, camaraderie, cohesion and above soldierly solidarity in battle.

And even though the fundamental reasoning behind the Agnipath proposal was a reduction in expenditure and financial frugality, defence analysts like Amit Cowshish, former Ministry of Defence acquisition advisor from the Indian Defence Accounts Service, believe it would make little or no fiscal difference in the short or medium term.

“It’s difficult, for now, to estimate the savings this would generate, but these would kick in 15-20 years hence,” Cowshish declared. However, by that time, he added the entire battlefield scenario would have undergone a monumental transformation considering the rapidly evolving Revolution in Military Affairs and would pose entirely distinct personnel challenges.

In conclusion, several service veterans said the obvious drawbacks in the proposed Agnipath scheme were ‘too obvious’ for the current military brass to miss, despite which they were acquiescing to populist plans. “Agnipath is a blind curve that the military and government are negotiating without adequate wargaming the consequences at a time when the country can least afford it,” alerted a three-star officer. If it ain’t broke, don’t fix it, he counselled.

The IA came into existence under the British East India Company in the late 18th century, whilst the IN and the IAF were founded by the Colonial administration in 1934 and 1932 respectively, albeit with the appellation ‘Royal’, which was scrapped after independence. <https://thewire.in/security/military-insiders-agnipath-tour-of-duty-scheme-criticism>

14. Indigenise smart: Heavy investment in R&D is needed to take Indian defence production to next level (timesofindia.indiatimes.com) June 7, 2022

In another step towards indigenisation of military platforms, the defence ministry has given the initial approval to projects worth Rs 76,390 crore. This includes the construction of eight next-generation corvettes for the navy, procurement of wheeled armoured fighting vehicles, and the manufacture of Dornier aircraft and Sukhoi-30 MKI aero-engines by Hindustan Aeronautics Limited. All the proposed capital acquisition will be under the ‘Buy and Make Indian’ rubric. The thrust on indigenisation was overdue. The war in Ukraine has starkly brought home the reality that India is too dependent on foreign defence imports, particularly from Russia. With at least over 50% of India’s overall military assets of Russian make, New Delhi has been forced to walk a diplomatic tightrope on the conflict.

Plus, the performance of Russian military platforms in the war has been poor, with a large number of armoured fighting vehicles breaking down. Thus, India has to get out of this position where its foreign policy is constricted and a large part of its military arsenal may not deliver desired results. That said, indigenisation has to be done smartly. For the proposed construction of the eight indigenous corvettes, an Indian shipyard will be selected through competitive bidding. Unless tightly controlled, the bidding process could throw up controversies that defeat long-term objectives.

Additionally, while India has achieved 90% indigenisation in the ‘float’ (hull and superstructure) component of warship-building, the ‘move’ (propulsion) and ‘fight’ (weapons) components lag behind at 60% and 50% indigenisation respectively. Similarly, we are still far

off from developing a fully indigenous aero-engine for military aircraft with the old Kaveri project having failed to meet standards. Overall, most of our indigenisation success has been in auxiliary and spares. But to take indigenisation to the next level we need to significantly up our investment in R&D and create a cutting-edge military-industrial ecosystem with universities, private sector and defence PSUs working in tandem. That in turn requires the Indian economy to grow at a high, sustained rate. <https://timesofindia.indiatimes.com/blogs/toi-editorials/indigenise-smart-heavy-investment-in-rd-is-needed-to-take-indian-defence-production-to-next-level/>

15. How Rs 76,390-crore procurement plan towards military modernization give an impetus to ‘Aatmanirbharta’? (timesnownews.com) Updated Jun 7, 2022

The Defence Acquisition Council (DAC) has approved proposals for the procurement of military equipment and platforms to give impetus to the Indian defence industry and “reduce foreign spending significantly.”

In a statement Monday, the Ministry of Defence (MoD) said that “accorded Acceptance of Necessity (AoN) for Capital Acquisition Proposals of the Armed Forces amounting to Rs 76,390 crore under ‘Buy (Indian)’, ‘Buy & Make (Indian)’ and ‘Buy (Indian-IDDMM)’ categories”. This was decided at a meeting chaired by Defence Minister Rajnath Singh. MoD further added that this follows Prime Minister Narendra Modi’s “clarion call for ‘Aatmanirbharta’.”

The proposal approved by the DAC includes eight next-generation corvettes for the Indian Navy, wheeled armoured fighting vehicles and bridge laying tanks for the Indian Army, and the manufacture of aero-engines for the Su-30 MKI fighter aircraft of the Indian Air Force. The planned eight new corvettes are aimed at eventually replacing the Khukri and Kora class corvettes. This will be the first time that the warships will be designed entirely by the Navy’s Directorate of Naval Design and executed by an Indian shipyard through a competitive bid. This is a departure from the earlier procedure when a shipyard was nominated and the private industry will also be allowed to bid.

