INDIA SEES OVER 7,800 COVID CASES IN A DAY

Ready anytime: A drill under way at a hospital in Lucknow on Wednesday to check COVID preparedness. SANDEEP SAXENA

Surge will continue for the next 10 days, says Health Ministry but urges people not to panic as the variant is not triggering severe infection

XBB.1.16, a subvariant of Omicron, is responsible for the current surge in COVID-19 cases, but this is not a cause for worry as the severity of the variant is currently below average, with fewer hospitalisations, a top Health Ministry official said on Wednesday.

India has been registering a steady surge in COVID-19 cases for over two weeks now. The official added that there will be a further rise in cases for the next eight-10 days, after which a decline is expected. "Caution and not panic is the way out," he said.

The Ministry source said the current surge is not a "wave" but rather an "endemic cycle" of COVID-19. While Omicron and its sub-lineages continue to be the dominant variant, most of the assigned variants have little or no significant disease severity.

India on Wednesday morning reported 7,830 fresh cases in the last 24 hours, the highest in over seven months, according to Health Ministry figures. "The XBB.1.16 subvariant of Omicron, which is driving the latest surge, is not a cause for worry and vaccines are effective against it," said the source.

The top Ministry official added that the subvariant's prevalence increased from 21.6% in February to 35.8% in March.

The Health Ministry said that there is no shortage of COVID-19 vaccines. "There is enough, and the Central government is not keen to over-procure and then waste these vaccines. These vaccines are now available at very competitive prices in the market and in the government sector. States are also advised to buy as per need," a Health Ministry official said.

Serum Institute of India CEO Adar Poonawalla tweeted on Wednesday: "As COVID cases have been rising again with Omicron XBB & its variants, it can be severe for the elderly. I'd suggest for the elderly, mask up & take the Covovax booster which is now available on the CoWIN app. It is excellent against all variants & is approved in the U.S. & Europe."

THE ROLE OF PARLIAMENTARY COMMITTEES

The former President of the U.S. Woodrow Wilson once remarked, 'It is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in Committee rooms is Congress at work.' The universality of this statement seems to have stood the test of time and geography.

Due to the sheer volume of information and scale of operations that the Indian Parliament is required to undertake, it is not feasible to take up all issues on the floor of the House. Thus, Parliamentary committees — panels made up of MPs — are constituted to deal with such situations and take up sector-specific concerns. Contrary to popular perception, looking into Bills is not the only purpose that committees serve. We tend to underestimate their relevance, not realising the sheer magnitude of effort that goes into making Parliament a dynamic, functional space where members converge every few months and debate on matters that concern the nation. Behind every such speech, every comment and every Bill introduced or taken up for discussion lies the ceaseless work of various committees that deserve a nuanced perusal if we are to understand how the highest platform of multilateral dialogue in India is brought to life.

However, in these times of political rancour and polarisation, public proceedings of the House seem to reflect serious fault lines. It does not allow for any deliberation, let alone consensus. During the course of the 17th Lok Sabha, only 14 Bills have been referred for further examination so far. As per data from PRS, as little as 25% of the Bills introduced were referred to committees in the 16th Lok Sabha, as compared to 71% and 60% in the 15th and 14th Lok Sabha respectively. This represents a declining trend of national legislation being subjected to expert scrutiny.

The evolution of committees

Even though a structured committee system was only established in 1993, individual committees were being formed for various reasons as far back as independence. For instance, five of the many crucial committees of the Constituent Assembly are worth a mention here.

Due to the sheer volume of information and scale of operations that the Indian Parliament is required to undertake, it is not feasible to take up all issues on the floor of the House. Thus, Parliamentary committees are constituted to delve deeper into matters of public concern and develop expert opinion

The Ad Hoc Committee on the Citizenship Clause, as the name suggests, was formed to discuss the nature and scope of Indian citizenship.

