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## POLITY AND GOVERNANCE

## DELHI DISPUTE: SC MAY SEND CASE TO CONSTITUTION BENCH

Solicitor-General asks court to wait for legislative decision; CJI says the cardinal issue will be whether the Delhi Ordinance amounted to an amendment to the Constitution by another route

The Supreme Court on Monday said it may refer the Delhi government's petition against a Central Ordinance, which effectively gives power over civil services in the national capital to the Lieutenant-Governor, to a Constitution Bench for an authoritative pronouncement.

**Features of Ordinance**

Article 123 of the Indian Constitution grants the President of India considerable law-making powers, including the authority to promulgate ordinances while neither of the two Houses of Parliament is in session, making it impossible for a single House to adopt and implement legislation.

Ordinances were incorporated into the Indian Constitution by the Government of India Act, 1935, which granted the Governor General the authority to publish Ordinances.

An ordinance enacted when both chambers are in session is null and invalid.

Approval: The ordinance must be approved by the Parliament within six weeks after its reassembly.

Withdrawal: An ordinance may also be withdrawn by the President at any time.

Not a Discretionary power: However, his ordinance-making authority is not discretionary, and he can promulgate or withdraw an ordinance only on the suggestion of the prime minister-led council of ministers.

An ordinance, like any other piece of legislation, can be retroactive, meaning it can take effect from a previous date.

It has the authority to amend or revoke any act of Parliament or other decree. It can also change or amend a tax legislation. It cannot, however, be used to modify the Constitution.

The court's indication that it may refer the case to a Constitution Bench came despite a submission made by Solicitor-General Tushar Mehta, for the Centre, that the Ordinance would be tabled in Parliament during the Monsoon Session, which is starting on July 20.

Mr. Mehta urged the court to wait and see what Parliament may finally do with the Ordinance. "It may amend certain portions... since no prejudicial act is being taken on the basis of the Ordinance right now, you may consider awaiting the legislative decision," he submitted.

The Chief Justice, however, went on to outline the questions of law that may require the attention of the Constitution Bench. He said a cardinal issue would be whether the National Capital Territory of Delhi (Amendment) Ordinance, 2023 amounted to an amendment of the Constitution via the Ordinance route. The Delhi government has argued that the Ordinance took away its control over civil servants.

## A BILL THAT FENCES IN THE RIGHT TO INFORMATION

**Background :** The news that the Union Cabinet has approved the Digital Personal Data Protection Bill and will table it in the monsoon session of Parliament (July 20-August 11) raises certain issues.

The proposed Digital Personal Data Protection Bill has two provisions which would greatly weaken the Indian citizen's right to information. The Indian Right to Information (RTI) Act, effective since October 12, 2005, is one of the best transparency laws in the world, empowering citizens and is a practical recognition of their role as the rulers and owners of India. This is the outcome of people's struggles led by the Mazdoor Kisan Shakti Sangathan's fight starting in rural Rajasthan which culminated in the drafting of the law in 2004. There were intense discussions about its provisions and it took an all-party parliamentary committee to carefully craft its provisions. Its preamble elegantly states that democracy requires informed citizens and transparency in the affairs of their government so that they can hold it accountable and curb corruption. It harmonised the need for an efficient government while preserving the ideals of democracy.

**Embraced by the citizen**

Governments and those wielding the levers of power have been perturbed by this transfer of power to the ordinary citizen. Citizens have taken to the RTI like a fish to water. Despite public officials using various devices to deny citizens their legitimate right, many have used this democratic instrument to expose wrongdoing and corruption. The law recognises that the default mode is that each citizen has the right to access almost all the information with the government. Ten categories of information have been exempted from disclosure to prevent harm to certain interests and to ensure smooth working of the government. These are outlined in Section 8(1), with the 10 subsections from a to j.

The most widely misused exemption is Section 8(1)(j) which exempts personal information which is not a part of public activity, or which is an invasion on the privacy of an individual. It has a proviso which is an acid test to help anyone claiming exemption which states: 'Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to

any person.' Thus, the law stated that personal information may be exempt if: it is not related to a public activity or interest, or would cause unwarranted invasion of the privacy of an individual

To help an officer, an Information Commissioner or judge to arrive at the right decision, the special proviso was provided as an acid test. Whoever claimed that a disclosure was exempt under Section 8(1)(j) should make a statement that he would not give this information to Parliament.

