

● POLITY

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## SC SAYS NO TO SEALED COVER SUGGESTIONS IN ADANI CASE

*Court to set up a committee to examine Hindenburg Research's report on the Adani Group; accepting government's suggestions will affect credibility of the panel, says CJI Chandrachud*

The Supreme Court on Friday chose transparency over the government's sealed cover containing "suggestions" for a committee proposed to examine Hindenburg Research's damning report on the Adani Group, saying that public confidence would take a hit if an impression was created that the Centre was steering the process with the court's nod.

"We [would] rather not accept the sealed-cover suggestions from you [government]. If we accept your suggestions in a sealed cover, the other side [petitioners] will not be able to see them. We want to maintain full transparency," Chief Justice of India D.Y. Chandrachud said, addressing Solicitor General Tushar Mehta, appearing for the government.

The court said that accepting the government's suggestions in a hush-hush manner would prove detrimental to the credibility of the committee and its future work in the eyes of the nation. Hindenburg Research has accused the Adani Group of "brazen stock manipulation and accounting fraud schemes".

"We want to maintain the fullest transparency in the interest of protecting investors... We will appoint a committee of our own as it provides a sense of confidence in the process..." the Chief Justice said.

Otherwise, even if we do not accept two names [proposed by the government for the committee], they [petitioners] will not have any way of knowing," the CJI, heading a three-judge bench, said. Mr. Mehta said the government's suggestions were "absolutely objective", adding that it wanted the "truth to come out". The Bench also stopped advocates Prashant Bhushan and Neha Rathi, for a petitioner, from reading aloud in court the names of former judges who could head the committee.

The court indicated that it would direct statutory agencies to cooperate with the proposed committee, while dismissed the idea of having one of its sitting judges on the committee. It said that the committee would examine the ability of the extant regulatory framework in the securities market to protect investors from sudden share value crashes. Until then, the court said, "we cannot start with the presumption of a regulatory failure".

### What is short selling?

**Chief Justice of India D.Y. Chandrachud on Friday happened to quiz a petitioner on what exactly he knew about short selling. A SEBI note in the court gives a brief explanation on the phenomenon that has come under the spotlight with the Adani-Hindenburg case:**



**The method:** Investors borrow shares and sell them, expecting to buy them back later at a lower price before returning them to the lenders and making profits on the difference between the higher sale price initially and the lower purchase price subsequently

**Two views:** For some, short selling provides liquidity and helps price corrections in over-valued stocks. Some say it is vulnerable to manipulation

**Global view:** In all major jurisdictions, instead of prohibiting short sales, regulators permit it within a regulated framework

Mr. Mehta said that care should be taken to avoid any "unintended impact" on the securities market. He emphasised that the proposed committee should complete its work without any delay, and said that the court could appoint any former judge to supervise the committee. In a three-page note, Mr. Mehta suggested a seven-member committee, including the Home Secretary and Enforcement Directorate Director. The panel should be headed by a former Supreme Court judge, it said.

On its mandate, Mr. Mehta's note said that the committee should ascertain "the truthfulness or otherwise of the allegations made against the Adani group of companies in the Hindenburg report".



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## THACKERAY-SHINDE ROW: SC TO DECIDE LATER ON REFERRING PLEAS TO SEVEN-JUDGE BENCH

The Supreme Court on Friday decided to hear the merits of a political battle between Maharashtra Chief Minister Eknath Shinde and his predecessor Uddhav Thackeray, for control over Shiv Sena and not digress from the factual aspects of the dispute for now by referring to a seven-judge Bench a legal question based on a 2016 judgment.

During the hearing of the case, Mr. Thackeray's camp had questioned the correctness of a legal principle laid down by a Constitution Bench in Nabam Rebia case in 2016 that a Speaker facing a notice of resolution for his removal cannot decide disqualification proceedings against legislators under the anti-defection law (10th Schedule) without first clearing his name.

Senior advocate Kapil Sibal, for Mr. Thackeray, had contended that the principle in the Nabam Rebia case had to be referred to and re-examined by a large Bench of seven judges before proceeding with the hearing on the merits of the Shinde-Thackeray dispute.

