

NEWS ITEMS ON CAG/ AUDIT REPORTS

1. A Constitutional remedy to deal with Manipur (*thestatesman.com*) 02 Aug 2023

The prolonged bloody ethnic violence in Manipur bringing in its wake horrendously shameful atrocities on women continues to send shock waves across the country. So much so, a bench headed by Chief Justice, DY Chandrachud, was so deeply concerned it directed the Union and the State government to take immediate action. At the time of writing, the situation in Manipur is yet to be discussed in either House of Parliament as the Government and the Opposition are at loggerheads over the rule under which the discussions should take place.

Till then, the Opposition continues to stall the proceedings of Parliament. Despite the wrath and deep sense of anguish expressed by the Prime Minister, peace continues to elude Manipur. While our Parliament is embroiled over the form of discussion, the European Parliament, the British House of Commons and many nations have expressed deep concern over the blood-curdling incidents and the raging violence in Manipur. There are reports that a certain community is being targeted in Mizoram threatening them to flee back to Manipur.

The federal structure of the Indian nation runs on double engine, yet the federal engine is empowered to check, guide and overhaul the State engine if it does not work smoothly or fails to work. Manipur has a popular government and, incidentally, a double engine government. There is widespread outrage and discontent against the Manipur government for having miserably failed to control unprecedented ethnic violence and to maintain peace and tranquility across the State. Not only the Opposition but even the public spirited citizens and some MLAs of Manipur have been demanding central intervention. Ordinarily, central intervention is viewed with suspicion, especially the imposition of President's rule under Article 356 when a popular government is sacked or the Assembly is kept in suspended animation.

There are instances galore of misuse of Article 356 since Independence. In most of the cases, defection or fear of defection or political instability are viewed as breakdown of constitutional machinery and President's rule is imposed. Unfortunately, even after largescale violence and complete and prolonged breakdown of law and order, the constitutional provisions have not been evoked in Manipur. There are clear and distinct provisions in the Constitution which cast responsibility both on the Union and the State Government to run their affairs according to the Constitution. The executive power of the Union and the States is coextensive with the legislative powers which are demarcated exhaustively in the Seventh Schedule read with Article 246. Law and Order is a State subject but the fields relating to law and order and crime and punishment fall in the Concurrent List on which the Parliament and the Assembly can make laws and in case of conflict, unless approved otherwise by the President, the law made by the Parliament shall prevail.

Also the laws made by Parliament for dealing with an emergency – external aggression, armed rebellion or financial emergency – shall prevail. Moreover, there is single citizenship in India and the matter falls in the domain of the Union. If the life and liberty of citizens of any part of the country is in jeopardy and the State government fails to protect them, as it has miserably in Manipur, the Union government is endowed with

adequate and firm powers by the Constitution to intervene and to uphold the life and liberty of citizens. It would be instructive to have a look at the connected enabling articles – 365, 355, 356, 256 and 257 of the Constitution.

According to Article 365, where any State has failed to comply with, or to give effect to, any directions given in exercise of the executive power of the Union under any of the provisions of the Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. Articles 256 and 257 confer power on the Govt. of India to the giving of such directions to a State as may appear necessary for the purpose. The Constitution also enjoins that the executive power of ‘every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union’.

Therefore, directions are issued or can be issued by the Union to a State on specific matters in accordance with the scheme of demarcation of powers which heavily tilt towards the Union in order to foster national unity, integrity and to deal with potential fissiparous forces. Dr Ambedkar, allaying the fear of Pt. H.N. Kunzru, clarified in the Constituent Assembly that once the Constitution confers the power of issuing administrative directions to the States to act in a certain way, it is necessary that there must be a remedy to deal with any disobedience. Apparently without Art. 365, Articles 256 and 257 would have ‘no meaning, no sense or substance’. Of course, there must be valid exercise of power and violation of such direction, if challenged, should stand judicial scrutiny.

Article 356 deals with breakdown of constitutional machinery. In *Bommai v. Union of India*, the apex court held that the proclamation under 356 is justiciable but upheld the presidential proclamation. There can be other grounds for holding failure of constitutional machinery in a State. Article 355 says that ‘It shall be the duty of the Union to protect every State against external aggression and internal disturbance’ and to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution. The situation in Manipur warrants the intervention of the Union as, indubitably, the Union must have issued directions to the State to stem the mayhem.

An iron curtain on free flow of information has only exacerbated the situation except the bits and pieces of incendiary incidents which occasionally pierce the veil. Perhaps, in the absence of authentic information, the Union Govt. may find it difficult to assess the situation accurately. Chief Ministers have been replaced on the basis of C&AG reports. If replacing or sacking a Chief Minister can assuage the people and restore peace and tranquility, it is a measure that must be taken swiftly. Moreover, there would be least outcry as the nation demands it unequivocally.

<https://www.thestatesman.com/opinion/a-constitutional-remedy-to-deal-with-manipur-1503207272.html>

2. Centre yet to release final GST relief to Pb from 2017 to 2022 (*timesofindia.indiatimes.com*) 02 Aug 2023

CHANDIGARH: The central government is yet to release the final Goods and Services Tax (GST) compensation to Punjab for the financial year 2017-18 to 2022-23 due to

non-receipt of final revenue figures audited by the Comptroller and Auditor General of India (CAG).

The Union finance ministry submitted this information in the Rajya Sabha on Tuesday in response to a question raised by AAP member Raghav Chadha. It was added in the response that the final compensation arising out of reconciliation of provisional figures with audited figures is released immediately on receipt of CAG's certificate.

Chadha had asked the minister whether the Centre had identified any systemic issues for delay in the GST compensation mechanism that have led to accumulation of dues. He had also sought clarification on the discrepancy where the Punjab government is seeking release of Rs 5,000 crore GST compensation dues but the central government claims of owing just Rs 3,000 crore.

But the finance ministry, in its reply, did not make any commitment about the specific amount and the date by which the final GST compensation for these five years will be cleared to Punjab. However, the Centre has already released provisional GST compensation amounting to Rs 41,976 crore to Punjab from the GST compensation fund from 2017-18 to 2022-23.

Similarly, Punjab has also received Rs 2,0491 crore from the Centre as back-to-back loan in lieu of GST compensation in fiscal years 2020-21 and 2021-22.

The ministry mentioned that Section 7(2) of the GST (Compensation to States) Act, 2017 provides that the compensation payable to a state shall be provisionally calculated and released at the end of every two months period. This compensation is finally calculated for every financial year after the receipt of final revenue figures, as audited by the CAG.

Therefore, the central government has released the entire amount of provisionally admissible GST compensation to all UTs and states including Punjab for loss of revenue arising on account of implementation of GST for five years (July, 2017 to June, 2022).

Asked about the matter, Punjab finance minister Harpal Singh Cheema told TOI: "We have already taken up the case with the CAG for our outstanding GST compensation amounting to Rs 5,005 crore. They have to certify."

<https://timesofindia.indiatimes.com/city/chandigarh/centre-yet-to-release-final-gst-relief-to-pb-from-2017-to-2022/articleshow/102334374.cms?from=mdr>

3. Citing variation, Metro gives ₹100cr works to old co sans fresh tender (*timesofindia.indiatimes.com*) 02 Aug 2023

Nagpur: MahaMetro has awarded additional works worth ₹100.36 crore to an existing contractor citing variation in original contract of ₹121.86 crore awarded seven years ago. The latest additional works have been awarded despite the Comptroller and Auditor General of India (CAG) terming this practice a violation of rules, and loss to MahaMetro.

