POLITY AND GOVERNANCE

SC UPHOLDS REPEAL OF J&K'S SPECIAL STATUS

CONTEXT: A Constitution Bench of the Supreme Court unanimously upheld the power of the President to abrogate special status of Jammu and Kashmir under Article 370 of the Constitution, leading to the reorganisation of the full-fledged State to two Union Territories and the removal of its privileges.

OBSERVATIONS OF THE SUPREME COURT

1. Jammu and Kashmir had divested itself of "any element of sovereignty" after the execution of the Instrument of Accession to the Union in October 1947. The State of Jammu and Kashmir does not have 'internal sovereignty' distinguishable from the powers and privileges enjoyed by other States in the country.
2. The President could "unilaterally issue a notification that Article 370 ceases to exist" upholding the carving out of the Union Territory of Ladakh from the State of Jammu and Kashmir. Article 370(3) allowed the President to issue a public notification, with the prior recommendation of the Constituent Assembly, declaring Article 370 inoperative. The President has the power to issue a notification declaring that Article 370 ceases to operate without the recommendation of the Constituent Assembly.
3. The provisions of Article 370 were abrogated through an executive order by the President happened after the dissolution of the Jammu and Kashmir State Legislative Assembly by the Governor on November 21, 2018 and the subsequent proclamation of President's rule on December 19. It was the culmination of a "gradual and collaborative exercise" spread over the past 70 years between the Centre and the State to integrate Jammu and Kashmir with the Union.

The objective of the integration process was to make the entirety of the rights and obligations enshrined in the Indian Constitution applicable to the people of Jammu and Kashmir.

Justice Sanjay Kishan Kaul proposed the setting up of a Truth and Reconciliation Commission to reach out to the people. The court declared the Jammu and Kashmir Constitution "redundant" and "inoperative". It accepted the assurance of the Centre to restore Statehood to Jammu and Kashmir "at the earliest" and directed the Election Commission of India to hold Assembly polls by September 30, 2024.

Ominous, anti-federal

The Court's unacceptable conclusion that Parliament can do any act, legislative or otherwise, and even one with irreversible consequences, on behalf of the State legislature, while a State is under President's Rule. The interpretation undermines a basic feature of the Constitution as enunciated by the Court itself and may have grave implications for the rights of States, permitting a range of hostile and irrevocable actions in the absence of an elected body.

The abrogation of the provisions within Article 370 began with a Constitutional Order on August 5, 2019 applying the whole of the Constitution to J&K and changing some definitions so that the State's Legislative Assembly could recommend the abrogation instead of its now-dissolved Constituent Assembly, as originally envisaged in Article 370(3). Ultimately, the Court ruled that parts of the August 5 order were unconstitutional as they, in effect, amounted to amending Article 370 itself, which was impermissible; but, in a peculiar twist, it held the consequential notification on August 6 declaring Article 370 as valid and that the President was empowered to do so even without the legal underpinnings of the previous day's notification that sought to bolster the validity of the action. The President could remove the State's special status without any recommendation.

The Court has reasoned that the Constitution of India has been applied incrementally from time to time even after the Constituent Assembly was dissolved in 1957 and that the removal of special status is nothing but the culmination of the process of its integration. The Court says Article 370 represents no more than a form of asymmetric federalism and that additional features — such as having a separate Constitution, residuary power of legislation and requirement of its consent to some legislative subjects before Parliament can make law on them — will not clothe it with sovereignty.