### THE TOP COURT'S VIEW

Differing with Mr. Sibal's point of view, the five-judge Bench on Friday said it cannot make such a reference in the "abstract". Reading out the short order, Chief Justice Chandrachud said the question of reference to a larger

### SENA'S NAME, SYMBOL GO TO SHINDE CAMP

The Election Commission of India on Friday allotted the name 'Shiv Sena' and the party's bow and arrow symbol to the Eknath Shinde faction, in effect recognising it as the original party founded by Balasaheb Thackeray. The commission said that it had based its decision on a "test on majority" as the group of MLAs supporting the Shinde faction had got nearly 76% of the total votes polled by the 55 winning Shiv Sena candidates in the 2019 Maharashtra Assembly election, while the Uddhav Thackeray faction secured only 23.5% votes.

Bench cannot be "isolated or divorced" from the facts of Shinde-Thackeray quarrel. "Whether the principle formulated in the Nabam Rebia judgment has an impact upon the factual position of the present case needs deliberation. In the above backdrop, the issue whether the reference of the decision in the Nabam Rebia judgment to a larger Bench is warranted would be determined together with the merits of the case," Chief Justice Chandrachud said and listed the case for hearing on merits on February 21.

On Wednesday, Chief Justice Chandrachud had said the 2016 judgment raised "tough" constitutional issues.

## SC RULES OUT VOTING BY NOMINATED MEMBERS

In a legal victory for the Aam Aadmi Party, the Supreme Court on Friday ordered Vinai Kumar Saxena, the Lieutenant-Governor of Delhi, to notify the first meeting of the Municipal Corporation of Delhi to elect a Mayor within 24 hours and held that nominated members cannot vote in the election.

The order came on a petition filed by the AAP's mayoral candidate Shelly Oberoi after the elections were stalled thrice in January and February.

A three-judge Bench headed by Chief Justice of India D.Y. Chandrachud said the notice issued by the Lieutenant Governor (L-G) should specifically mention the date of the first meeting for the mayoral election. Additional Solicitor General Sanjay Jain, for the Municipal Corporation, said the election was usually held in 72 hours.

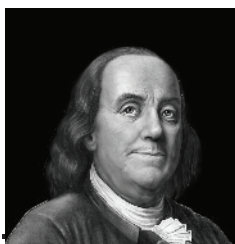
The court said that a Mayor would be elected first. Then, the Mayor would preside over the elections of the Deputy Mayor and for the six Standing Committees.

### RBI ISSUES DRAFT NORMS FOR BORROWING, LENDING G-SECS

The Reserve Bank of India (RBI) on Friday came out with draft norms for lending and borrowing of government securities with wider participation in the securities lending market.

"Government Securities Lending transactions shall be undertaken for a minimum period of one day and a maximum period of ninety days," said the draft RBI (Government Securities Lending) Directions, 2023. RBI has invited comments from banks, market participants and other parties by March 17, 2023.

fraction secured only 23.5% votes.



I don't fail the test,  
I just found a hundred ways to do it wrong

- BENJAMIN FRANKLIN

## GOING OFF-COURSE

*The Centre's suggestions on changes in MGNREGS seem misguided*

A key to the success of any welfare programme is the conviction in its implementation. In the 17 years since the MGNREGS has been implemented, studies have asserted its net positive impact in the rural areas. From reducing penury through providing off-season employment, and thereby improving household consumption among the invariably poor citizens who avail the scheme, to acting as insurance during monsoon deficient seasons, besides allowing for greater food security through increased productivity helped by the works generated, the scheme continues to be a robust welfare tool. This was even clearer during the pandemic, when thousands of migrant workers who left urban areas due to the lockdowns took up work under the MGNREGS in rural areas where demand for the menial but arduous work peaked. There is of course the case that the scheme has still not transcended into creating more useful assets beyond roads and irrigation canals and requires broadbasing and better implementation. But it must be said that the Union government's treatment of the scheme has graduated from a case of lukewarm acceptance of its need because of its popular impact to treating it as a fiscal burden.