**The basis of refusals**

Many refusals of information did not adhere to the law but refused information with a bland statement that since it was personal information, they would not give it. This was illegal but has been widely used to cover arbitrary, corrupt or illegal acts of government officials. Some examples are: the Department of Personnel and Training refusing "Total number of Annual Performance Appraisal reports (APAR) of IAS officers pending presently for over one year, two years, three years and four years" by claiming exemption under Section 8(1)(j); request for details of Member of the Legislative Assembly funds being denied saying it was personal information; details of the beneficiaries of the Prime Minister's fund; bogus caste certificates, education certificates, ghost employees; gross arbitrariness and corruption in selections for jobs and non-conformance to rules and laws; disproportionate assets compared to declared income; verification of affidavits of elected representatives; unfair assessment of students and job seekers in government; disregard of corruption charges against officials that have been proven; file notings and minutes of meetings

**What is in store**

However, many honest officers and commissioners often gave information if it was not covered by the exemption. Unfortunately, the proposed Data Protection Bill plans to amend RTI Act Section 8(1)(j) to read as exempting information under (j), which relates to personal information

If this amendment is made, all information which can be related to a person could be legally denied. Most information could be shown as being related to a person, and hence the law would become a Right to Deny for Public

Information Officers (PIO) who do not wish to give out information. Incidentally, this proposal is a tacit admission that any current denial of information on the grounds of it being 'personal information' only, is illegal. Whenever a PIO wants to deny information, he will be able to link it to some person. The proposed Bill defines the term 'person' very widely to include individuals, companies, and the state. Most information except budgets would be linked to one of these. Thus, the RTI would become a Right to Deny Information, rendering it an ineffective tool.

In 18 years no harm has come to any national or personal interest because of RTI. Therefore, the proposed amendment would lead to a major regression for democracy.

In the proposed Digital Personal Data Protection Bill, the plan to amend Section 8(1)(j) in the RTI Act will greatly weaken the Indian citizen's right to information

## ECOLOGY AND ENVIRONMENT

### HOW ARE CHEETAHS FARING IN INDIA?

**Context:** One of the cheetahs, nicknamed Surya, was found dead in the Kuno National Park last week.

**Possible cause of death:** Veterinarians examining the animal saw a wound on its neck, infected with maggots. The larvae of the maggots were also found on the radio-collar fitted onto the cheetah's neck.

#### About Project Cheetah

Project Cheetah is India's cheetah relocation programme and is perhaps among the most ambitious of its kind in the world.

The attempt is to, over the next decade, bring in 5-10 animals every year until a self-sustaining population of about 35 cheetahs is established.

Unlike cheetahs in South Africa and Namibia that are living in fenced reserves, India's plan is to have them grow in natural, unfenced, wild conditions.

#### How successful has Project Cheetah been so far?

In September 2023, it will be one year since a batch of eight cheetahs from Namibia arrived in India. They were followed by 12 others from South Africa in February 2023.

Five of the translocated animals and three of four cubs born in India have

died.

Two days before Surya, another cheetah, Tejas, was reported dead after being attacked by a female cheetah.

In May, three of four cubs — the first litter born in India — died from heat and malnourishment. An adult female, Daksha, died following injuries involving a skirmish among the animals that same month.

Two other Cheetahs, Sasha and Uday died in February and April from a renal infection and cardiovascular problems, respectively.

As per the experts, cheetah cubs, in the wild, have a very high mortality rate relative to tigers and lions. Cheetah cubs, in the wild, reportedly have a survival rate of only 10% and roughly the same fraction makes it to adulthood.

All the deaths in Kuno, except for Surya, have occurred among the cheetahs in the boma.

As of today, 11 of the translocated cheetahs are in the true wild with four in specially designed one-square-kilometre enclosures called 'bomas,' to help the animals acclimatise to Indian conditions.