Documents available with TOI show that the erstwhile Nagpur Metro Rail Corporation Limited (NMRCL) had floated a tender in 2015 and appointed M/s AHE Consortium

of Aurionpro Solutions Limited, Highbar Technologies Limited and Excelize Architectural Services Pvt Ltd for selection, supply, installation, implementation and support for Enterprise Resource Planning (ERP), 5 Dimensional Building Information Modelling (DBIM), provide services to set-up and ramp-up owner support offices in Nagpur Metro Rail Project. Letter of award was issued to the contractor on May 24, 2016, with a contract period of six years.

On February 1, 2023, MahaMetro awarded works worth ₹41.19 crore to the same contractor citing variation in the seven-year-old contract. Works worth ₹33.71 crore were for development of digital platform for operation and maintenance, and ₹7.48 crore for 5DBIM support extension.

Before this, MahaMetro had given works worth ₹59.18 crore to the same contractor as variation of contract awarded in 2016. This work was related to Pune Metro Rail Project while the original contract was of Nagpur Metro Rail Project. The two contracts are different and being executed in different cities.

Now, total value of contract has increased to ₹222.23 crore, which is an increase of 82.36% compared to the original award. In its report issued in December last year, CAG had said, “Open tender should be preferred mode of tendering civil works to ensure transparency, and competitiveness. MahaMetro awarded works of ₹877.58 crore as additional works to existing contractors on nomination basis. Quantity variation clause in the contract was meant for regularization of any variation in the bill of quantities during execution, whereas the seven works stated above are altogether new works. Hence, invoking the clause to award new contracts to existing bidder was not in order.”

CAG also said high value works on nomination basis by merely citing time saving, complex design, approval by competent authority and likely higher cost if tender was called for, lacked transparency and fair play apart from depriving MahaMetro of the opportunity of securing competitive bids.

“It is not a transparent method of tendering, and hence, MahaMetro may frame appropriate guidelines in the procurement manual to discourage the practice,” CAG directed.

MahaMetro spokesperson said all suggestions given by CAG were being followed.

Social activist Vijaykumar Shinde alleged the scam is close to ₹1,000 crore now. “MahaMetro is supposed to follow guidelines of Chief Vigilance Commission (CVC) but neglected them since its inception. Irregularities continued despite mention by CAG, which is very unfortunate and calls for stringent action on concerned officials. CBI, CVC and central government should direct MahaMetro to stop the practice,” he said.

President of association of NMC contractors Vijay Nayudu said it is a clear case of favouring a particular private company and depriving others of their rights.

“New online tender is must for each and every work, and cannot be awarded to same contractor in any condition. MahaMetro also avoids publicity of tenders and does not highlight them on government portal,” he said.

<https://timesofindia.indiatimes.com/city/nagpur/citing-variation-metro-gives-100cr-works-to-old-co-sans-fresh-tender/articleshow/102333170.cms?from=mdr>

4. Goa's Heated Political Debate: Oppn Alleges Scam in Excise Dept
(*heraldgoa.in*) 02 Aug 2023

On Wednesday, there was a heated discussion in the house between the Opposition MLAs and Goa Chief Minister Pramod Sawant regarding alleged scams and lapses in the excise department.

Fatorda MLA raised concerns about the major lapses in the Excise Department, particularly pointing out the 'flawed license systems.' However, CM Sawant countered these allegations by stating that the loss highlighted in the Comptroller and Auditor General (CAG) report is merely notional, as the revenue has actually increased by 10.46%. He assured the public that action will be taken based on an internal audit report related to the Pernem excise scam.

The Government has taken further steps to address the issue, as it plans to conduct surveys in all Talukas to ensure that no Excise license has been transferred to non-Goans or allowed outsiders to run retail liquor shops. The Excise department will also grant temporary excise licenses to shacks.

Benaulim MLA, Venzy Veigas, criticized the Government for not providing detailed revenue data from different liquor brands like whiskey, rum, and vodka. The Government was questioned if it has a mechanism to check MRP-wise and brand-wise sales in Goa.

On the other hand, LoP Yuri Alemao pointed out that despite gross irregularities found in the Excise Department, CM Sawant refuses to acknowledge it as a "scam." The internal audit of the Excise Department failed to identify any revenue loss, leading to criticism of the Government's handling of the situation.
<https://www.heraldgoa.in/News-Today/Goas-Heated-Political-Debate-Oppn-Alleges-Scam-in-Excise-Dept/208324>

SELECTED NEWS ITEMS/ARTICLES FOR READING

5. Govt debt stands at Rs 155.6 lakh cr in March 2023
(*economictimes.indiatimes.com*) August 01, 2023

The central government's debt stood at Rs 155.6 lakh crore or 57.1 per cent of the GDP at the end of March 2023, Parliament was informed on Tuesday. "The Central Government's debt was Rs 155.6 lakh crore as on March 31, 2023. It has reduced from 61.5 per cent of GDP in 2020-21 to 57.1 per cent of GDP in FY 2022-23," Minister of State for Finance Pankaj Chaudhary said in a written reply to the Rajya Sabha.

The debt of state governments at the end of 2022-23 is estimated to be about 28 per cent of GDP.

Replying to another question, Chaudhary said the Gross Fixed Capital Formation (GFCF) in the Indian economy has increased from Rs. 45.41 lakh crore (constant 2011-12 prices) in 2018-19 to Rs 54.35 lakh crore in 2022-23 (Provisional Estimates).

"The government is implementing the 'Scheme for Special Assistance to States for Capital Expenditure' (2020-21 & 2021-22) and 'Scheme for Special Assistance to States for Capital Investment' (2022-23 & 2023-24)," he said.

The government approved and released special assistance (loan) in the form of a 50-year interest-free loan for capital expenditure on capital projects in sectors like health, education, irrigation, and power etc for capital expenditure for different States, he said.

During 2023-24, Rs 84,883.90 crore have been sanctioned under Scheme for Special Assistance to States for Capital Expenditure/Investment to various states, he said, adding Rs 29,517.66 crore have been disbursed so far during this fiscal.

In response to another question, he said the government's roadmap for making India a USD 5 trillion economy comprises focusing on growth at the macro level and complementing it with all-inclusive welfare at the micro level, promoting digital economy and fintech, technology-enabled development, energy transition and climate action and relying on a virtuous cycle of investment and growth.

The government's road map was put into effect in 2014, he said, adding major reforms -- including Goods and Services Tax (GST), Insolvency and Bankruptcy Code (IBC), a significant reduction in the corporate tax rate, the Make in India and Start-up India strategies and Production Linked Incentive Schemes, among others -- have been implemented.

It has also focused on a capex-led growth strategy to support economic growth and attract investment from the private sector, increasing its capital investment outlay substantially during the last three years, he said.

"Central Government's capital expenditure has increased from 2.15 per cent of GDP in 2020-21 to 2.7 per cent of GDP in 2022-23. The Union Budget 2023-24 has taken further steps to sustain the high growth of India's economy," he said.