Such a reading can be justifiably made if the reduced allocation for the scheme in the Union Budget, from 2.14% of over

all outlay in FY23 to 1.33% in FY24, is considered. This was despite implementation in recent years experiencing wage delays and underfunding. This has also depressed demand, with formal requests for work only being a portion of the actual demand. Also, there is much evidence that Aadhaar-based payments have neither reduced corruption nor reduced wage payment delays while creating hurdles for officials and workers during implementation. Union Rural Development Minister Giriraj Singh has now said that the Act should be amended to change the contribution of funds from 100% by the government to a 60-40 split between the Centre and the States in order to make States "more vigilant regarding corruption". But this will only lead to further complications in funding. There has been a shrinking in the States' share of taxes following GST and the financial stresses during the pandemic. States taking up 40% of the funding burden would affect the payment of wages even further. Besides, MGNREGS is a demand-driven programme and salient especially in poorer States and it is incumbent upon the Centre to ensure its robust funding instead of putting the onus on individual States to do so. The government must change its approach towards the MGNREGS by recognising its potential in catering to the poor's right to work.

## SOCIAL SECURITY AND THE STORY OF TWO BUDGETS

Presenting the Union Budget 2023-24 on February 1, the Finance Minister, Nirmala Sitharaman, asserted that 'since 2014, the central government has ensured a better quality of life, and a life of dignity' for all its citizens. But Budget figures help distinguish rhetoric from the truth. This year, severe cuts in various social security and welfare schemes such as food security and the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), have undermined the already precarious lives of large numbers of poor people in India.

A segment that has been side-lined is the crores of the elderly and other social security pensioners who are being callously pushed towards destitution. Since 2007, social security pensions being given by the central government under the centrally sponsored National Social Assistance Programme (NSAP), have remained frozen at an appallingly low sum of ₹200 for the elderly and ₹300 per month for widows and persons with disabilities. In addition, only those who appear on the obsolete and discredited Below Poverty Line (BPL) lists prepared as in Census 2001 are given pensions. As a result, the budget for the NSAP has remained constant, at approximately ₹9,000 crore, and steadily reducing in real terms. This year, the NSAP saw a reduction of ₹16 crore, decreasing from ₹9,652.31 crore in FY2022-23 (BE) to ₹9,636.32 crore for FY 2023-24 (BE), making a mockery of a so-called model of "inclusive growth".

### IN RAJASTHAN

Nine days after the Union Budget, on February 10, the Rajasthan Chief Minister, Ashok Gehlot, presented the Rajasthan Budget, which was a lesson in contrasts. Brushing aside the Bharatiya Janata Party's criticism of the rights-based approach to development, Mr. Gehlot announced a landmark, and pioneering, Minimum Income Guarantee and Pension law to be enacted in the State, providing 125 days of work through the rural or urban employment guarantee, and a minimum social security pension of ₹1,000 per month, with an automatic increase of 15% per annum.

NSAP is a centrally sponsored social security scheme that provides non-contributory income security to the elderly, widows, and persons with disabilities from "BPL families". The central government's contribution to the three main schemes under this programme, the Indira Gandhi National Old Age Pension Scheme (IGNOAPS), the Indira Gandhi National Widow Pension Scheme (IGNWPS), and the Indira Gandhi National Disability Pension Scheme (IGNDPS), has remained the same over the last 15 years. The percentage share allotted to NSAP of the total expenditure budget has steadily declined from 0.58% in FY2014-15(BE) to 0.21% in the current budget (FY2023-24). In addition to the central contribution, State governments are encouraged to match

the amount as the central contribution under the NSAP's guidelines. But as the central government contribution remains pathetically low, trends across 36 States/Union Territories indicate that a majority of the States are providing several times the suggested amount.

Today, Rajasthan provides social security pensions to over 90 lakh people, with the NSAP covering only a small part of the pension of 10 lakh pensioners. After this Budget announcement in Rajasthan, the total amount spent on pensions is expected to go up to ₹11,500 crore, approximately 30% more than the entire national social security pensions budget under NSAP.

