



NEWS ANALYSIS

17 SEPTEMBER 2024

Today's Prelims Practice Question

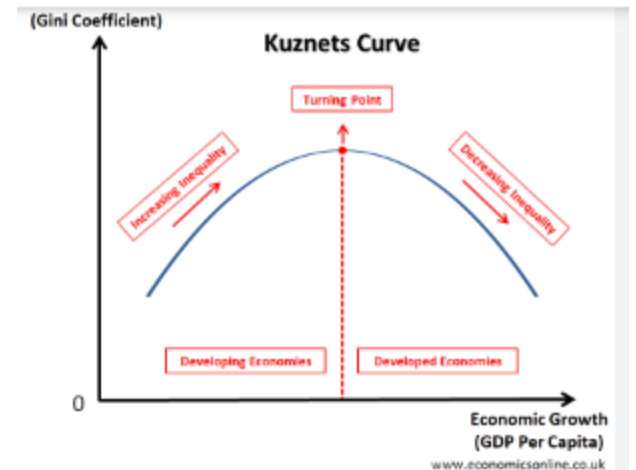
Q) In Economy, Kuznets' theory is related to

- a) GDP per capita
- b) Inequality
- c) Fiscal deficit
- d) Population growth

Explanation

Kuznets Curve

Kuznets' work on economic growth and income distribution led him to hypothesize that industrializing nations experience a rise and subsequent decline in economic inequality. When charted, this trajectory appears as an inverted "U" shape, also known as the "Kuznets curve."



Today's Prelims Practice Question

Global Methane Pledge, an effort to cut methane emissions by a third by the end of this decade is led by

- a) India and US
- b) US and EU
- c) India and EU
- d) India, US and EU

Women led development in the Rajya sabha

Women-led development in the Rajya Sabha

The phrase 'women-led development', which was recognised as one of the six focal points during India's presidency of the G20, has always been a cornerstone of the government's priorities and policies. Under a women-led development approach, women are not just beneficiaries of development, but also set the agenda for development. They are key participants in planning and decision making.

Measures in the House
At a time when women are leading governance and development initiatives across the world, India's legislature, a pivotal organ of its democracy, cannot afford to be left behind. It is in this backdrop that the Vice President of India and the Chairman of the Rajya Sabha, Jagdeep Dhankar, has introduced a slew of progressive measures in the proceedings of the House as well as in the Secretariat. Mr. Dhankar has always held the view that the role of women in Parliament is enormous. He has stated that women are the backbone of Parliament and the country's economic development.

When the nation witnessed the historic passage of the Nari Shakti Vandan Adhiniyam (Women's Reservation Bill), 2023, Mr. Dhankar, in a historic move, reconstituted the panel of vice chairpersons to include only women. He emphasised that this would "send a powerful message to the world at large and it would symbolise that they held a 'commanding position' during this epochal moment of change".

Mr. Dhankar also began the practice of nominating four women members, who constitute 50% of the panel of vice chairpersons. As a result, S. Phangzon Koryak became the first woman Rajya Sabha member from Nagaland to preside over the House. Eminent athlete P.T. Usha also crossed history by becoming the first nominated MP in history



Kusum Sudhir
Joint Secretary
Interpretation
Rajya Sabha
Secretariat,
Parliament of India

to become the Vice Chairperson of the Rajya Sabha.

Under India's presidency, the G20 New Delhi Leaders' Declaration underscored that investing in the empowerment of all women and girls has a multiplier effect in implementing the 2030 Agenda for Sustainable Development. India is already working tirelessly towards goal 5.5 of the Sustainable Development Goals, which calls for "women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life." The Rajya Sabha Secretariat is expected to set the highest standards in this direction.

Initiatives in the Secretariat
With the aim of striking a gender balance at the Rajya Sabha Secretariat, Mr. Dhankar has started many new initiatives. For example, the sections related to House duty were conventionally considered a male domain because they involved late sittings. The Chairman left the need to break such stereotypes and so, all the gazetted women officers of the Secretariat were trained to perform House-related duties. Today, the Table of the House is largely being 'womanised' by female officers. Accordingly, a duty roster is prepared and women officers are deputed on chamber duty. Moreover, an application-based system called 'Vahan' was introduced to address the problem of commutation during late sitting hours. Through this app, women officers can avail themselves of commutation facilities during odd hours. In addition, through a process of selection, some women officials of the Secretariat have been appointed as chamber attendants. This has created a favourable atmosphere even inside the House for women MPs.