These include a substantial increase in capital investment outlay for the third year in a row by 33 per cent to Rs 10 lakh crore (3.3 per cent of GDP).

Direct capital investment by the Centre is also complemented by Grants-inAid to States for the creation of capital assets, he said. The 'Effective Capital Expenditure' of the Centre was accordingly budgeted at 13.7 lakh crore (4.5 per cent of GDP) for 2023-24.

This strong push given by the government is also expected to crowd in private investment and propel economic growth, he said.

The government has taken various measures to bring down the fiscal deficit as per cent of GDP, which includes efforts to improve ease of tax compliance and expenditure rationalisation, he said in reply to a question.

Further, in line with the announcement made in the Budget Speech for 2021- 22, he said the government is pursuing the broad path of fiscal consolidation to attain a level of fiscal deficit lower than 4.5 per cent of GDP by FY 2025-26. <https://economictimes.indiatimes.com/news/economy/indicators/govt-debt-stands-at-rs-155-6-lakh-cr-in-march-2023/articleshow/102318689.cms?from=mdr>

6. Centre owes Rs 6,366 crore in dues to states under MGNREGS (*scroll.in*) 02 Aug 2023

The Centre owes Rs 6,366 crore in dues to states and Union Territories under the Mahatma Gandhi National Rural Employment Guarantee Scheme, or MGNREGS, the rural development ministry told the Lok Sabha on Tuesday.

Minister of State for the Ministry Of Rural Development Sadhvi Niranjan Jyoti gave the information in response to a question by Congress MP Ramya Haridas.

Data shared by the government showed that the Central government owes the highest amount – Rs 2,770 crore – to West Bengal. Jyoti also said that West Bengal was the only state for which dues have been pending for more than five months.

The last installment of wages to workers in West Bengal had been disbursed on December 26, 2021, according to rights group NREGA Sangharsh Morcha. The Union government has since withheld the payment of more than Rs 7,500 crore to West Bengal in MGNREGS funds, including wages, the rights group said.

The Union government has cited alleged corruption at the state government level and invoked Section 27 of the Mahatma Gandhi National Rural Employment Guarantee Act to block the funds disbursement. The law allows the Union government to stop the funding and investigate alleged improper usage of funds meant for MGNREGS if it receives complaints.

The Mahatma Gandhi National Rural Employment Guarantee Scheme introduced in 2005 by the Congress-led United Progressive Alliance guarantees 100 days of unskilled work annually for every rural household. <https://scroll.in/latest/1053664/centre-owes-rs-6366-crore-in-dues-to-states-under-mgnregs>

7. GST@6: Evolving and Emerging (*financialexpress.com*) August 2, 2023

GST, India's largest tax overhaul, came into effect on July 1, 2017. The groundwork for this tax reform was established 17 years ago. Five federal taxes and six state levies were included, with the adoption of GST, and the 'one nation-one tax' idea was born. Six Union Budgets and 49 GST Council meetings later, what exists now is an updated form of the law that is considerate towards industry needs.

As per the recent survey undertaken by Deloitte, 94% of respondents across industries expressed an affirmative sentiment towards GST as compared to 90% last year.

"GST is the taxation system of New India, of Digital India. It is not merely Ease of Doing Business. It is demonstrating Way of doing Business. GST is not just a tax reform, but it is a landmark step towards economic reforms. Beyond the taxation

revamp, it is also paving the way towards social reforms. It is an avouchment for corruption free taxation system. In legal parlance GST may be known as Goods and Services Tax. But the benefits of GST will positively ensure it to be ‘Good and Simple Tax’ for the citizens of India.” – Hon’ble Prime Minister Shri Narendra Modi on the launch of GST (July 01, 2017)

The GST law and environment have truly altered on all fronts, whether in terms of compliance, legality, or governance – in a way it has truly changed the “way of doing business”.

One cannot ignore the fact that the decisions of the GST Council have been more and more business driven and not just tax oriented.

Infact, pursuant to the decision taken by the GST Council in the 50th meeting held on 11 July 2023, a circular has been issued to clarify on the Input service distributor mechanism under GST as well as on the cross charge for internally generated services. The circular could not have been timed better as we have just stepped into the 7th year of GST. 98% respondents to Deloitte’s GST@6 survey had sought clarity on ISD vs cross charge issue.

Another key decision has been to proactively address the issue around holding of equity in subsidiary company before it turned out to be a full-fledged litigation.

Technology on the forefront

It is encouraging to see how the GST law, as well as the ecosystem, have become increasingly tech based. Using technology with the 3Es in GST – E-return, E-invoicing, and E-way bill, is more than simply a tax reporting and compliance activity. It is a vital facilitator to realise the aim of Digital India and Digital Economy. Around 84% of industry leader as per the Deloitte survey, have given a thumbs up to the Government’s efforts towards technological advancements.

The technologically driven changes are more than just tax requirements, they have resulted in complete business transformation by promoting automation and digitization of the accounts payable and accounts receivable processes, increasing efficiency, automation of reconciliations and tax filings and ensuring a robust tax function.

CBIC is truly adopting technology to not just improve scrutiny and for early risk detection, but also to improve the overall tax ecosystem; measures such as Aadhaar based authentication, pilot for biometric authentication and the special drive to weed out bogus GSTINs, are all steps in the right direction.

Small decisions, big impact

With the law and environment in place, the Government’s focus has shifted to MSMEs and the ease of doing business for small businesses. To encourage, the GST Council made an MSME-friendly decision to allow the registration exemption threshold for online providers of goods while also allowing online sellers to participate in the composition scheme, enabling millions of small and medium-sized businesses to come online and expand their reach while benefiting from better efficiencies. Around 74% of the respondents as per the Deloitte survey, have identified threshold relaxation for compulsory registration as the most beneficial measure for MSMEs.

Another noteworthy change has been to allow transfer of cash ledger balances. This is not a tax decision but a business one as it really hits the right chord with taxpayers – say bye to last minute cash funding for tax payments. Fungibility of cash among states has resulted in working capital optimization and doing away with the hassle of taking refunds.

While sequential filing of returns is in itself an innocuous change, however its impact is significant as it results in better AP management. A business can de-risk itself from a non-compliant vendor knowing that it has not filed the previous return.

E-invoicing status availability ensures real-time ability to check for vendor non-compliance – no e-invoice means invalid tax invoice. Businesses can leverage on the list provided by the e-invoice portal to understand if the vendor is compliant in raising e-invoices or not.

A lot has been done and a lot needs to be done

Yes, GST has certainly been beneficial, but there is lot more ground to cover.

Implementation of harmonised approach to scrutiny and audits – GST Council has released the All-India Model GST Audit Manual, which provides for a single approach to audits. This needs to be implemented and adopted sooner than later and nation-wide trainings for officers (Central and State) is de-minimus for a uniform approach.

Dispute resolution – Industry has waited for 6 long years to have effective dispute resolution. The Appellate Tribunals need to be established at the earliest. While the legal framework has been designed, it's the setup that's key. The 50th meeting of the Council has paved the way for setup of the Tribunals with identification of States where the benches would function.