### INCREMENTS AND INDEXING WITH INFLATIONS

Failure to index social sector expenditure to inflation has led to the even greater marginalisation of vulnerable people. India's cumulative inflation rate from 2007 to 2023 is 193.19% with the average annual inflation rate of 6.95%. This means that ₹200 in 2007 would have become ₹586.38 in 2023 if indexed. In 2016, hundreds of social security pensioners on dharna wrote to Members of Parliament and cabinet Ministers above the age of 60, offering them a day's pension with the request that they try and live for just one day with the sum of ₹7. The Congress party's Jairam Ramesh, even when he was Rural Development Minister, had publicly described this sum as a "cruel joke". It is notable that just the annual increase in dearness allowance and dearness relief for about one crore central government employees and pensioners costs the exchequer approximately ₹12,000 crore — roughly 30% more than the total expenditure on social security pensions.

It is not just the amount, but also the numbers receiving pensions that is of importance. Central assistance to States/Union Territories under NSAP is determined based on the BPL population of the State. For calculating the estimated number of beneficiaries under each scheme for each State, the central government relies on the population figures of Census 2001. Additionally, the stringent criteria of providing disability pensions only to those with a disability level of 80% or more, has excluded lakhs of the disabled even within the

obsolete BPL category. In 2013, the Rajasthan government changed its eligibility criteria to expand the coverage of pensioners by making economically vulnerable women above 55, and men above 58 eligible for old-age pension. It also permitted widows with adult children to receive a widow pension, and included anyone with more than 40% disability to receive a disability pension. As a result, the number of social security pensioners in the State grew from 14 lakh to 58 lakh. Today, this figure has crossed 90 lakh, all of whom will come under the cover of the proposed law.

### ENSURE MINIMUM CONDITIONS AND DIGNITY

Other States, and even the Government of India should follow the example of Rajasthan and take the necessary steps to change their existing schemes into an Act that provides more credible entitlements, strengthens accountability, and offers the same legal protection as other welfare laws. The Central government must recognise that pension is a right for work done by unorganised sector workers, who are contributing seminally to the GDP and economy all their lives. People's movements and campaigns have demanded a universal and non-contributory minimum monthly pension equal to 50% of the minimum wage that is periodically adjusted to inflation. This rights-based approach is not based on charity, but on the recognition of the right to ensure minimum conditions for workers to live their retired lives with dignity.

The two election-year Budgets present sharp ideological differences of the parties at the Centre and in Rajasthan. Whether the Ashok Gehlot government's measures will yield electoral gains, or the Narendra Modi government will pay the price at the ballot box with its cuts to social security depends on many factors beyond public welfare policies.

However, for the vulnerable working people, senior citizens and the disabled, rights-based entitlements provide a measure of dignified living which should be the objective of any democracy, regardless of the immediate electoral implications. Ultimately, it is our compassion, and commitment to meet the basic needs of our most marginalised people that will gauge us as a society, and as a nation.

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# SOCIAL SECURITY AND THE STORY OF TWO BUDGETS

*Parliament should remain a forum for free debate and discussion*

Congress leader Rahul Gandhi has stood by his statements made during his speech in the Lok Sabha on February 7, in his response to a charge of breach of privilege of the House that was raised by a Bharatiya Janata Party member and a Union Minister. It is strange that a Member of Parliament, whose duty it is to hold the executive accountable to Parliament, is being accused of breach of privilege of the House for seeking answers on crucial issues. Portions of Mr. Gandhi's speech, made during a discussion on the 'Motion of Thanks on the President's Address', that referred to Prime Minister Narendra Modi's ties with industrialist Gautam Adani were expunged from the record of the House. When a member's own rights are being curtailed in the name of parliamentary privilege, the very concept is being reduced to an instrument of executive fiat. Mr. Gandhi raised pertinent questions regarding the political patronage received by the Adani Group, which is in the eye of a storm after a short seller based in the United States brought to light dubious patterns in the group's transactions and ownership. The government has not provided any answers. And, on top of it, the sword of privilege is being wielded against the Opposition leader. The expectations from the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha are to protect the