## HISTORY, ART AND CULTURE

### US HANDS OVER 105 ANTIQUITIES

**Context:** As many as 105 trafficked antiquities have been returned to India by the United States and will be back in India soon.

Officials say the 105 artefacts represent a wide geographical spread in terms of their origin in India. Around 50 artefacts relate to religious subjects (Hinduism, Jainism and Islam) and the rest are of cultural significance.

The objects to return as part of this batch span a period of 1,600 years — from the 1st century BC to the 15th century AD.

These include a terracotta Yakshi plaque belonging to the 1st century BC, which was stolen from 'eastern India'; a red sandstone Dancing Ganesha from the 9th century, with its provenance in central India; a 10th century Kubera, also belonging to central India.

Once the objects reach India, the ASI (Archaeological Survey of India which

functions under the aegis of the Ministry of Culture) also decides if the object is to be returned to its original place, and handed over to the respective state government, or whether to display them at a museum dedicated to repatriated antiquities at Delhi's Purana Qila.

When any artefact of Indian origin is located in foreign country, it is first verified by ASI in that country or on its arrival in India. Experts verify it on the basis of their knowledge, iconography and wear-and-tear marks. However, there is no time limit for this process.

The Ministry of Culture will sign a Cultural Property Agreement with the US for "smooth repatriation" of all such antiquities smuggled out of the country. India is also looking to sign such an agreement with the UK.

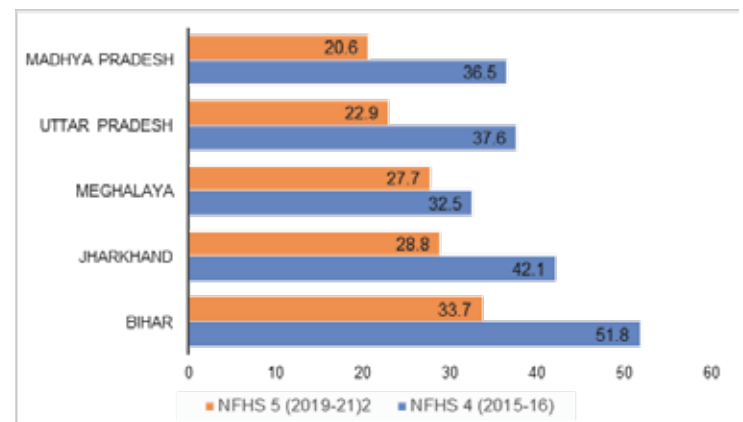
## SOCIAL JUSTICE

### NITI AAYOG REPORT: 13.5-CR. PEOPLE LIFTED OUT OF MULTI DIMENSIONAL POVERTY

NITI Aayog, the government's think tank in its report, "National Multidimensional Poverty Index: A Progress Review 2023" reported a decline in multidimensional poverty in India from 24.85 % in 2015-16 to 14.96 % in 2019-21. An estimated 13.5 crore people were lifted out of multidimensional poverty between 2015-16 and 2019-21. The report found that the states with the fastest decline in multidimensional poverty were Uttar Pradesh, Bihar, Madhya Pradesh, Odisha, and Rajasthan.

The decline in multidimensional poverty was more pronounced in rural areas, where the proportion of people living in poverty declined from 32.59 % to 19.28 %. In urban areas, the proportion of people living in poverty declined from 8.65 % to 5.27 %. According to the report, between 2015-16 and 2019-21, the MPI value has nearly halved from 0.117 to 0.066 and the intensity of poverty has reduced from 47 % to 44 %.