New-age models need acceptance – Gone are the days when Mr. X in State A needed a full-fledged business set-up in State B to start a business. We have shared space models and the possibility of virtual presence, which are significantly efficient from a cost as well as business operation perspective. Along with digital records and periodical tax compliances coupled with the 3Es, there is a strong need to recognize these models for the e-commerce space where a monthly tracking mechanism already exists in the form of TCS. This has also been recommended by the 172nd Parliamentary Standing Committee¹ and we have a precedence as e-commerce operators can register for TCS in multiple states with the home state address. With the risk detection models available with the tax officers, this can be made into a reality.

On working capital liquidation, step 1 is done, let's take step 2,3 and 4 – Allowing cash balance transfer is commendable. However, with revenues stabilising above the INR 1.5 lakh crore mark, it's time we consider the best practises from around the world to unblock working capital. How about (a) allowing credit of central tax to be transferred across states, (b), allowing reverse charge payment through credit, and (c) refunding of year end GST credits state wise, as in the case of the erstwhile VAT laws

Removal of ITC restrictions – The infrastructure and investment heavy sectors, such as telecom, warehousing/ logistics, ecommerce, etc are significantly impacted with the restrictions around credit availability in relation to employees and setup of commercial infrastructure. With 68% survey respondents echoing this ask and the revenue growth, removing these restrictions should be considered given the projected growth in economy which warrants infra investments as well as employment creation.

During the last six years of GST, the government has been proactive in issuing a deluge of circulars, clarifications, and orders. It is hoped that the government continues paying attention to the concerns raised by stakeholders by streamlining processes which are necessary, to avoid unnecessary pile up of litigation and unending disputes.

India is at a crucial stage in the GST journey as it enters its 7th year. With the dynamic growth of business activity and tax collections, this seems well-timed given that international businesses are looking to explore new bases post the pandemic.

In the next five years, a positive change in taxpayers' compliance behaviour and government's continued efforts, will ensure a more simplified and smooth GST structure for all stakeholders which will truly make it a "Good and Simple Tax"!!
<https://www.financialexpress.com/economy/gst6-evolving-and-emerging/3196343/>

8. India's insolvency regime needs to address chinks in its armour *(livemint.com) 01 Aug 2023*

The Insolvency and Bankruptcy Code (IBC) has been one of this government's most successful economic reforms. In 2016, at the time of its enactment, India was reeling under the twin balance sheet crisis. Large corporates across key industries were seeing profits plummet while banks had near double-digit bad loans, shrinking net interest margins and poor capital adequacy ratios. It was a full-blown crisis in the banking sector and the IBC was introduced with a sense of urgency to stem the rot.

Even though there was cynicism that the IBC too would head down the underwhelming route of other laws like SICA and SARFAESI, it has been a resounding success. The gross bad loans of banks have trended down to a 10-year low of 3.9%. The capital adequacy ratio is at a healthy 16.1%. Most importantly, IBC has changed promoter behaviour, underscored the importance of credit appraisal, thereby reducing the probability of default, and increased recoveries on enforcement, reducing losses arising from defaults. Further, it has shrunk timelines for insolvency resolution and deepened the market for distressed debt. In seven years, the IBC has helped resolve nearly 700 cases, leading to recoveries of about ₹2.8 trillion. It has been a rare law to have seen unanimity of policy goals across government agencies. A series of amendments have strengthened the law.

However, in the recent past, several chinks have appeared. There are delays in the admission of cases and approval of resolution plans. A series of judgements have compromised the rights of secured creditors and eroded the primacy of security interest. Contrary to legislative intent, the Supreme Court suggested that government dues deserve priority over bank dues. It also held that the admission of an IBC case even if a payment default to a bank is clearly established is at the discretion of the National

Company Law Tribunal (NCLT). There have been complications in the resolution of real estate projects. Further, an inflexible definition of a ‘resolution plan’ has meant that discrete assets of an insolvent company are not being sold even if they are deteriorating in value or could separately fetch more.

The ministry of corporate affairs (MCA) released a public consultation paper in January, seeking comments on a slew of proposed amendments. Extensive debate ensued among banks, insolvency professionals and regulators as well as bidders, and detailed submissions have been made to the MCA by industry bodies on some important reforms. As per the consultation paper, real estate insolvencies could be conducted on a project-wise basis rather than imperilling the entire corporate entity, which could also be operating healthy projects. Further, universally recognized principles of the sanctity of secured debt must be restored. A push is being made for the introduction of technology in establishing a payment defaults via information utilities to overcome the need of lengthy court hearings to determine factual issues. There is also a proposal to extend the ‘pre-pack’ insolvency regime (currently applicable only to small and medium businesses) to large corporates. It offers a mechanism to resolve financial distress at an early stage by encouraging promoters to approach banks for a debtor-in-possession restructuring. It also gives banks overall supervisory control over the process by installing their own choice of insolvency professional to oversee the insolvency process and ensuring that operational-creditor and government dues are paid to the maximum extent possible. Lastly, such a resolution plan receives the imprimatur of the NCLT, thereby insulating lenders from any allegation of wrongdoing.

Unlike 2016, the banking sector today is in prime shape. The first-quarter profits of major banks have surpassed analyst estimates. At the same time, after covid, India has emerged as one of the world’s fastest-growing large economies. The Reserve Bank of India (RBI) governor in his foreword to RBI’s latest Financial Stability Report remarked that both banking and corporate sector balance sheets have been strengthened, engendering a “twin balance sheet advantage” for growth. However, there is a fear that India’s success at solving its twin balance sheet crisis may have led to policy complacency that could stop IBC reforms from getting traction. Legislative myopia at this stage will not only endanger the resolution of stressed assets, but will also be deleterious to the credit growth of banks and new crop of alternate credit providers, such as alternate investment funds, distress-focused funds and other foreign investors. A predictable insolvency regime complemented with an efficient security enforcement mechanism will help channel much-needed debt capital to fuel economic growth and contribute to a reduction in the cost of capital.

The IBC was born in a credit crisis, a war-like situation, but it needs to be nourished during peace-time so that when the global credit cycle turns and we are faced with mounting debts, we have the institutional and legal capacity to deal with the onslaught. The groundwork for the next generation of IBC reforms has already been done by the government. It is vital that these reforms are placed in Parliament during its ongoing monsoon session. <https://www.livemint.com/opinion/online-views/indias-insolvency-regime-needs-to-address-chinks-in-its-armour-11690905571290.html>

9. Around 88% of Rs 2,000 notes back in banking system: RBI
(*moneycontrol.com*) AUGUST 01, 2023

The Reserve Bank of India (RBI) on August 1 said Rs 3.14 lakh crore worth of Rs 2,000 banknotes, or 88 percent in circulation, have returned to the banking system as on July 31.

Consequently, Rs 2,000 banknotes in circulation as at the close of business on July 31 remained at Rs 0.42 lakh crore, the release said.

Of the total notes received back from circulation, 87 percent is in the form of deposits while the remaining 13 percent has been exchanged into other denominations, release added.

The central bank urged the public to utilise the remaining time period to exchange or deposit Rs 2,000 notes.

On May 19, the central bank announced the withdrawal of Rs 2,000 currency bills from circulation.

"In view of the above, and in pursuance of the 'Clean Note Policy' of the Reserve Bank of India, it has been decided to withdraw the Rs 2,000 denomination banknotes from circulation," the RBI said on May 19.