majesty of Parliament, particularly in its interactions with other branches of the state, rather than disciplining the members. The parliamentary discussions on the Adani controversy, which were vitiated by the unreasonable restrictions on Opposition leaders, follow a devious trend of executive imperialism over the legislative branch in some States too. Chief Ministers of many States command supreme powers — they control their parties, dominate over the Opposition, and take Assemblies for granted. Assembly sittings have become fewer and debates shallow. The argument that popular leaders now make is that they are answerable to the people directly — Mr. Modi also invoked the 'blessing of 140 crore people,' while speaking in Parliament on February 8, but the range of questions arising out of the Hindenburg report on the Adani Group remained unanswered. People seek accountability from the elected government through their elected representatives, and the legislature is mandated to mediate that interaction. Mr. Gandhi asked questions as he should. Asking him to adhere to parliamentary norms in doing so is par for the course. But more critically, the government should be required to respond to the allegations. It is a sign of erosion of parliamentary authority that it is not happening.

## THE THEOLOGY BEHIND THE TALIBAN'S MISOGYNY

After the United States completed its withdrawal from Afghanistan in August 2021, one of the assurances the triumphalist Taliban gave to the world was that they would respect women's rights. For a short period, women were allowed to return to work and school on the condition that they wore Islamic headscarves and agreed to gender segregation. But it was just a charade.

The dehumanisation of Afghan women in all its brazenness began in March 2022 when girls' high schools were shut down on the day they reopened. Two months later, the supreme leader, Haibatullah Akhunzada, warned that a woman's father or closest male relative would be imprisoned or fired from government service if she did not cover her face in public.

In November 2022, women were banned from visiting parks and gymnasiums. The very next month, 27 Afghans, including women, were flogged in public for offences ranging from sodomy, deception, forgery and debauchery; the first public execution by the Taliban was carried out the same month. The most unconscionable decision, however, was in the same month, on December 20 when women were completely banned from accessing any educational institution, ironically, in the name of "women's honour". The so-called Minister for Higher Education Neda Mohammad Nadeem, justified this on the grounds that girls were opting to study

"areas that go against Islam and Afghan honour" such as agriculture and engineering.

### MISREPRESENTING ISLAM

A natural response to this vicious misogyny would be to condemn or dismiss it as being a part of the incorrigibly violent credo of the Taliban — which it is without a doubt. But insofar as prejudice against women is concerned, the Taliban are not unique. Their patriarchy is informed by the ideological conservatism of post-Prophetic schools of Muslim thought.

For instance, the Deobandi maulvi, Ashraf Ali Thanvi (1863-1943), had set the tone for the sexism of the Talibani kind when he warned that girls should not be taught geography because it would only help them run away from home by teaching them the location of and routes to different towns (Al Tableegh).

Today, Thanvi's alma mater, the Darul Uloom Deoband, believes that "the co-education system of colleges and universities is having a number of evils" and therefore, "undoubtedly unlawful". In fact, a deeni (religious) class too would be disallowed if it "co-educates grown-up boys and girls [which] is unIslamic". Such classes can be permitted only if there is a partition between girls and boys. In *Secluded Scholars: Women's Education and Muslim Social Reform in Colonial India*, historian Gail Minault narrates

how Sir Syed Ahmad Khan, founder of the Aligarh Muslim University, angrily tore up scholar Syed Mumtaz Ali's Urdu manuscript titled *Huquq-e-Niswaan* (Women's Rights) which argued in favour of educating Muslim women to help them better know their rights.

The same androcentrism underpinned the worldview of the Indian cleric, Wahiduddin Khan, a Padma Vibhushan awardee, who was absolutely certain that gender equality is a myth because god made women different from men. Education is important, he conceded, but women do not have to study what men study.