In its release, the Ministry said, “For the Indian Navy, the DAC accorded AoN for procurement of Next Generation Corvettes (NGC) at an estimated cost of approx. Rs 36,000 crore. These NGCs will be versatile platforms for a variety of roles viz. surveillance missions, escort operations, deterrence, Surface Action Group (SAG) operations, Search & Attack and Coastal Defence. These NGCs would be constructed based on the new in-house design of the Indian Navy using the latest technology of shipbuilding and would contribute to further the Government’s initiative of SAGAR (Security and Growth for All in the Region).”

Vis-à-vis the procurement for the Indian Army, the plan to procure Rough Terrain Fork Lift Trucks (RTFLT), Bridge Laying Tanks (BLTs), Wheeled Armoured Fighting Vehicles (Wh AFVs) with Anti-Tank Guided Missiles (ATGMs), and Weapon Locating Radars (WLRs) from domestic sources, with a focus on indigenous design and development.

For the Indian Air Force, the DoC has accorded AoNs for the manufacture of Dornier Aircrafts and Su-30 MKI aero-engines by the Navratna CPSE M/s Hindustan Aeronautics Limited (HAL) with a focus on enhancing indigenisation, particularly in indigenising aero-engine material.

Following the announcement on Monday, defence stocks have been on a roll. The HAL stocks rose as much as 2.94 per cent in early trade, hitting a new all-time high of Rs 1,942.2 on BSE. At 11:45 am on Tuesday, the stock was up 0.70 per cent (or 13.30 points), quoting at Rs 1,900 apiece on BSE.

The Ministry further said, “In pursuance of the Government’s vision for digital transformation in Defence, ‘Digital Coast Guard’ project under ‘Buy (Indian)’ Category has been approved by the DAC. Under this project, a pan India secure network for digitising of various surface and aviation operations, logistics, finance and HR processes in Coast Guard will be established.”

These new procurements are a massive step towards modernizing the Indian forces — a key aim of the Modi government that was firmly backed by former Chief of Defence Staff – the late Gen. Bipin Rawat. In fact, his position was created to spearhead the modernization and integrate the capabilities of the army, the navy and the air force, with the 17 single-service units coming under five "theatre commands" to establish a unified approach to deal with future conflicts.

Gen Rawat was pioneering the task of making the Indian military modern and capable of dealing with any emerging security challenges. He was also very vocal about the bureaucratic lethargy, archaic procedures for acquisitions of weaponry and long delays in delivery of promised indigenous weapons being a major setback. The work on modernisation that he started is now being taken forward by the DAC. <https://www.timesnownews.com/exclusive/how-defence-procurement-plan-towards-military-modernization-give-an-impetus-to-aatmanirbharta-article-92059974>

16. The implications of power shortage woes (*livemint.com*) 08 June 2022

The demand-supply trajectory in the power sector seems to be moving in opposite directions. While demand is on the rise, supply-side factors are not in great shape due to coal shortage, higher global coal prices and transportation problems (railway rakes shortage). As the chart alongside shows, against the normative requirement of coal stocks, the actual inventory stood below 30% on 1 June in non-pithead power plants.

This shortage, if it persists, is likely to heighten the already elevated inflation levels. Note that consumer price index (CPI) inflation in April rose to 7.8%, a multi-year high. True, there has been no significant direct impact on inflation due to the crisis yet as tariffs have been sticky. But risks loom.

Economists from Nomura Global Markets Research see the possibility of rise in electricity CPI inflation which has remained largely stable. This follows the precedence observed in 2012-13 when state power distribution companies (discoms) were facing large losses, reforms led discoms to raise tariffs and electricity inflation averaged close to 18% year-on-year (y-o-y) in 2012.

Note that the current coal shortage comes when prices of other commodities (used as raw material) have risen sharply against the backdrop of the Russia-Ukraine war. If companies pass on higher costs, then it adds to the margin pressure. Economists at Bank of Baroda pointed out in a report that the three key segments of the economy—agriculture, manufacturing and services—would be affected if the situation of power shortage worsens hereon.

“Agriculture is largely monsoon-dependent during the kharif season with 60-65% of crops under this category. However, power shortage will affect irrigation that is used by farmers and this will in turn increase demand for diesel to operate DG sets, which can also push up cost of cultivation,” they said. Though, the situation is under control, for now, low coal inventory on account of the upcoming monsoon could have an adverse impact.

Therefore, amid escalating power demand and inadequate supply of domestic coal, the power ministry has directed states and power generating companies to import at least 10% of their coal requirement for blending. Higher imported coal costs would further add to the pressure of discoms passing the costs to consumers. “Electricity has a weighting of 2.26% in the overall CPI index, which means about 10% rise in the index can lead to a direct impact of about 0.2 percentage points to headline inflation,” said economists at Nomura in a 3 June report.

Moreover, there are fiscal implications as well. “State governments would see a rise in their electricity subsidy, grant and contingent liabilities, if they were to shield discoms from increased financial stress as the cost of power escalates,” said Nomura’s economists. Also, the increase in coal imports in terms of volumes as well as prices would further enhance the current account deficit.

There is a silver lining, though. The advent of monsoons would offer some respite as demand is expected to moderate.