While, on May 24, the RBI Governor said the central bank decided to withdraw the Rs 2,000 currency notes as this denomination was not much in use and high-denomination notes could lead to collateral issues.

"In our surveys, we found out that Rs 2,000 notes were not being used at all... It was being used, but not commonly used," he said.
<https://www.moneycontrol.com/news/business/around-88-of-rs-2000-notes-back-in-banking-system-says-rbi-11074641.html>

10. Worrying trend: Railways' debt continues to surge over last four years
(*newindianexpress.com*) 02 August 2023

Earlier this year, a parliamentary standing committee on Railways expressed concern over the drastic fall in Railways' net revenue.

Despite efforts being taken by the Indian Railways (IR), its debt burden has increased in the last four years. The debt during the financial year 2019-20 was Rs 20,304 crore, which went up to Rs 23,386 crore in 2020-21. According to data shared by railway minister Ashwini Vaishnaw in Parliament, the debt rose from Rs 23,386 crore in 2020-21 to Rs 28,702 crore in 2021-22, registering a sharp increase of Rs 5,316 crore.

The margin of debt from 2019-20 to 2020-21 continued to the level of Rs 5,316 crore in 2021-22 from Rs 3,086 crore in 2020-21. The Railways raised extra-budgetary resources through the Indian Railway Finance Corporation, which is a public sector undertaking under the railway ministry, for financing the acquisition of rolling stock

assets and the construction of other projects. Railway officials attribute the rise in debt to big projects.

In the same way, despite all-out efforts to enhance revenue through services and non-services resources, the Railways' debt shot up to Rs 34,189 crore in 2022-23, putting an extra burden of Rs 9,487 crore. "We are working on a lot of mega projects and infrastructure development. Railways is also exploring various avenues for enhancing revenues from its internal services and resources to reduce the debt," said a senior railway official.

The finance ministry had also provided a special loan of Rs 79,398 crore for the Covid-related resources gap in 2020-21, when the Railways registered a sharp decline in income. Railways maintained that repayment of this special loan to the Ministry of Loan will start from the financial year 2024-25. Meanwhile, official sources said that as many as 189 new line projects involving 20,659 kilometres at Rs 3.99 lakh crore were in the pipeline. These are in the planning, sanction and construction stages as on April 1.

"We are under debt burden, but out of the 20,659 kilometres of new lines, 2,903 kilometres have already been revenue is the excess of the Railways' receipts over expenditure or its 'profits'. In FY2021-22, Rn commissioned at the cost of Rs 1.37 lakh crore till March 23 this year," said a senior railway official. Earlier this year, a parliamentary standing committee on Railways expressed concern over the drastic fall in Railways' net revenue.

Railways recorded a negative net revenue or loss of Rs 15,024.58 crore. In its Demands for Grants Report, the committee observed that the Railways' net revenues have witnessed a drastic decline since 2020-21 except in 2014-15, when it witnessed an increase of 8.20 per cent. "During the last five years, with effect from 2018-19 onwards, the revised estimates were reduced to more than 50 per cent and the actuals were far behind RE in all these years," the panel noted. <https://www.newindianexpress.com/nation/2023/aug/02/worrying-trend-railways-debt-continues-to-surgeoverlast-fouryears-2601079.html>

11. Indigenous LCA Tejas: Transforming India's Air Power – A Triumph over MiG-21 Era (*financialexpress.com*) August 2, 2023

Now, a new era is dawning as the indigenous fighter aircraft Light Combat Aircraft (LCA) 'Tejas' takes center stage, replacing the legendary but aging MiG-21.

For decades, the Indian Air Force (IAF) entrusted its air security to the MiG-21 fighter jets, but with time, the limitations and risks associated with these aging jets became evident. Now, a new era is dawning as the indigenous fighter aircraft Light Combat Aircraft (LCA) 'Tejas' takes center stage, replacing the legendary but aging MiG-21. With a rich history spanning 60 years, the MiG-21 served as India's first supersonic fighter jet. However, a staggering number of accidents and lives lost necessitated the pursuit of a more modern and indigenous alternative.

The MiG-21 Legacy

Since its induction into the IAF in 1963, over 900 MiG-21 fighter jets took to the skies, with around 650 of them manufactured in India. Unfortunately, in the span of 60 years, more than 400 MiG-21 aircraft met with accidents, resulting in the loss of over 150 pilots' lives. Despite these challenges, the IAF continued to fly the upgraded version known as MiG-21 Bison, but the number of crashes remained high.

The MiG-21's Heroic Stand

During the Balakot air-strike in 2019, a remarkable feat was achieved by the MiG-21 Bison when it thwarted a Pakistani air strike. Wing Commander Abhinandan, piloting the MiG-21 Bison, shot down an enemy F-16 jet. Although the MiG-21 faced skepticism from other nations, its valor on that day underscored its significance.

LCA Tejas: A Triumph over Adversity

The LCA Tejas, a product of collaboration between Defence Research and Development Organisation (DRDO) and state-owned Hindustan Aeronautics Limited (HAL), has now taken up the mantle of safeguarding India's airspace. With two squadrons stationed at Sullur air base, namely Flying-Daggers and Flying-Bullets, this homegrown fighter jet is proving its mettle. To augment security along Jammu-Kashmir and its LoC, a new detachment of Tejas has been deployed at Awantipora air base.

Strategic Deployment of LCA Tejas

Air Marshal PM Sinha recently visited Awantipura Forward Air Base to assess Tejas' operational readiness and praised its capabilities. This strategic deployment mirrors the use of MiG-29 fighters in Ladakh following the Galwan Valley clash. Tejas is poised to be a stalwart guardian of India's borders.

Embracing the Future

India currently has 40 LCA Tejas fighter jets in two squadrons, and with a deal for 83 advanced LCA Mark-1A aircraft with HAL in place, the IAF anticipates receiving the first Mark-1A fighter jet next year. As the old MiG-21 squadrons are phased out by 2025, Tejas will step in to fill the void, reinforcing India's commitment to self-reliance and indigenization in defense.

The era of MiG-21 has reached its twilight, and the dawn of LCA Tejas promises a brighter and safer future for India's aerial defense. With its successful operational deployments and cutting-edge technology, Tejas is ready to take on regional adversaries, proving its mettle against both China and Pakistan. This remarkable achievement stands as a testament to India's growing capabilities in the aerospace sector and reinforces the nation's commitment to building a secure and self-reliant defense apparatus. <https://www.financialexpress.com/business/defence-indigenous-lca-tejas-transforming-indias-air-power-a-triumph-over-mig-21-era-3195511/>

12. India's energy transition needs nuclear (*financialexpress.com*) August 2, 2023

The bulk of the resources for energy transition has to be internally raised, given the developed world's paltry commitments. In such a scenario, cheaper nuclear power has to supplement renewables generation

Extreme weather events in different parts of the world have focused attention of the policymakers on climate change and energy transition. India hosted G20 energy and climate ministers' meetings in Goa and Chennai. Earlier, US special envoy on climate change John Kerry's visit to China during July 16-19 brought out the continued rift between the positions of China and the US—the biggest and the second-biggest emitters. While Kerry diplomatically mentioned that more work needs to be done, the Chinese side was blunt. President Xi Jinping said that China's climate goals “should and must be determined by ourselves, and never under the sway of others.”