In *Woman in Islamic Shariah*, Khan reiterated his gender bias stating that success in life for men and women is possible "only if they devote themselves to the particular set of activities which has been preordained for them in God's scheme of things." If the gross sexism of conservative Muslim clerics across the world is similar to that of the Taliban, why is it that only the Taliban have become notorious for it? The answer lies in the fact that unlike the militaristically impuissant clerics who lack the power to impose their will, the power-intoxicated Taliban do not feel the need to feign moderation and subdue their gender bias.

### SHARED ROOTS

Nonetheless, the callous flagrancy of the Taliban's misogyny and the disingenuously rationalised sexism of victimise Muslims across the world.

Muslim clerics are rooted in the same questionable hadiths that are preached in Muslim societies such as the one in which the Prophet is quoted as saying, "A nation which makes a woman its ruler will not make progress" (Bukhari, *Kitab al Fitana*). Wahiduddin Khan cites this hadith to explain how denying women political leadership is a "time-honoured principle" in Islam. The Prophet, however, could not have made such a statement because the Koran does not assign gender roles to women. It upholds their equality with men (3:195, 4:124, 16:97 and 33:35).

As for women's education, the Prophet said: "He who has a slave-girl and educates and treats her well, and then manumits and marries her, will get a double reward" (Bukhari, *Kitab al itq*). On another occasion, he remarked that "the educated are the heirs of the Prophets" (Abu Dawud, *Kitab al ilm*). These emancipatory hadiths identify the lack of education as the root cause of human enslavement.

Despite this, if the Muslim world today is riddled with misanthropic power centres such as the Taliban it is because Muslim societies have failed to question the theology that uses inauthentic hadiths to undermine the Koran. Put differently, if the outdated madrasa curriculum is not overhauled to open up Islam to modern interpretations within the framework of its original sources, misogyny would continue to

The advertisement features a man in a blue suit and glasses standing with his arms crossed in front of a world map. The text 'VEDHIK IAS ACADEMY' is prominently displayed in the center, with the tagline 'The New Learning Mantra' below it. A red speech bubble on the right says 'LATEST EPISODE OUT NOW'. At the bottom right, a large white box contains the text 'WORLD LAST WEEK' in bold red letters. The background is a light grey world map.

## ‘GLOBAL SLOWDOWN PATH STILL UNCERTAIN, INDIA TO DECOUPLE’

*Domestic consumption and investment to benefit from stronger prospects for agriculture, strengthening consumer confidence and strong credit growth, officials write in RBI Bulletin*

# Domestic bulwark

RBI officials writing in the February Bulletin see India decoupling from 2023's global slowdown on account of strengthening domestic consumption

- Supply responses, cost conditions are poised to improve, they note
- Budget's emphasis on capex to crowd-in private investment, bolster job creation and demand
- Decoupling to be driven by Budget raising 2023-27 growth prospects and long-term potential



Even though the global slowdown in 2023 may be milder than anticipated earlier, the trajectory still remains unpredictable, Reserve Bank of India (RBI) officials observed in a bulletin article on the 'State of the Economy', adding, however, that India's economy would likely decouple from the rest of the world.

In India, domestic consumption and investment would benefit from stronger prospects for agricultural and allied activities, strengthening business and consumer confidence, and strong credit growth, the officials led by Deputy Governor Michael D. Patra wrote in the RBI Bulletin.

"Supply responses and cost conditions are poised to improve even though inflation witnessed a rebound in January. The Union Budget 2023-24's emphasis on capital expenditure is expected to crowd-in private investment, strengthen job