Meanwhile, to overcome the supply-demand mismatch, planned thermal capacity additions should help. But the gains from this would occur in the long run and not in the near-term. “With catchup of new capacity expansion to take at least 2-3 years and renewables generation limited to 10-11% on lower plant load factor, we see power shortages/coal demand spikes in the peak seasons likely to continue going forward,” said analysts at BofA Securities. To be sure, in recent years, thermal power capacity addition has not kept pace with demand. <https://www.livemint.com/market/mark-to-market/the-implications-of-power-shortage-woes-11654627634818.html>

17. NHAI pays Rs 891-crore termination compensation to IL&FS for Khed-Sinnar Expressway (economictimes.indiatimes.com) 08 June 2022

The National Highways Authority of India (NHAI) has paid over Rs 891 crore to crisis-hit non-banking finance company Infrastructure Leasing & Financial Services (IL&FS) as compensation for termination of a road project Khed-Sinnar Expressway that forms part of the Delhi-Mumbai industrial corridor, said people with direct knowledge of the development.

"This termination compensation is in addition to the Rs 90 crore collected by the company as toll from the 80% completed project over the last two years," said one of the persons mentioned above.

Cumulatively, IL&FS will now have Rs 980 crore to meet its various liabilities due in this project. The total debt of Khed-Sinnar Expressway that gets addressed with this compensation stands at Rs 1,400 crore and the project gets handed over to NHAI.

The project was awarded to IL&FS Transportation Networks Ltd (ITNL), an IL&FS subsidiary, in 2013 with a 20-year concession ending in 2033 and key lenders to the project include IDBI, IFCL and Yes Bank.

Khed-Sinnar section of National Highway-50 is a 138-km long part of DelhiMumbai Industrial corridor and is considered an important highway project passing through major towns. These towns include Rajguru Nagar of Khed, Manchar, Kalamb and Narayangaon in Pune district, Bote, Ghargaon and Sangamner of Ahmednagar district, Nandur Shingote in Nashik district and the end point is at Sinnar.

IL&FS has claims of around Rs 3,200 crore from NHAI and Ministry of Road Transport & Highways (MORTH) of which around Rs 2,700 crore have been received and additional Rs 500 crore are in final stages of settlement. This entire Rs 3,200 crore is part of the Rs 55,000 crore resolved by update.

The projects where the total compensation of around Rs 2,700 crore has been paid by NHAI and MORTH includes Rs 707 crore for Fagne Songadh Expressway, Rs 672 crore for Kiratpur Ner Chowk Expressway, Rs 891 crore for Khed Sinnar Expressway, Rs 250 crore and Rs 20 crore claim towards Jorbat Shillong Expressway and Chnani Nashri Tunnelway, respectively and Rs 140 crore towards ITNL Road Infrastructure Development Company (IRIDCL).

The two projects where final settlement is in advance stages include Rs 300 crore for Srinagar Sonmarg Tunnelway and Rs 170 crore for Amravati Chikli Expressway.

“We are awaiting confirmation from our Bank with respect to receipt of the amount from NHAI,” IL&FS spokesperson said in response to ET’s email query. A separate query to NHAI remained unanswered until the time of going to press.

The settlement of this claim is expected to add to the NBFC’s ongoing efforts to achieve resolution of debt. IL&FS has been monetising its assets to manage its debt obligations since its failure to meet repayment obligations in September 2018 had triggered a liquidity squeeze that gripped India’s nonbanking finance sector.

As part of a clean-up, the government then replaced the IL&FS board, which has since been engaged in trying to resolve the debt situation.

As part of this asset monetisation plan, after selling its iconic headquarters in Mumbai’s business district, the NBFC has put more commercial properties including two standalone prime properties Business Arcade and IL&FS House in Mumbai on the block. These towers and some more properties for which bids have been invited, according to property consultants, are expected to fetch over Rs 700 crore.

While the term of Uday Kotak, chairman of this government-appointed board, ended on April 2, IL&FS shared that it has addressed debt of Rs 55,000 crore, up from Rs 52,200 crore as of November 2021. The group has retained its overall resolution estimate at Rs 61,000 crore.

Late March, global alternative investment major Brookfield Asset Management emerged as the successful bidder and acquired IL&FS’ headquarters, a 10-storey iconic property in Mumbai’s business district Bandra-Kurla Complex (BKC) for over Rs 1,080 crore.

The debt worth Rs 55,000 crore addressed till date represents over 90% of the overall estimated resolution value. Resolution of remaining Rs 6,000 crore debt has moved into the ongoing financial year 2022-23.

IL&FS' overall resolution estimate of 62% is double the average recovery of 31% under Insolvency & Bankruptcy Code (IBC). Of the 347 entities under IL&FS Group as of October 2018, a total of 246 entities stand resolved leaving 101 entities to be resolved in the current financial

year. <https://economictimes.indiatimes.com/news/economy/infrastructure/nhai-pays-rs-891-crore-termination-compensation-to-ilfs-for-khed-sinnar-expressway/articleshow/92067472.cms>