*Figure: Bar chart representation of Multi-Dimensionally poor population as a share of population. (Source: National Family Health Survey)*



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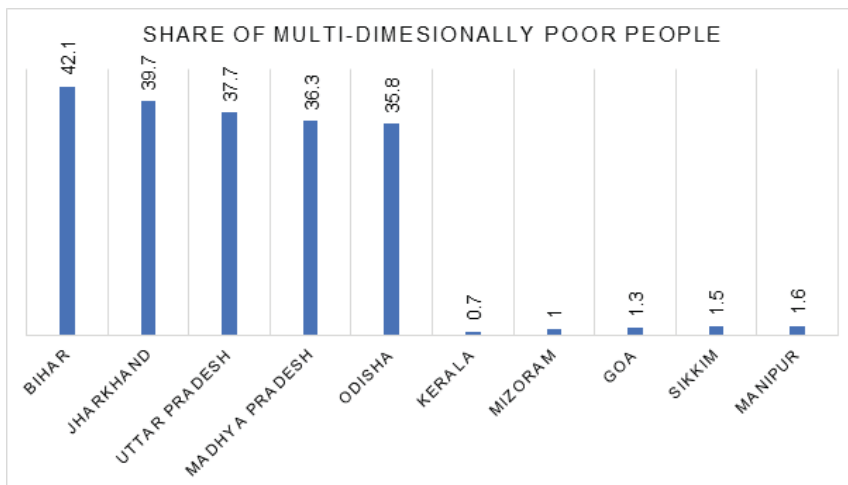


Figure: Bar chart representation of Multi-Dimensionally poor population as a share of population. (Source: National Multidimensional Poverty Index: A Progress Review 2023, NITI Ayog)

The report measured multidimensional poverty across three equally weighted dimensions of health, education, and standard of living. The indicators used to measure health were child mortality, nutrition, and sanitation. The indicators used to measure education were school attendance, literacy, and school completion. The indicators used to measure standard of living were cooking fuel, electricity, housing, assets, and drinking water.

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## INTERNATIONAL RELATIONS

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### INDIA-US MEET ON THE SIDE-LINES OF THE G20 MEETING IN GANDHINAGAR, INDIA

U.S. Treasury Secretary Janet Yellen committed to work with India to make it easier for private investment to flow into India's energy transition. Yellen made the remarks during a bilateral meeting with Indian Finance Minister Nirmala Sitharaman on the sidelines of the G20 meeting in Gandhinagar, India.

The United States is committed to helping India achieve its climate goals and that the two countries are working together to develop a "Just Energy Transition Partnership" (JET-P). The JET-P is a framework that will help India to attract private investment in clean energy projects.

#### Focus areas of JET-P:

**Lowering the cost of capital:** The JET-P will help to lower the cost of capital for clean energy projects in India. This will make it more attractive for private investors to invest in these projects.

**Increasing private investment:** The JET-P will help to increase private investment in clean energy projects in India. This will help India to achieve its climate goals and create jobs in the clean energy sector.

**Supporting a just transition:** The JET-P will support a just transition for workers in the fossil fuel sector. This means that workers will be able to find new jobs in the clean energy sector as the country transitions away from

fossil fuels.

4. India's Finance Minister Nirmala Sitharaman said on Monday that global economic growth remains uneven and that there is a need for coordinated efforts to address the challenges. The global economy is facing a number of challenges, including the ongoing war in Ukraine, rising inflation, and supply chain disruptions. These challenges are having a disproportionate impact on developing countries.

Focus areas on the G20 countries need to focus on three key areas:

- **Supporting growth:** The G20 countries need to support growth in developing countries by providing them with financial assistance and by opening up their markets.
- **Addressing inflation:** The G20 countries need to address inflation by coordinating their monetary policies and by ensuring that there is adequate supply of goods and services.
- **Strengthening the global financial system:** The G20 countries need to strengthen the global financial system by reducing financial risks and by making the system more resilient to shocks.

### INFLATION WOES OF INDIA

The recent spike in tomato prices is a major concern for inflation. The price of tomatoes has increased by over 100% in some parts of the country. This has led to a rise in the prices of other vegetables, as well as food items that use tomatoes as an ingredient. This could have a negative impact on household budgets and could slow economic growth. A number of factors - decline in production due to bad weather, an increase in demand, and hoarding by traders contributed to the rise in tomato prices.

The government needs to take steps to address the tomato price spike. These steps could include increasing imports of tomatoes, providing subsidies to farmers, and cracking down on hoarding.