### ‘INDIA SETTING UP \$4-BN FUND TO AID CORPORATE DEBT MARKET’

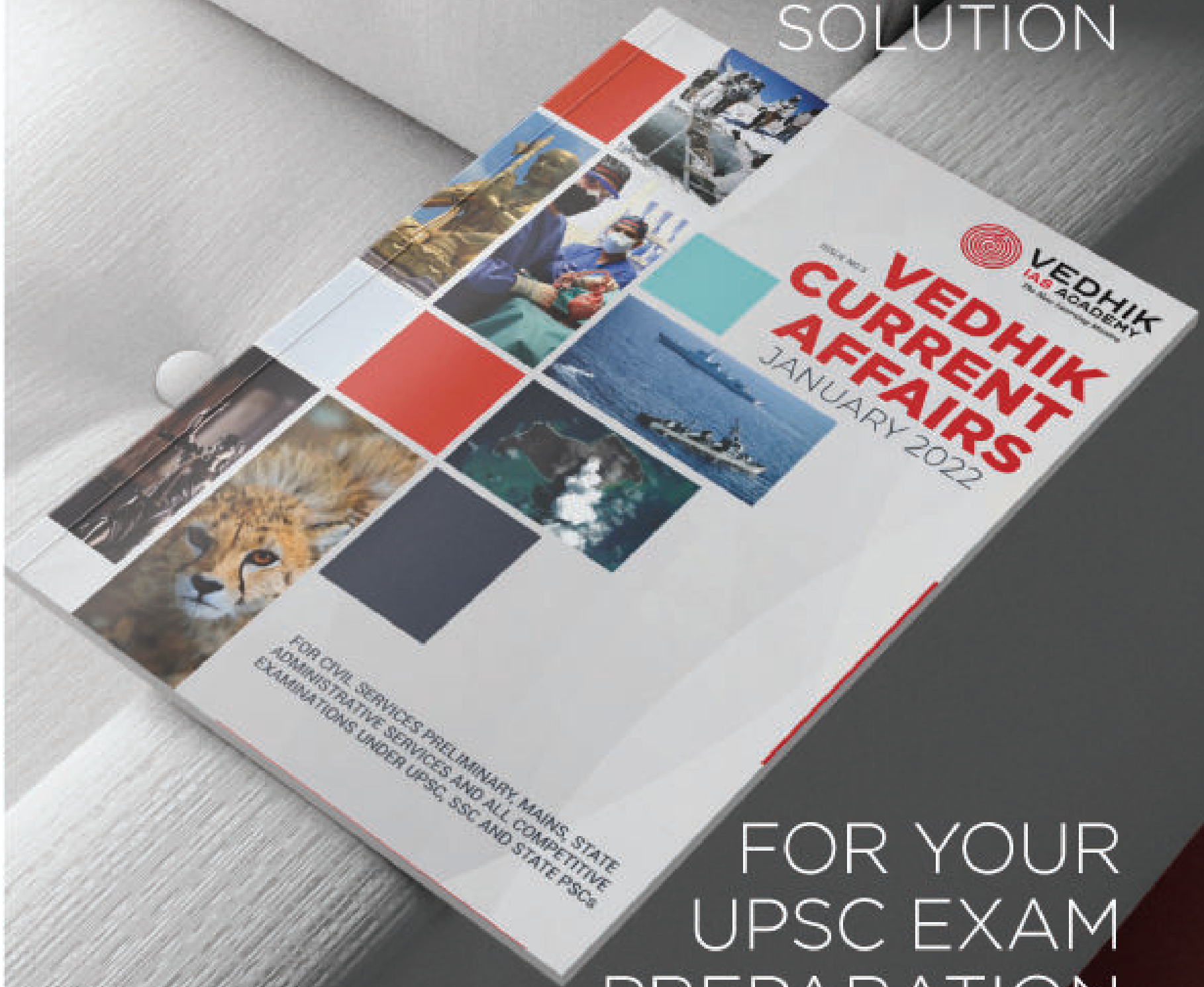
India is setting up a fund worth ₹330 billion (\$4 billion) to provide liquidity to its corporate debt market during bouts of stress, to help stem panic selling and ease redemption pressures, an SBI Mutual Fund executive said. Asset managers would contribute 10% of the fund, deputy managing director D.P. Singh said. According to a regulatory official, the government will provide a credit line to ensure funds have liquidity equivalent to ₹300 billion. Reuters

creation and demand, and raise India's potential growth," they asserted. According to the officials, India would decouple from macroeconomic projections of current vintage and also from the rest of the world.



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