The Court's failure to give its ruling on whether the Constitution permits the reorganisation of J&K into two UTs is an astounding example of judicial evasion. It is shocking that the Court chose not to adjudicate a question that arose directly from the use of Article 3 of the Constitution for the first time to downgrade a State. The only reason given is that the Solicitor-General gave an assurance that the Statehood of J&K would be restored. It is questionable whether a mere assurance of a remedial measure can impart validity to any action. At the same time, the Court upheld the carving out of Ladakh as a separate UT. On this point, the verdict is an invitation to the Union to consider creation of new UTs out of parts of any State. The Court's position that there is no limit on the President's power or Parliament's competence to act on behalf of the State government and its legislature is equally fraught with danger. In particular, the reference to "non-legislative" powers of the State Assemblies poses a significant threat to the powers devolved to the States. A future regime at the Centre could impose President's rule to carry out extraordinary actions through its own parliamentary majority that an elected government in a State may never do. The view that some of these may be restored by a subsequently elected government or House is of little consolation if actions taken under the cover of President's Rule cause great damage to the State's interests. This is a verdict that weakens institutional limitations on power, and, while rightly upholding Indian sovereignty over J&K, it undermines federalism and democratic processes to a frightening degree..

ECONOMICS AND DEVELOPMENT

RETAIL INFLATION IS NOW 'STABLE', SAYS CENTRE

CONTEXT: Finance Minister Nirmala Sitharaman attributed the moderation of consumer price inflation to "stable" within the official tolerance band of 2 % to 6 % to the weakening price rise of goods and services.

Easing inflation

FM asserts inflation has been within acceptable limits since the introduction of the tolerance band in 2016

- Nirmala Sitharaman says retail inflation is now stable and within the RBI's notified tolerance band of 2% to 6%
- Core inflation has declined from 5.1% in April 2023 to 4.3% in October 2023, FM says

- Temporary increases in inflation reined in by supply-side and demand stabilisation measures, she asserts

India's retail inflation has declined from an average of 7.1 % in April-October 2022 to 5.4 % in the corresponding period of 2023. Core inflation [that excludes food and energy costs] has declined from 5.1 % in April 2023 to 4.3 % in October 2023. Retail inflation is now stable and within the notified tolerance band of 2 % to 6 %, adding that the pace of price rise had been "mostly within acceptable limits" since the introduction of the tolerance band in 2016. A steady decline in core inflation had been critical in weakening inflationary pressure in the Indian economy.

Temporary increases in inflation "on a few occasions were caused by demand-supply mismatches arising out of global shocks and adverse weather conditions" and the government and the Reserve Bank of India had helped resolve such mismatches and reined in inflation through proactive supply-side initiatives and effective demand stabilisation measures.

Ms. Sitharaman outlined some of the government's steps to restrain inflation such as easing food imports, preventing hoarding, extending the free food grain scheme, and raising LPG subsidy.

INTERNATIONAL RELATIONS

DECODING PUTIN'S DRAMATIC VISIT TO THE GULF

CONTEXT: Russian President Vladimir Putin on December 6 dramatically set out on whirlwind tours to Abu Dhabi and Riyadh in one day. The next day, he received Iranian President Ebrahim Raisi in Moscow.

Talks in the Gulf

The agenda was self-evident: continued cooperation among "OPEC +" members on oil policy; exchange of views on the Ukraine and Gaza conflicts; increasing humanitarian assistance to the Palestinians trapped in Gaza; and enhancing bilateral-political-economic ties. Cooperation among "OPEC +" countries led by Saudi Arabia and Russia, for instance, has ensured that the agreed production cuts are adhered to and oil prices, much to the U.S.'s chagrin, remain at levels that serve the producers' interests.

Despite their long-standing alliance with the U.S., both the UAE and Saudi Arabia have in recent years been asserting "strategic autonomy" and have prioritised expanding ties with China and Russia. The UAE is now Russia's most important trade partner in the Gulf. Neither the UAE nor Saudi Arabia have supported the U.S.-sponsored sanctions on Russia or criticised the latter for the Ukraine war.

In fact, thousands of Russians have set up alternative homes, businesses, and investments in the UAE. Cooperation is thriving between the two countries in the technology sector. As a result, the West has placed the UAE under scrutiny to ensure that restrictions on export of hi-tech products to Russia are complied with. Russia has also conveyed it is standing by to support Saudi Arabia's civilian nuclear programme at the opportune moment.