Two other very significant committees were the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee (July 28, 1947) and the Excluded and Partially Excluded Areas (Other than Assam) Sub-Committee (August 18, 1947). The former, chaired by Sh. G.N. Bordoloi, covered the Naga, Khasi, Garo, Jaintia and Mikir Hills and collected a reservoir of people's lived experiences and demands, beliefs and customs. It looked at the status of land and forests, local government and courts, finance and taxation, making its report invaluable for determining the status quo of the region and bestowing rights/privileges accordingly. The latter was characterised by Sh. Jaipal Singh Munda's Minute of Dissent with regard to scheduled areas in the Chhota Nagpur Plateau. A towering Adivasi leader, Munda objected to the exclusion of Manbhum, Hazaribagh and Palamau districts from the ambit of the report. He claimed that all the witnesses had been "emphatic" that all six districts in question must form a consolidated territory for the purposes of scheduling. Not just for administrative reasons but also to protect the interests of the 14,79,485 Adivasis inhabiting the three excluded districts from the veto of the Tribes Advisory Council. Sh. A.V. Thakkar, the Chairman, took note of the Minute but concluded that it lacked merit and "the award of the Boundary Commission is unalterable". Then there was the Expert Committee on Financial Provisions of the Union Constitution (December 5, 1947), which was responsible for giving recommendations on Union and Province (State) tax collection, central excise duty, liquor revenue, divisible pool of income tax, sharing of proceeds among provinces, residuary powers, and the institutions of the Finance Commission and the Auditor General, among other things. Finally, the Advisory Committee on the Subject of Political Safeguards for Minorities (May 11, 1949), chaired by Sardar Patel, looked at the abolition of reservations for religious minorities.

So, in essence, committees have been doing monumental work since the unveiling of independent India. Today, both the Lok Sabha and the Rajya Sabha have their own Standing (permanent) Committees and Ad Hoc (need-based) Committees. There are also Joint Committees with representation from both Houses.

The role of committees

Committees go into the details of a specific piece of legislation, analyse the impact it may have on governance indicators, and then make their recommendations. The government is required to table an 'Action Taken' report for the House to judge the progress made on the suggestions of the committee. Even though committee reports aren't binding on the government, it helps the legislature ensure an oversight on the executive. For instance, during the recently concluded Budget Session, reports tabled on the Demand for Grants highlighted certain inconsistencies on the part of the government. The Committee on Rural Development & Panchayati Raj in its report noted that the revised estimates always fell short of the budget estimates. More importantly, the actual figures are also way less. In 2022-23, the Ministry of Panchayati Raj has been able to spend only ₹701 crore out of the allocation of ₹905 crore, approximately, at the revised estimates stage. Such objective assessments are only possible in the confines of a committee room, where partisan divides dissolve to make way for consensus. The alternative scenario, that is discussion on the floor of the House, involves glaring cameras that nudge parliamentarians to perform as per their respective party-lines and voter-base. There also exists the Business Advisory Committee which prepares the entire schedule of both Houses when Parliament is in session. Interestingly, papers laid on the table of the House — something we often tend not to pay attention to — have a whole committee dedicated to them. So, the seemingly insignificant few minutes at the very beginning of each sitting which are utilised to lay said papers are actually backed by a well-oiled machinery of members. Each individual paper is prepared after a careful and often long-drawn process of deliberation, writing and screening. A lot goes into the functioning of Parliament and the committees shoulder a big chunk of that responsibility.

Current progress

Perhaps the most salient work done by a committee in recent years is on the Digital Data Protection Bill. Beginning in 2017 in the wake of the Puttaswamy judgment that recognised privacy as a fundamental right, the Justice Srikrishna Committee was formed and tasked with preparing a data protection framework for India. It presented the final 166-page report in 2018, covering everything from data processing and storage to rights and enforcement — on the basis of which the Personal Data Protection Bill, 2019 was tabled in the Lok Sabha. It was referred to another committee, this time a Joint Parliamentary Committee chaired by P.P. Chaudhary, whose report came out in December 2021, following which the bill was withdrawn and a new Draft Digital Data Protection Bill was introduced for public consultation in November 2022. In each iteration, the committees' insights have not only been invaluable but also formed the very basis of what is possibly the single most crucial legislation for a growing economy in the digital age.