G20 is a larger grouping than bilateral Sino-American discussions and therefore exposed to more pressures. Though the meetings produced outcome documents on areas of consensus, no agreement on the tripling of renewables, phasing down of fossil fuel, and bringing forward the peaking year to 2025, could be reached. The developed countries showed no appetite to increase their financial commitment beyond \$100 billion per annum.

China accounts for 31% of global emissions. Its relative share in the global basket will grow by 2030, as the emissions of the US and the EU have already peaked and are declining. The Chinese emissions will keep growing till 2030, when it peaks. Global temperatures are expected to cross the threshold of 1.5 degrees above pre-industrial levels in 10-11 years. The longer transition period to net zero emissions by 2070 chosen by India will not save her from international pressure. The window is closing fast. G7 has called for all major economies to peak their emissions by 2025. India has not agreed to peaking; Our cumulative emissions as well as per capita emissions are much below international levels.

What are India's options for transition to net zero emissions (NZE) by 2070? A report by the Vivekananda International Foundation (VIF) Task Force addressed two questions. What is the minimum quantum of demand to reach net zero emissions? Second, what is the most cost-effective way of producing the minimum demand? Mathematical modelling by IIT Bombay found that the quantum of electricity demand will rise to 24,000–30,000 GW by 2070. This seems much higher than the IEA's estimate of 3,400 GW by 2040. IEA has not given any projection of demand in 2070. India's energy consumption in 2020 was 6,200 TWhr. Is it logical to expect that energy consumption will go down to half in two decades instead of rising with increased development?

The mathematical modeling also found that the nuclear-high scenario will be cheapest at \$11.2 trillion, while the renewable-high scenario will be most expensive, at \$15.5 trillion by 2070. This seems contrary to popular perception based on falling renewable tariffs. This view however does not take into account systems costs. When the sun is not shining and the wind is not blowing, renewables have to be supplemented with a source of stable, base-load power. This results in additional cost which was estimated by the Forum of Regulators at Rs 2.12 per unit in 2021. Added to the tariff of Rs 2 per unit for solar power, this makes renewables, at Rs 4.12 per unit, more expensive than either thermal power (Rs 3.25) or nuclear (Rs 3.47).

Earlier, OECD and MIT studies have pointed out that the cost of achieving a low carbon target increases 'disproportionately' without the inclusion of nuclear in the generation mix. Renewables require higher capacity build-up due to their low PLF, which pushes

up the cost of renewables-high approach. This problem is compounded by higher transmission costs associated with renewables. All new ultra mega solar power projects in India have to come up in remote locations like Kutch or Ladakh, which increases transmission costs.

The VIF study has also found that the renewable high scenario will require more than 4,12,033 square km of land, while the nuclear high scenario will require 1,83,565 square km of land. The total surplus land available in India currently is 2,00,000 square km according to a study by SP Sukhatme.

The developed countries' commitment of \$100 billion is paltry. How much money the reform of MDBs will release? The change in the World Bank equity-to-loan ratio from 20% to 19% would release \$5 billion. The World Bank has estimated that \$2.4 trillion is needed every year for developing countries to address climate change, conflict, and pandemic between 2023 and 2030. India, as the G20 chair, has put the figure higher at \$4 trillion per annum for energy transition alone.

The bulk of the resources for energy transition will have to be internally raised. To avoid adding to the government's fiscal burden, the financial health of the discoms must be restored. The rapid ramp-up of nuclear capacity will require government support since resources at this scale cannot be internally generated by NPCIL. Renewables cannot provide stable, baseload power. Nuclear is the emission-free alternative to coal. <https://www.financialexpress.com/opinion/indias-energy-transition-needs-nuclear/3195876/>

13. Over 800 projects worth Rs 5.48 lakh crore identified for implementation under Sagarmala programme (*financialexpress.com*) Updated: August 2, 2023

Sagarmala is a flagship programme of the Ministry of Ports, Shipping and Waterways which seeks to unlock unprecedented growth opportunities for the country.

Union Minister for Ports, Shipping and Waterways, Sarbananda Sonowal in a written reply on Tuesday (August 1) informed to the Rajya Sabha that Sagarmala aims to promote port-led development in the country through harnessing India's 7,500 km long coastline and 14,500 km of potentially navigable waterways.

The statement also revealed that the implementation of the projects under Sagarmala will be done by the Central Line Ministries, State Maritime Boards, Major Ports and SPV preferably through Public Private Partnership (PPP).

Sagarmala is a flagship programme of the Ministry of Ports, Shipping and Waterways which seeks to unlock unprecedented growth opportunities for the country. According to the statement issued by the ministry, as many as 800 projects have been identified as a part of Sagarmala Programme for implementation at an estimated cost of around 5.54 lakh crore.

These projects are broadly classified into pillars of Sagarmala which are – Port Modernization & New Port Development; Port Connectivity Enhancement; Port-linked Industrialization; and Coastal Community Development.

“All Sagarmala projects are being implemented by respective agencies and due process of impact assessment with regard to socio-economic (Project Affected People, Rehabilitation & Resettlement, etc.) and environment is done by respective implementing agencies,” the statement said.

“Further, improvement in livelihood of communities in coastal areas is also undertaken through implementation of projects identified under coastal community development pillar of Sagarmala Scheme,” it added.

All about Sagarmala programme

Sagarmala is the flagship Central Sector Scheme of the Ministry of Ports, Shipping and Waterways to promote port-led development in the country. The Ministry has issued revised Sagarmala Funding Guidelines on 5 April, 2023. According to the revised Funding Guidelines, the fund contribution from the Sagarmala Programme (from the budget of the Ministry of Ports, Shipping and Waterways) in any project will be limited to 50 per cent of the estimated project cost as per DPR or tendered cost, whichever is lesser.

However, Ministry of Ports, Shipping and Waterways may provide 100% financial assistance for any project based on uniqueness, strategic nature, necessity, merits, financial condition of the Major Port, etc subject to the approval of the Minister in charge of the Ministry of Ports, Shipping and Waterways.

Increase in Traffic on National Waterways

Cargo movement on national waterways in the country has recorded a 16 per cent yearly increase in 2022-23. The traffic between Varanasi in Uttar Pradesh to Haldia (NW-1) increased from 10.93 million tonnes in 2021-22 to 13.17 million tonnes in 2022-23. <https://www.financialexpress.com/business/infrastructure-boosting-port-connectivity-over-800-projects-worth-rs-5-48-lakh-crore-identified-for-implementation-under-sagarmala-programme-details-inside-3196162/>

14. National Mission for Clean Ganga approves 7 projects worth ₹692 crore (livemint.com) 01 Aug 2023

The executive committee of the National Mission for Clean Ganga (NMCG) has approved seven projects worth ₹692 crore, the ministry of Jal Shakti said. The projects were approved at the 50th meeting of the executive committee under the chairmanship of G. Asok Kumar, director general, NMCG.

“Out of the seven projects, four pertain to sewage management in Uttar Pradesh and Bihar. NMCG has so far sanctioned a total of 452 projects worth around ₹38,126 crore out of which 254 have been completed,” the ministry said.

For sewage management in Uttar Pradesh, three projects worth Rs. 661.74 crore were approved in the meeting. These include creation of a 100 million litres per day (MLD)

STP in Lucknow along with interception and diversion (I&D) works under hybrid annuity mode (HAM).