Iran and Russia, as targets of increasingly onerous western sanctions, challenge the West's global strategic leadership and seek the realisation of a multipolar world order. Flowing from this, they have built substantial bilateral relations in the energy and military areas: in March this year, the Russian, Chinese and Iranian navies carried out joint exercises in the Gulf of Oman. In November, it was reported that Iran would get Sukhoi Su-35 aircraft from Russia, as also training aircraft and attack helicopters. Iran has boosted Russia's military prowess in Ukraine with supplies of drones, ammunition and body armour.

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ECOLOGY AND ENVIRONMENT

DRAFT CLIMATE DEAL FAILS TO 'PHASE OUT' FOSSIL FUEL

CONTEXT: After a week of expectations that negotiators at the ongoing climate talks in Dubai might agree to a 'phase out' of fossil fuels, the phrase has been edited out.

The latest draft has employed stronger language against coal, with a recommendation to "rapidly phase down unabated coal," that countries such as India, Indonesia and China — major consumers of coal power and developing countries at that — could find objectionable. On fossil fuels, the text now exhorts countries to "reduce both consumption and production of fossil fuels, in a just, orderly and equitable manner so as to achieve net zero by, before, or around 2050 in keeping with the science. Burning of fossil fuel contributes nearly 80% of the greenhouse gas emissions of which coal makes up about 40% and oil and gas collectively constitute the rest.

The latest Global Stocktake text on fossil fuels represents a significant regression from previous versions. It has dropped explicit language on the phasing out fossil fuels, opting instead for a vague commitment to 'reduce both consumption and production' by 2050. Even a mention of the need to do away with fossil fuels in the final text, would be a significant step towards bringing parity between coal, oil and gas, and the need to do away with them to keep temperature increase below 1.50C by the end of the century.

ECONOMICS AND DEVELOPMENT

STATES' FISCAL OUTLOOK FOR FY24 IS FAVOURABLE, SAYS RBI

CONTEXT: According to a Reserve Bank of India report, the overall fiscal outlook for States remains favourable in FY24 with adequate fiscal space for undertaking higher capital expenditure (capex) in view of resilient domestic economic activity and States' consolidation efforts.

On the revenue side, even though the growth in tax revenue during H1 (April-September) 2023-24 at 14.6 % was marginally lower than the budgeted 17.9 %, it is expected to improve during H2 (October-March) 2023-24 due to a favourable base and continued robust GST collection, as per the report 'State Finances: A Study of Budgets of 2023-24' put together by RBI officials.

On the expenditure side, growth in revenue expenditure during the year so far (H1 - 2023-24) at 8.9 % is much lower than the full year Budget Estimate of 18 % and provides space for undertaking higher capital expenditure, while persevering with fiscal consolidation, RBI officials said.

The overall debt-GDP ratio of States peaked at 31 % at end-March 2021 and declined to 27.5 % by end-March 2023, supported by fiscal consolidation. But for some States, however, the debt-GDP ratio remained high.

Pressure points

At a disaggregated level, the debt-GDP ratio could exceed 25 % (average of debt-GDP ratio from 2015-16 to 2019-20) as at end-March 2024 (BE) for 25 States/ UTs. The report highlighted that around 79 % of SGS (State government securities) will mature in the next 10 years, implying higher rollover risk for State governments.

SOCIAL JUSTICE

HARVEST THE ODISHA STORY TO ENSURE FOOD SECURITY

CONTEXT: As the world witnesses a worsening global food crisis precipitated by the mounting climate crisis, spiralling conflicts and distressed livelihoods, Odisha's transformational journey is increasingly being cited as a model and a source of ideas for creating food security that is built around equity and sustainability.

Disasters are projected to increase to 560 per year, that is 1.5 per day; hunger and malnutrition are expected to grow by 20 % if the climate change impact goes unchecked, and food productivity is expected to decline by 21 % due to global warming.

Odisha's story has three specific themes in the current scenario: how the State strengthened food security by transforming agriculture through a community-driven approach and built resilience to climate impact.