But this is not all. Several important laws such as the Prohibition of Child Marriage (Amendment) Bill that seeks to raise the legal marriageable age of women to 21, the Anti-Maritime Piracy Bill that brings into enactment the UN Convention on the Law of the Sea for combating piracy in the high seas, the Jan Vishwas Bill that amends 42 laws across sectors like agriculture and media, the Wildlife Protection (Amendment) Bill that extends the scope of protected species, the Competition (Amendment) Bill, the Electricity (Amendment) Bill, the Criminal Procedure (Identification) Bill, and the Multi-State Cooperative Societies (Amendment) Bill have all been referred to Committees.

Another important mandate of Committees is to go into issues that are crucial from a nation-building standpoint but don't hold as much political significance. Take the example of defence shipyards. These shipyards are not a primary poll issue. However, it is extremely important to develop these capabilities for safeguarding the security of the nation. While next to no questions have been asked in the Lok Sabha on defence shipyards, the Public Accounts Committee highlighted several concerns plaguing the same in a 2015 report including but not limited to audit findings about inadequate shipbuilding practices, frequent mid-course changes, delays in finalisation of weapon packages, and an underestimation of costs by shipyards.

The road ahead

In the U.S., committees play a crucial role and Bills are referred to them post introduction for scrutiny. It allows changes to be made and the modified Bill to go for voting.

The Parliament could consider a compulsory referral, for the Bills that are tabled on the floor, to the appropriate committees. Arming them with more powers will help them ensure accountability from the executive instead of making them toothless tigers. It is essential for the parliamentary ecosystem in India to institutionalise such procedures and not allow political considerations to hasten law-making.

ISRAEL'S MINISTERIAL VISITS TO INDIA MIGHT INCLUDE FTA TALKS

An India-Israel free trade agreement (FTA) is expected to be on the agenda during the upcoming visit of Israeli Economy Minister Nir Barkat, sources in Tel Aviv have told The Hindu.

The visit by Mr. Barkat is likely to be followed by the visit of Foreign Minister Eli Cohen to India.

The back-to-back official interactions are being interpreted as a prelude to the arrival of Prime Minister Benjamin Netanyahu in India.

"While this upcoming delegation will focus on promoting business relations between our countries, the Cohen delegation will focus on the bilateral relations on wider fronts. I call on the parties to resume discussion on the FTA," said Anat Bernstein-Reich, president of the Israel-Asia Chamber of Commerce, which will be a part of the delegation of Mr. Barkat and plays an important role in advancing India-Israel business interest.

Mr. Barkat who served as the Mayor of Jerusalem from 2008 to 2018, was at the forefront of championing the Netanyahu government's agenda.

It has been learnt that during the next week's visit, fintech, cybersecurity, climate tech and the automotive sectors are likely to be taken up by the two sides.

The long-pending issue of an FTA between India and Israel was revived last year when Commerce and Industry Minister Piyush Goyal announced that India was planning to restart dialogue in that direction.

The announcement which came in the backdrop of the successful conclusion of an FTA between India and the UAE was perceived as a positive sign.

IIP RISES 5.6% YEAR-ON-YEAR IN FEBRUARY BUT SLIDES FROM JAN.

Inching up

India's industrial output grew 5.6% this February from a year earlier, only marginally higher than the 5.45% seen in January

- **Manufacturing output picked up pace to rise 5.3%**
- **Electricity generation grew less than 10% for the first time in four months at 8.7%**
- **Intermediate goods shrank 0.3%**

Consumer durables shrink for third successive month, output in non-durables contracts 6% compared with January level; most sectors record lower production month-on-month

India's industrial output grew 5.6% this February, marginally higher than the 5.45% in January, with manufacturing output picking up pace to rise 5.3% even as electricity generation grew less than 10% for the first time in four months at 8.7%.

Sequentially, however, the Index of Industrial Production or IIP was 5.6% below January levels. Consumer durables production contracted for the third month in a row, to drop 4% in February while intermediate goods shrank 0.3% with output 7.2% below January levels.

The favourable base from February 2022 when consumer durables' output had slipped by almost 10%, didn't help much, and their production was also 0.4% below this January's output. Bank of Baroda chief economist Madan Sabnavis attributed this to weaker demand owing to high inflation.