Another project for I&D of balance discharge of Dariyabad Pipalghat and Dariyabad Kakahraghat drains and construction of a 50 MLD STP in Prayagraj was approved. This project costing around ₹186.47 crore will augment the existing treatment capacity of Naini STP in sewerage district-A in Prayagraj to 80 MLD.

In a smaller project, a 6 MLD STP, I&D and other works in Hapur was also approved to stop the flow of Hapur city drain into River Kali, which is a tributary of River Ganga.

Two STPs (5 and 7 MLDs) at an estimated cost of ₹74.64 crore for tapping of Pipra ghat drain and Chhatiya ghat drain respectively along with I&D works was also approved in the 50th EC meeting for Raxaul town in Bihar. This project will help check pollution in Sirsiya River that originates in Nepal and enters Bihar at Raxaul in East Champaran district. <https://www.livemint.com/news/india/national-mission-for-clean-ganga-approves-692-crore-worth-projects-for-sewage-management-in-uttar-pradesh-and-bihar-11690875673120.html>

15. Forest law amendments: Rich in rhetoric, poor in substance
(*indianexpress.com*) Updated: August 2, 2023

It is hoped that the wider public will see through the verbiage of the preamble, ignore the false drumbeat of development, national security and strategic importance, and mobilise for the long battle ahead to regain our right to govern our environments and forests in a meaningful way.

Greenwashing refers to actions that claim to provide positive environmental benefits but don't achieve much. With the Forest (Conservation) Amendment Bill 2023, the government is going one step further and indulging in "green-gutting" — using pro-environment language while actually undermining regulations. The Bill introduces a preamble that sounds wonderfully pro-conservation. But then it goes on to nullify the Supreme Court's 1996 Godavarman order, and provides exemptions that further weaken the already emaciated regulations around forest diversion.

The Forest Conservation Act, 1980 (FCA) originated in the belief that state governments were being too liberal in doling out forest land for non-forest activities, particularly for cultivation. The 42nd constitutional amendment brought forests into the concurrent list, and that enabled the passing of a central Act that required states to get the central government's approval before diverting forests for non-forest activities.

Did the passage of the FCA lead to reductions in forest diversion? Yes and no — in the initial years, diversion definitely slowed down. But post-1991, the pressure to allow diversion for so-called "development projects" (highways, dams, mining) increased, and only diversion for agriculture (somehow not seen as "developmental") was prevented. Nevertheless, the regulatory process did slow down diversions. The compensatory afforestation requirement was largely window dressing — plantations often failed to come up, but it served to expand the estates of the forest departments.

In 1996, in T N Godavarman, the Supreme Court asked whether the FCA was being consistently applied to all forests. There are pockets across the country where land covered by natural forest has not been officially recorded as “forest” under any law, so its diversion was not being regulated under the FCA. By one estimate, this could be as much as 25 per cent of the country’s forest cover. The Court brought this land under the ambit of the FCA by ordering that the actual vegetation should determine FCA applicability. This eventually led to the creation of a new legal category called “deemed forest” land.

This is no doubt a clumsy approach, because the physical status is ephemeral and administrative machinery works best with records. Moreover, it created a misplaced fear among private forest owners and even plantation owners that they would lose control over their lands, even for sustainable timber harvest. Nevertheless, the 1996 order did ensure that all government lands covered by forest were regulated against casual diversion.

The passage of the Forest Rights Act in 2006 brought in an additional regulator: The local community that held rights over the forest. In the Niyamgiri case in 2013, the Supreme Court reaffirmed the local community’s right to have a say, and the Vedanta bauxite mining project was cancelled as village after village refused consent for diversion.

But the developmental lobby, within the government and outside, has always chafed against all such regulation, and since 2014, the process of gutting the FCA (and other environmental regulations) began in full swing. A discourse of “delays in clearances” was created to build pressure. The lack of any clear thresholds or criteria in the FCA regarding when diversion may be permitted was conveniently exploited. The Forest Advisory Committee was openly exhorted to keep developmental and national security concerns paramount. The Niyamgiri judgment notwithstanding, consent from local rights-holders was almost always bypassed. In most cases, district collectors reportedly certified that no community rights existed, when in fact the process of community rights recognition under the FRA was not even initiated. Further, “linear projects” such as railway lines and highways were exempted from obtaining community consent by the Environment Ministry. The Andhra Pradesh High Court struck down this exemption, but this judgment has been simply ignored.

Over the past year, two formal steps have been taken to complete the green-gutting process. In June 2022, new rules were notified under the FCA. These rules further relaxed the guidelines for compensatory afforestation, making it into a “business” or rather a game where any land can be shown as compensating for any project anywhere. Furthermore, the rules relegated local community consent to a footnote, to be carried out independent of, rather than as a prerequisite to, the “forest clearance”. The Chairperson of the National Commission for Scheduled Tribes opposed this trampling of Adivasi rights. But he resigned last month, allegedly under pressure.

With this backdrop, the changes proposed in the FCA Amendment Bill 2023 that has already been passed by the Lok Sabha become easier to understand. Inserting the preamble is the greenwash, while the main amendments actually undermine regulations. One amendment reduces the scope again to land “recorded as forest”, rendering the Godavarman order meaningless. This means that the Niyamgiri forests

can be taken up for mining now, as most of them are not notified forests — a problem bedevilling the majority of forests in Odisha as well as the northeastern states.

Another amendment provides complete exemption for linear projects meant for “strategic project of national importance and concerning national security” within 100km of the national border, a carte blanche to not just the military but the government as such, because anything can be described as “strategic” and of “national importance”. A third exempts security camps in Maoist-affected districts — when deforestation caused by security camps is emerging as a major issue in the Bastar region.

A fourth, more hilarious, amendment treats the creation of zoos and safaris as still being a “forestry purpose” and leaves space for more such hilariousness. The greenwash of compensatory plantations remains, but as the Great Nicobar case shows, the FCA Rules of 2022 allow the loss of Nicobarese tropical forest to be compensated by plantations in Haryana, and these can now be converted to safaris or zoos as well!

It is unlikely that even the Rajya Sabha can stop the green-gutting juggernaut. But it is hoped that the wider public will see through the verbiage of the preamble, ignore the false drumbeat of development, national security and strategic importance, and mobilise for the long battle ahead to regain our right to govern our environments and forests in a meaningful way. <https://indianexpress.com/article/opinion/columns/forest-conservation-amendment-bill-2023-positive-environmental-benefits-green-gutting-sc-1996-godavarman-order-8871986/>

16. The dangers in the Digital Personal Data Protection Bill (*thehindu.com*)
August 02, 2023

With the executive vastly empowered to draft rules and notifications on a range of issues, India might end up with a law that takes away the right to seek personal information

The government is set to introduce the Digital Personal Data Protection (DPDP) Bill in Parliament. The final draft is shrouded in secrecy. Last week, Opposition members walked out of a meeting of the Parliamentary Standing Committee and submitted dissent notes, objecting to the adoption of a report on the DPDP Bill — they claimed that the Bill was neither shown to the members nor formally referred to the committee.