Agricultural transformation

Odisha is the fourth most significant contributor to the paddy pool of the Food Corporation of India. According to the available statistics for 2020-21, Odisha produces 9 % of the total rice in India and accounts for 4.22 % of the total food-grain production of the country. Odisha has moved from importing rice from other States and making ends meet in the pre-2000s to, in 2022, producing 13.606 million tonnes of food grains, its highest production on record. The average rice yield, which is Odisha's main crop, has tripled in two decades. In 2000-01, the average yield was 10.41 quintals per hectare, but by 2020-21, it had increased to 27.30 quintals per hectare. Kalahandi district was known as the "land of hunger," but has now been transformed into Odisha's rice bowl.

There are two notable aspects: a majority of farmers are small/marginal, and productivity has increased despite stable crop area. The focus is on small and marginal farmers and increasing their income. This has directly contributed to strengthening their food security and creating resilient livelihoods. Implementing flagship schemes such as Krushak Assistance for Livelihood and Income Augmentation (KALIA) and disseminating scientific crop management practices through conventional and digital extension have increased non-paddy crop cultivation, while paddy cultivation has decreased. Schemes such as the Odisha Millet Mission have also helped diversify crops and promote climate resilience.

Resilience and sustainability

Odisha is particularly vulnerable to the effects of climate change disrupting current growth strategies and exacerbating poverty. due to its geographical location and physical conditions. Odisha has proactively developed a comprehensive bottom-up based Climate Change Action Plan to mitigate loss of life, disruptions to livelihoods and damage to assets, and infrastructure.

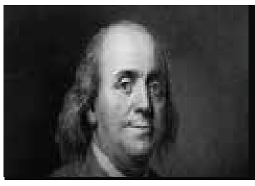
The Crop Weather Watch Group conducts weekly meetings, sees field visits by officers, and has video conferences to monitor the crop programme. This helps the authorities to take necessary measures during adverse weather conditions such as cyclones, floods, and droughts, which are frequent in the State. This plan covers various sectors, including agriculture, coastal zone protection, energy, fisheries and animal resources, forests, health, industries, mining, transport, and urban and water resources. It was formulated by a team of experts from multiple departments and incorporates inputs from civil society. Various departments and agencies are responsible for implementing the activities identified in the plan, which are being monitored by a committee headed by the Chief Secretary.

Crop planning is done at the district level by officials of allied departments, considering the agro-climatic zone. Farmers are adopting climate-resilient cultivation practices, that include integrated farming, zero-input-based natural farming, non-paddy crops, better water management, water-saving devices, e-pest surveillance, and large-scale farm mechanisation with women-friendly drudgery-reducing farm implements. Training farmers in crop-specific techniques, including integrated nutrient and pest management, has boosted food grains production.

Social protection

The partnership between the United Nations World Food Programme and the Government of Odisha has seen innovation for pilots on improving food and nutrition security schemes, such as the application of biometric technology in the Targeted Public Distribution System in remote Rayagada district back in 2007, or rice fortification in Gajapati district, to name a few. In the State Ranking Index for the National Food Security Act by the Department of Food and Public Distribution, Government of India, for 2022, Odisha emerged as the top-ranked State in the entire country. The WFP collaborates with the Government of Odisha on its food security, livelihood and climate resilience initiatives.

Odisha's transformative journey, from food grains scarcity to the generation of surplus, sustained efforts in climate-proofing its agricultural system, crop diversification, protection of the interest of the smallholders, and food and nutrition security for the vulnerable presents a unique development model for other States in the context of the challenges of global climate change.



"If you invest more in your education, then you are likely to get more interest in it."
–Benjamin Franklin

POLITY AND GOVERNANCE

CAN BIHAR INCREASE ITS RESERVATION POOL?

CONTEXT: On November 17, the Governor of Bihar approved two laws increasing the quantum of reservations in jobs and education in the State to 75 %, including 20 % for Scheduled Castes, 2 % for Scheduled Tribes, 18 % for Other Backward Classes, and 25 % for Extremely Backward Classes, and 10 % for economically weaker sections (EWS).

What is the 50% rule?