On the other hand, consumer non-durables saw a 12.1% surge in output this February compared to a nearly 7% decline a year earlier. However, February marked the second month of a sequential decline in output with production 6% below January levels.

CONSUMER INFLATION SLIDES BELOW 6% MARK FOR FIRST TIME THIS YEAR

India's retail inflation slid below the 6% mark for the first time in 2023 — and only the third time in the last 15 months — to touch 5.66% in March 2023. The drop was aided by base effects, as the same month had recorded an almost 7% price rise last year.

March's inflation level was last seen in December 2021, following which prices rose at a pace faster than the Central bank's upper tolerance threshold of 6% for 10 months in a row.

Despite the moderation in the last month of the fiscal year, Indian consumers faced an average inflation of 6.66% through 2022-23.

This is higher than the 6.5% average price rise projected by the Reserve Bank of India (RBI) in February.

While pausing interest rate hikes to check inflation in its monetary policy review this month, the RBI has projected price rise to moderate to 5.2% this year, with the April to June quarter averaging 5.1% inflation. The same quarter had clocked an average price rise of 7.28% in 2022.

Relief for consumers

Rural consumers saw a sharper dip in inflation as it eased from 6.72% in February to 5.51% in March, while the statistical relief for their urban counterparts was minimal, as their price rise dropped only marginally from 6.1% to 5.89% over the same period.

Within food items, vegetables remained in deflationary mode, with prices dropping 8.5% year-on-year.

Oil prices also fell for the second month in a row, with the price correction from a year ago quickening from 0.5% in February to 7.9% in March. Meat and fish prices dropped 1.4% last month from March 2022 levels, as opposed to a 3.4% inflation recorded this February.

However, cereals, milk and spices inflation remained significantly high, while fruit prices surged 7.6% in March compared to 6.4% in February. Price rise in cereals eased only marginally from 16.7% in February to 15.3% in March. Similarly, milk inflation dropped slightly from 9.65% to 9.31% in February, while spices inflation was 18.2% in March after a three-month spell over 20%.

The steep drop in headline inflation was aided by a high base effect, which is expected to keep the inflation rate lower at least in the entire first quarter of 2023-24, said CRISIL chief economist Dharmakirti Joshi. Assuming normal southwest monsoon rains and only a limited impact from unseasonal rain last month, Mr. Joshi expects food inflation to ease notably and fuel prices to trend down this year.

READY, OR NOT

The better part of management is preparedness. Unless a certain clairvoyance, inspired by evidence, is possible and systems are ready, post facto management could be a damp squib. The rising numbers of COVID-19 cases in the country indicate the need to gear up again. On April 12, a total of 7,830 new cases were reported in a 24-hour period, according to the Union Health Ministry's data, possibly the highest in over 200 days. There are over 40,000 active cases in the country as on date. A lineage of the Omicron virus called XBB.1.16 is said to be behind the current rapid proliferation of cases in the country. Fatalities are also slowly increasing, being reported from States where there had been no deaths reported for months. It might be reassuring that initial studies of the behaviour of XBB.1.16 show milder infections not requiring hospitalisation, indicating that it is not a very virulent strain. However, health systems can scarcely afford to be under prepared, especially considering the recent traumatic experience of a raging pandemic taking a huge toll.

In any long-winded battle in the realm of public health, a sense of fatigue is inevitable, particularly during a pandemic when the demand on health human resources and infrastructure is relentless. Every opportunity to lay down the burden will be seized, naturally, and low infection levels over time can lead to complacence. The rising number of COVID-19 cases in India is that call to rouse health systems across the country and have them in a state of readiness to meet the challenge. The difference though, between March 2023 and March 2020, is that the world is no longer COVID-naive. The experience has given an indication of how to be prepared, even if the World Health Organization has come round to treating COVID-19 similar to seasonal influenza. Prime Minister Narendra Modi, at the meeting of the COVID-19 taskforce two weeks ago, rightly advised States to focus on the stratagem that worked earlier — 'test-track-treat-vaccinate' and adhere to COVID-appropriate behaviour. He also called for enhancing lab surveillance, testing all severe acute respiratory illness cases, and for drills to be conducted regularly in hospitals, nationwide. Several States have brought in compulsory masking at various levels, and conducted drills. But, it is also clear from prior experience that a lot depends on compliance at the personal level — hand washing hygiene, masking, and reaching the hospital early particularly in the case of senior citizens and persons with co-morbidities. As governments prepare themselves, strengthening health systems, individuals should also be prudent to take adequate precautions.