Union Minister for Consumer Affairs, Food & Public Distribution, Textiles and Commerce and Industry Piyush Goyal launched the sale of subsidised chana dal at ₹ 60 per kg under the brand name "Bharat Dal" through the retail outlets of the National Agricultural Cooperative Marketing Federation (NAFED) in Delhi-NCR. The launch of the subsidised chana dal is a step towards ensuring food security for the poor and vulnerable sections of the society. He said that the government is committed to providing affordable food to the people of India. The sale of subsidised chana dal is expected to benefit a large number of people in Delhi-NCR.

The Reserve Bank of India (RBI) has said that the fight against inflation

is far from over, citing rising food prices as a major concern. The RBI's comments come as retail inflation in India has been hovering above the central bank's target of 6% for several months.

The RBI has been raising interest rates in an effort to cool inflation. The central bank has raised the repo rate, the rate at which it lends to banks, by 0.9 percentage points in the past two months. The RBI is expected to continue

raising interest rates in the coming months.

"food inflation remains elevated, driven by a combination of factors, including high vegetable prices, rising input costs, and some supply-side bottlenecks." The RBI also said that "inflation expectations remain elevated, posing a risk to the medium-term inflation outlook."

- RBI Bulletin on inflation

## GOVT. SETS UP PANEL TO REVIEW CONDUCT OF SURVEYS

The government has set up a committee to review the conduct of surveys in India. The committee will be headed by Pronab Sen, India's first chief statistician and the former chairman of the National Statistical Commission (NSC).

The committee was set up following concerns about the quality of data being collected by government agencies. In recent years, there have been several reports of errors and inconsistencies in government surveys. For example, the 2011 census was widely criticized for its undercounting of the population.

The committee will review the methodology used by government agencies to collect data. It will also look at the way in which data is processed and analysed. The committee is expected to submit its report within six months. The committee will have a broad mandate to review the conduct of surveys in India. It will look at all aspects of the survey process, from the formulation of the questionnaire to the analysis of the data. The committee is expected to make recommendations on how to improve the quality of data collection in India.

## DEADLINE MISSED, 23 STATES, UTS LOSE 1.4 LAKH PMAY UNITS TO UP

The Centre has withdrawn the allocation of 1.44 lakh Pradhan Mantri Awas Yojana (PMAY) houses from 23 states and Union Territories (UTs) that failed to meet the deadline for sanction of these units. The houses have been transferred to Uttar Pradesh, which has shown the most progress in implementing the scheme. The deadline for sanction of PMAY houses was June 30, 2022. States and UTs that failed to meet the deadline were given a grace period of one month. However, even after the grace period, 23 states and UTs

failed to sanction the required number of houses.

The allocation of PMAY houses to Uttar Pradesh is a significant boost for the state. Uttar Pradesh is the most populous state in India, and it has a large backlog of housing demand. The allocation of 1.44 lakh PMAY houses will help to address this demand and provide housing to the poor and homeless in the state.

## OIL REFINERS LOOK FOR MORE TERM CONTRACTS AMID UNCERTAIN MARKET

Oil refiners look for more term contracts amid uncertain market. Indian oil refiners are looking to sign more term contracts for crude oil as they seek to lock in prices amid an uncertain market. The global oil market has been volatile in recent months, with prices rising and falling sharply. This has made it difficult for refiners to plan their purchases and operations.

Term contracts are a way for refiners to lock in prices for a certain amount of crude oil over a specific period of time. This gives them some certainty about their costs and helps them to manage their risks.

Indian refiners have been increasingly signing term contracts in recent months. In the first half of 2023, they signed contracts for 40% of their crude oil imports, up from 30% in the same period last year.

The increase in term contracts is a sign that refiners are becoming more risk-averse. They are concerned about the volatility of the oil market and they want to protect themselves from sharp price rises.

The increase in term contracts is also a sign that the oil market is becoming more complex. There are now a wider range of players in the market, including hedge funds and financial institutions. These players are more likely to trade in the spot market, which makes it more volatile.

The trend towards more term contracts is likely to continue in the coming months. This is because the oil market is likely to remain volatile and refiners will want to protect themselves from sharp price rises.

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