In November 2022, the Ministry of Electronics and Information Technology (MeitY) publicly circulated a draft of the Bill for consultation. It was fraught with problems. While campaigns and concerned citizens shared their suggestions, MeitY focused primarily on consulting industry and big tech companies on a law that will have vast ramifications for the information regime in India, and will impact every citizen of the country.

Do not repeat the errors

It is imperative that the data protection law does not suffer from the infirmities that the previous draft had and safeguards peoples’ fundamental rights, i.e., both the right to information and the right to privacy.

The Data Protection Bill of 2022 includes a provision to amend the Right to Information (RTI) Act, which has empowered millions of Indian citizens since its enactment in 2005. To effectively hold their governments accountable in a democracy, people need access to information, including various categories of personal data. For example, the Supreme Court of India has held that citizens have a right to know the names of wilful defaulters and details of the Non Performing Assets (NPAs) of public sector banks. Democracies routinely ensure public disclosure of voters' lists with names, addresses and other personal data to enable public scrutiny and prevent electoral fraud.

Experience of the use of the RTI Act in India has shown that if people, especially the poor and marginalised, are to have any hope of obtaining the benefits of government schemes and welfare programmes, they must have access to relevant, granular information. For instance, the Public Distribution System (PDS) Control Order recognises the need for putting out the details of ration card holders and records of ration shops in the public domain to enable public scrutiny and social audits of the PDS.

Threat to transparency, accountability

The RTI Act includes a provision to harmonise peoples' right to information with their right to privacy through an exemption clause under Section 8(1)(j). Personal information is exempt from disclosure if it has no relationship to any public activity; or has no relationship to any public interest; or if information sought is such that it would cause unwarranted invasion of privacy and the information officer is satisfied that there is no larger public interest that justifies disclosure.

The enactment of a data protection law, therefore, does not require any amendment to the existing RTI law — this is also noted by the Justice A.P. Shah Report on Privacy. The DPDP Bill 2022, however, proposes amendments to Section 8(1)(j) to expand its purview and exempt all personal information from disclosure. This threatens the very foundations of the transparency and accountability regime in the country.

A primary objective of any data protection law is to curtail the misuse of personal data, including for financial fraud. Given that the government is the biggest data repository, an effective data protection law must not give wide discretionary powers to the government. The DPDP Bill, 2022, unfortunately, empowers the executive to draft rules and notifications on a vast range of issues. For instance, the central government can exempt any government or even private sector entity from the application of provisions of the law by merely issuing a notification. This would potentially allow the government to arbitrarily exempt its cronies and government bodies such as the Unique Identification Authority of India (UIDAI), resulting in immense violations of citizens' privacy. On the other hand, small non-governmental organisations, research organisations, associations of persons and Opposition parties, that the government chooses not to include in the notification, would have to set up systems to comply with the stringent obligations of a data fiduciary.

No autonomy

Further, to meet its objective of protecting personal data, it is critical that the oversight body set up under the legislation be adequately independent to act on violations of the law by government entities. The draft Bill does not even make a pretence of ensuring autonomy of the Data Protection Board — the institution responsible for enforcement of provisions of the law. The central government is empowered to determine the

strength and composition of the board, as well as the process of selection and removal of its chairperson and other members. The chief executive responsible for managing the board is to be appointed by the government, giving it direct control over the institution.

The creation of a totally government-controlled Data Protection Board, empowered to impose fines upto ₹500 crore, is bound to raise serious apprehensions of it becoming another caged parrot — open to misuse by the executive to target the political opposition and those critical of its policies.

These concerns need to be urgently addressed before the DPDP Bill is enacted. Unfortunately, given the manner in which Bills are being passed in the Parliament, without any debate or discussion, the citizens of the country might end up with a law that empowers the central government while taking away peoples’ democratic right to seek information and use it to hold the powerful to account. <https://www.thehindu.com/opinion/lead/the-dangers-in-the-digital-personal-data-protection-bill/article67147030.ece>

17. Climate change impacts health, gender equality, economic growth and food insecurity: Report (*thehindu.com*) August 01, 2023

Climate change impacts various aspects of United Nation’s Sustainable Development Goals (SDGs) including health, education, poverty reduction, economic growth, gender equality, besides exacerbating food insecurity and malnutrition, according to a report presented during the ongoing Think20 Summit in Mysuru.

The report titled “Our Uncommon Future: Intersectionality of Climate Change and SDGs in the Global South” recognises the differentiated impact of climate change on global north and global south.

“Despite climate change being posed as a global common, its impacts are differentiated. The differential impacts of global climate change on the global north and south definitely does not augur well with posing the hypothesis as “common future” for the planet. Therefore, this volume takes up the case for differentiated future, keeping in mind the concerns of the global south; that makes the case for an ‘uncommon’ future,” the report said.

Discussing the report with The Hindu, Neera Nundy, co-founder and partner, Dasra, a strategic philanthropy organisation, said climate change was a deeply intersectional issue and its impact cuts across almost all sectors.

Climate change can not only exacerbate food insecurity and malnutrition by reducing agricultural productivity and increasing the frequency and severity of droughts, floods and other extreme weather events, but also contribute to the spread of diseases such as malaria and dengue fever, which disproportionately affect the poorest and most vulnerable populations.

Thus, climate change hinders the achievement of SDGs, especially in the developing and underdeveloped world, which are most vulnerable to its impacts.

With regard to SDG 15 pertaining to Life on Land, the report refers to the 1.2 degree rise in global mean temperature since the pre-industrial period that has also been accompanied by “rapid decimation” of natural capital. “The 2022 SDG progress report also estimates a net loss of around 100 million hectares of forest area between 2000 and 2020”.

Climate-related extreme weather events accelerate habitat loss and fragmentation, negatively affecting biodiversity, particularly in vulnerable ecosystems such as tropical rainforests, coral reefs, mangroves and grasslands. The loss of essential ecosystem services that support biodiversity leads to death and out-migration of many wildlife species, exacerbating human-wildlife conflicts, the report said.

Pointing out that the Council on Energy, Environment and Water (CEEW), a not-for-profit think tank, has estimated that India would require around 4 per cent of country’s land to be utilised for power generation by 2050 to achieve the net zero targets, the report said it will necessitate large scale land use changes affecting several ecosystems, particularly forests and grasslands.

Hence, the report has recommended Nature-Based Solutions (NbS) for addressing climate change and biodiversity challenges by taking such initiatives at scale in sectors like protecting existing natural ecosystems, ecological restoration, nature-based adaptation, nature-based city planning and agroforestry.

The report also pointed out that cities were experiencing increasing multi-dimensional climate risks, often exacerbated by underinvestment in resilient infrastructure and sustainable human settlements. “Cities in developing countries, which will accommodate the majority of new urban residents, face greater climate risks and higher economic losses,” the report said.

While extreme temperatures were endangering the lives and health of people living in poorly ventilated, hot and crowded homes, especially in low-income urban slum dwellers, the rise in cooling demands has sparked an increase in the energy requirements.

To address these challenges, recommendations include mainstreaming climate resilience in urban governance, developing climate-resilient infrastructure, promoting sustainable waste management and implementing low-carbon mobility options while involving citizens in climate action, the report said.

<https://www.thehindu.com/news/national/karnataka/climate-change-impacts-health-gender-equality-economic-growth-and-food-insecurity-report/article67146858.ece>