SKILL OVER CHANCE

Health systems must gear up to face the fresh rise in COVID-19 cases

Tamil Nadu Governor R.N. Ravi's assent, on April 7, to the Bill prohibiting online gambling and regulating online games in the State, has brought closure to a controversial issue. Almost all parties, including the AIADMK and the BJP, have backed the legislation, now called the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act. The passage of the Bill has seen ups and downs. About a month ago, the Governor returned the Bill, on the grounds that the State Assembly had "no legislative competence" to enact such a law. In late March, the House re-adopted and sent the Bill back to him. In the meantime, Union Minister of Information and Broadcasting Anurag Thakur had, referring to the presence of "betting and gambling" in the State List (Entry 34), clarified in Parliament that online gambling too came under the jurisdiction of States. The news that the piece of legislation had received the assent of the Governor came out on April 10 — the day the House had adopted a resolution urging the President and the Union government to ensure time-bound gubernatorial assent to Bills passed.

The Governor's approach to the Bill — of late assent — is in contrast to when he approved an identical ordinance in October last. His meeting with e-gaming industry representatives, even as the Bill was under his consideration, came in for criticism. Adding to the intrigue was the Raj Bhavan's silence over four months when the Bill was with the Governor. In fact, on the day that the Raj Bhavan returned the Bill to the Assembly (March 8), there was no official word from the Governor's side in support of his stand. Mr. Ravi could have deflected criticism had he made his stand open, as he had done to a Bill that he had returned in February 2022, seeking exemption for students of the State from the National Eligibility-cum-Entrance Test (NEET) for medicine (this Bill is awaiting presidential assent). Further, with the Centre having notified the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, there should be no confusion as far as enforcing the law is concerned — which has to be done in conjunction with the IT Act, 2000. Addiction to online gaming has resulted in financial distress in many a family and also caused serious health issues. Even while seeking to implement the law banning online gambling and online games of chance (rummy and poker), the proposed Tamil Nadu Online Gaming Authority should ensure a balance: no restrictions on online games permitted under the Act as well as monitoring of online game providers. In an ever-evolving digital world, it would be in the interests of all to create an environment for healthy online games.

CORPORATE POWER AND INDIAN INFLATION

A new explanation has been proposed for the recent trajectory of inflation in India, with implications for its control. The former Deputy Governor of the Reserve Bank of India, Viral Acharya, is reported to have observed (on an Indian news and opinion website on March 30) that, unlike in the West where it abated with COVID-19, core inflation remains elevated in India. This he ascribes to the pricing power of five big corporates ('Big 5'). The narrative has received wide coverage in the financial press. For readers not acquainted with the jargon of central bankers, 'core' inflation is all-commodity inflation stripped of the inflation of food and fuel prices.

The factor of food price inflation

We offer five comments on the claim that corporate pricing power is driving inflation in India currently. First, a divergence between inflation rates in India and the rest of the world is not new. After the global financial crisis of 2008, Indian inflation surged, reaching levels higher than in its epicentre, namely the economies of the United States and the United Kingdom. This was due to a surge in food price inflation in India, driven by negative agricultural shocks and high procurement price hikes. As food-price inflation tends to feed into core inflation, it would be hasty to conclude that Indian inflation is higher than in the West today due to corporate pricing power.

Note that for the month of February the wholesale price (WP) based food-price inflation was 2.8% while that for manufactured products, the largest commodity group in the index, was lower at 2% (Ministry of Commerce, March 14). With food price inflation in India unabated, there is no reason to assert that core inflation should have declined even if it has in the West. There is evidence that in India, food price inflation affects core inflation. This is not surprising after all, for food price inflation enters costs of the non-agricultural sector.