The Supreme Court has historically maintained that reservations, whether in jobs or education, should not exceed 50% of the total seats/posts. In 1963, a seven judge bench in M.R. Balaji explained that reservations were in the nature of an "exception" or "special provision" under our constitutional scheme. Therefore, they cannot be provided for more than 50% of the posts or seats. Though this understanding of reservations changed in 1976 — with it being recognised that reservations are a facet of equality rather than an exception to it — the 50% limit has remained unaltered.

A nine judge bench in the Mandal commission case in 1990 reaffirmed the 50% limit and held that it is a binding rule, and not merely a matter of prudence. However, it is not a rule without exceptions. A State can exceed the limit in exceptional circumstances, that is, to provide reservations to communities which hail from far flung areas of the country and have been kept out of the mainstream of the society. This is not a geographical test but a social one. Besides, last year, the Supreme Court upheld the 103rd Constitutional Amendment which provides for 10% additional reservations to the EWS. This means, for the time being, that the 50% limit applies only to non-EWS reservations, and States are permitted to reserve a total of 60% of the seats/posts including EWS reservations.

What do laws in Bihar state?

In January 2023, the Bihar government announced a caste based census/survey to be conducted across the State. The results of this Census were announced in October. Shortly thereafter, the two Bills (now laws) where introduced in the Legislative Assembly.

Other States that have already surpassed the 50% limit, even excluding the EWS quota, are Chhattisgarh (72%), Tamil Nadu (69%, under a 1994 Act protected under the ninth Schedule of the Constitution), and several north-eastern States including Arunachal Pradesh, Meghalaya, Mizoram and Nagaland (80% each). Lakshadweep has a whopping 100% reservations for Scheduled Tribes. Previous attempts by Maharashtra and Rajasthan have been struck down by the courts.

ECONOMICS AND DEVELOPMENT

WHAT ARE FSB'S CONCERNS ABOUT CRYPTO ASSET INTERMEDIARIES?

CONTEXT: The international Financial Stability Board (FSB)'s latest report on crypto-asset intermediaries sought measures to enhance cross-border cooperation and information sharing among local authorities to effectively regulate and address gaps in multi-function crypto-asset intermediaries (MCIs) operating globally.

How does the report define MCIs?

The report defines MCIs as individual firms, or groups of affiliated firms that offer a range of crypto-based services, products and functions which primarily revolve around operating of the trading platform. Examples include Binance, Bitfinex and Coinbase. In the traditional financial landscape, the functions are provided by separate entities, instead of the same entity. This prevents conflict of interest and promotes market integrity, investor protection and financial stability.

The primary source of revenue for these platforms are the transaction fees generated from trading of self-issued crypto assets. Trades from alternative platforms may also indirectly drive additional demand for other services offered by the platform, including prepaid debit cards and lending, among other services. This shows that the aspirations of MCIs extend beyond just trading to becoming a "one-stop shop" for crypto-based services.

What about transparency?

The report observes that most MCIs are privately held with no transparency about their corporate structure. The Financial Stability Board (FSB) observed that MCIs failed to create a "meaningful separation" between potentially conflicting business lines, and provide clear account of transactions and activities or audit practices, among other things. The report suggests this could be intentional, to limit understanding of their vulnerabilities, economic models and activities — thus, to also evade regulatory oversight. Overall, this translates to lowered or non-existent oversight parameters for management of risk and governance frameworks.

Poor risk management may make it easier for insiders to engage in misconduct that magnifies MCI vulnerabilities. The lack of transparency could also mean that risks from lack of effective governance or lack of profitability of the business model would be hidden until the negative shocks fully materialise. The U.S. SEC alleged that Binance misled investors about their risk controls and inflated trading volumes.

What about spillovers?

The threat to global financial stability and to the real economy from the failure of an MCI is presently "limited." However, recent experience about failure or closure of "crypto-asset-friendly" banks reveal the prevalence of concentrated deposit exposures to firms whose business models rely in some form on crypto assets. In March this year, Silvergate Bank had to wind down its operations and voluntarily liquidate. This was after the FTX collapse and an ensuing loss of confidence (in crypto-assets) that resulted in a 'run-off' (investors moving away from riskier to safer assets).