Second, the argument that corporate power underlies elevated core inflation is based on an observation of a somewhat short time period. It is true that while wholesale price inflation has eased very considerably in the six months preceding March 2023, consumer price (CP) inflation has not (National Statistical Office, March 13). But a mismatch between WP and CP inflations is not new. In 2021-22, WP inflation had surged by 12 percentage points but CP inflation actually declined (Reserve Bank of India, 2022). So, the maintenance of high price increases by firms in the retail sector even after wholesale price inflation has declined in 2022-23 may just be a compensating mechanism, i.e., the rising input cost of the retail sector is being passed on with a lag.

Third, attributing elevated core inflation in consumer prices, as wholesale prices fall, to pricing power of the Big 5 assumes that these conglomerates have a high presence in retail trade. On balance, one would expect their presence is greater in the manufacturing and infrastructure sectors than in retail. It may be noted that their presence in the economy itself may not be so high. Mr. Acharya is quoted as stating that they account for 12% of non-financial sector sales. To us, this does not signal high pricing power.

Fourth, to compare WP inflation with CP inflation, whether headline or core, is to acquiesce in a mismatch. The commodity basket corresponding to CP includes such items as housing, health, education, recreation and personal care which, naturally, do not enter the wholesale price index. So, we would be comparing apples with oranges here.

Finally, we come to the point that casts doubt most directly on the claim that corporate pricing power is driving current inflation in India. At present we have data for only the first three quarters of the financial year that just ended. However, in all of them, over 75% of the direct contribution to inflation is by sectors in which the Big 5 are unlikely to be represented in a big way, the contribution of food products alone being close to 50% in most time periods. Clearly, it is the rising price of food that is driving current inflation in India.

There is pricing power

None of this is to suggest that corporate pricing power does not exist or that it is not relevant for inflation. Our own published work has shown that there is pricing power in Indian industry and that the rate of profit in India is high in a global comparison. However, the question is the extent to which corporate power is driving overall inflation in India currently, beyond its obvious role in elevating the price level. In theory, corporates can drive inflation if concentration rises continuously and if they come to dominate the economy, in this case retail trade. That we have not reached there yet in India is implied by the fact that the sectors in which the Big 5 are most represented account for less than 25% of the consumer price index. But industrial concentration is most likely rising in India, and the consequences matter for more than just prices.

While public policy in India has a history of being alert to concentration in industry, concentration in the services, as in telecommunications, and in infrastructure, as in ports, is relatively new and it may only just be coming to terms with its implications. As a democracy, India should guard against the potential use of countervailing power by any body pursuing a private interest, whether economic or social, and irrespective of its consequences for inflation. At the same time, it may be noted that India's corporate sector is diverse and Mr. Acharya's list includes at least one house that is perceived by the public as embodying business acumen, ethical practices and social responsibility.

In conclusion, we find the framing of the discourse on inflation in terms of core inflation, as when the role of corporate pricing power was brought up, to be limiting. Core inflation leaves out the inflation in food and fuel prices on grounds that these prices tend to fluctuate, evening out the changes, and thus not requiring a policy response. But this is a flawed assumption in the context of India's economy.

The current inflation control strategy

In India, food prices have only risen, and in recent years their rate of inflation has been very high. For all the 'reforms' since 1991, the real price of food, i.e., its price relative to the general price level, has risen considerably. In the context, to measure inflation without considering the price of food is to exclude what matters most to the public, as opposed to central bankers. India's inflation control strategy is currently restricted to using the interest rate to dampen aggregate demand. It — conveniently for its champions — absolves the policymaker from addressing the challenge of ensuring the production of food at affordable prices. But, the most recent intervention purporting to explain core inflation in India may have had a beneficial fallout after all. It has re-emphasised that the RBI has been unable to control even that inflation which central banks are assumed to be able to.

INDIA MUST BOARD THE ONLINE DISPUTE RESOLUTION BUS

Has India missed the bus in terms of becoming an international arbitration hub? Even if it has, India can still play catch up with Online Dispute Redressal (ODR).

At the Delhi Arbitration Weekend in February 2023, Union Law Minister Kiren Rijiju emphasised the need for institutional arbitration to enhance the ease of doing business. India has shown tremendous improvement in the World Bank's Ease of Doing Business report, rising from the 142nd rank among 190 countries in 2014 to 63rd in 2019.

However, India is ranked 163rd, in 'Enforcing Contracts', which is a marginal improvement from the 186th rank in 2015 and 173rd in 2006. The report says it takes almost four years and 31% of the cost of the claim to enforce a contract in India; in contrast, it takes just over two years and costs 22% of the claim value in Brazil. In Mexico it is 341 days and 33% of claim value, and Vietnam 400 days, and 29% of claim value.

India opened up its economy in the 1990s, which was the decade of growth for international arbitration. As more countries entered into bilateral investment treaties, institutional arbitration became the preferred choice of resolution.

Setting things right

Although India introduced its first piece of legislation on arbitration and conciliation by the middle of the decade, it acquired a reputation of being 'arbitration-unfriendly', as the Srikrishna Committee pointed out in 2017, for several reasons — lack of preference for institutional arbitration over ad hoc arbitration, frequent interference from the judiciary from the appointment of arbitrators to the enforcement of awards, and setting aside of arbitral awards on grounds of 'public policy'.

The amendments of 2015 and 2019 and a few recent judicial decisions have put India on the right path. The scope for using 'public policy' as a ground for setting aside awards has been narrowed, and there is a focus on prioritising institutional arbitration. Yet, India is not a preferred arbitration destination, even for disputes between Indian businesses. Many still seek arbitration abroad, even when the dispute is with another Indian entity. Singapore, which opened its International Arbitration Centre (the Singapore International Arbitration Centre) in the 1990s when India was opening up for foreign investment, has since emerged as a global arbitration hub and is ranked first in terms of 'Enforcing Contracts'. Indian companies are among its top users.

Technology as advantage

India can still make use of its strengths in technology and emerge a frontrunner in ODR, thanks to the almost universal dissemination of online technology during the COVID-19 pandemic, when the judiciary led the way with online hearings. ODR, which is about resolving disputes in a virtual environment, has several advantages. It can reduce the burden on the courts, save time and costs, and provide effective resolutions.

ODR involves more than just audio/video conferencing. It encompasses the integration of tools such as multi-channel communication, case management systems, automated case flows, digital signatures and stamping, and even the application of advanced technologies such as blockchain, natural language processing, artificial intelligence, and machine learning.

Private platforms in India are already resolving lakhs of disputes through ODR. Many corporates have migrated to ODR to resolve small-value disputes. NITI Aayog has rightly claimed that India is "uniquely positioned to emerge as the epicentre for the developments in ODR" due to the need for an efficient dispute resolution system and advancements in technology.

To facilitate this, the legislature, the executive, and the judiciary must work together. The Reserve Bank of India, the National Payments Corporation of India, and the Open Network for Digital Commerce and a few other institutions have led the way by incorporating ODR mechanisms into several of their initiatives. The need now is to disseminate these at a mass scale.

Steps to consider

Three key measures can be considered. One, incentivise use of ODR by way of legislative measures such as setting ODR as a default dispute resolution tool for categories of disputes arising out of online transactions, fast-tracking enforcement of ODR outcomes, and exempting or reducing stamp duty and court fees.

Two, solve infrastructural challenges, curb the digital divide, and catalyse ODR's growth by optimising existing setups such as Aadhaar kendras to also function as ODR kiosks. Each court can have an ODR cell along with supplemental technical and administrative support. On the lines of the Finance Minister allocating ₹7,000 crore for the third phase of the e-Courts project in the Union Budget 2023 (aimed at digitising the justice system), a dedicated fund must be set up for furthering ODR.

Three, government departments should explore ODR as a grievance redress mechanism. Proactive use of ODR by government entities will not only increase trust in the process but also ensure that citizens have access to a convenient and cost-effective means of resolving disputes with the government. At a time when pendency is gnawing into the very administration of justice, ODR has the potential to ensure justice for all, at everyone's fingertips. India may have missed the bus to become an arbitration hub, but it can still catch up and overtake them all — all online.

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