During various interactions with the officers of the Secretariat, Mr. Dhankar has unequivocally stated that women-led development is going to be the

future road map of the Rajya Sabha Secretariat. The process has already begun. Women officers have been appointed in key positions and leading roles in the Rajya Sabha Secretariat. Today, responsibilities such as human resources, the legislative section, and the capacity-building division have been entrusted to women officers of the Secretariat. Besides, high skill based work such as officiating in Parliamentary Standing Committees of the Rajya Sabha is being done by women at various levels. Even some senior positions in security service are being occupied by women officers. Top performing women officers are being recognised and assembled all across the services. A woman officer of the Secretariat has been appointed as master trainer for IGOT Karmayogi Bharat. The noteworthy aspect about introducing women-centric measures in the Secretariat is the spirit of congeniality. Gender sensitisation workshops and talks have been organised to create a healthy culture of gender parity.

The Chairman, from time to time, has also impressed upon the need of synergising work with creativity and recreation. The celebration of women's day in the Secretariat is a case in point. Women's day programmes are conceptualised, organised and executed by women officers or employees. These events give them many opportunities to showcase their talents.

In a vibrant democracy, it is healthy to have regular interactions between the legislature and academia. The buck should not just stop at the Secretariat. Therefore, Mr. Dhankar offered to invite five interns from Miranda House in Delhi for a 15-day course on parliamentary procedures.

The Rajya Sabha under Mr. Dhankar's chairmanship is leading by example in translating the ideal of women-led development into a reality. This may pave the way for other legislatures in India to follow suit.

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- ❑ At a time when women are leading governance and development initiatives across the world, **India's legislature, a pivotal organ of its democracy**, cannot afford to be left behind.
- ❑ It is in this backdrop that the Vice President of **India and the Chairman of the Rajya Sabha, Jagdeep Dhankar**, has introduced a slew of progressive measures in the proceedings of the House as well as in the Secretariat.
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- ❑ Eminent athlete P.T. Usha also created history by becoming the first nominated MP in history to become the **Vice Chairperson of the Rajya Sabha**.
- ❑ Under India's presidency, the G20 New Delhi Leaders' Declaration underscored that investing in the **empowerment of all women and girls has a multiplier effect in implementing the 2030 Agenda for Sustainable Development**.
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Emergency provisions and centre-state relations

How do emergency provisions impact Centre-State relations?

What is the federal structure of governance in India? How do Articles 355 and 356 affect federalism?

Rangarajan R.

The story so far:

The recent spate of renewed violence in Manipur has once again triggered the discussion around Centre-State relations and the use of emergency provisions by the Centre.

What is our federal set-up?

India is a federation with governments at the Centre and the States. The Seventh Schedule to the Indian Constitution distributes the power between the Union and States. Under this scheme, it is the domain of the State governments to maintain law and order in their respective States.

What are emergency provisions?

The emergency provisions are provided in Part XVIII of the Constitution. Articles 355 and 356 deal primarily with the affairs of government in a State under this part. Article 355 imposes a duty on the Centre to protect every State from external aggression and internal disturbance. It

also specifies that the Centre should ensure that every State government operate according to the Constitution. Article 356 allows for the imposition of the President's rule if a State's government cannot function in accordance with constitutional provisions. While in the U.S. and Australia, federal government functions also involve protecting States, their constitutions do not contain provisions for removing State governments.

K.R. Ambedkar explained the purpose of Article 355, keeping in mind the federal character of our polity, that if the Centre is to interfere in the State's administration under Article 356, it must be by or under some obligation which the Constitution imposes on the Centre. Hence, Article 355 was incorporated to check any arbitrary or unauthorised use of Article 356.

What have the courts ruled?

Dr. Ambedkar again in the constituent Assembly wished that Articles 355 and 356 would never be called into operation and would remain a dead letter. However, it was a travesty of the Constitutional

principles and federalism that Article 356 was misused on several occasions removing elected governments that enjoyed majority in the States. Reasons varied from loss in Lok Sabha elections to deterioration of law and order in the States. It was only after the Supreme Court's categorical judgement in the S.R. Bommai case (1994) that such misuse was restricted. The court held that Article 356 should be imposed only in the event of a breakdown of constitutional machinery, as distinguished from an ordinary breakdown of law and order. It also held that the imposition of the President's rule is subject to judicial review and should not be misused for political reasons.

On the other hand, the scope of Article 355 has been widened by various Supreme Court rulings. In *State of Rajasthan Vs Union of India* (1977), the court had a narrow interpretation of Article 355 as justifying the employment of Article 356. However, in subsequent cases such as *Naga People's Movement of Human Rights Vs Union of India* (1998), *Sarbananda Sonowal Vs Union of India* (2005), and *H.S. Goin Vs Union of India*

(1997), the legal position with respect to Article 355 has shifted. The scope of actions under this article has been widened to permit all statutorily and constitutionally available actions by the Union to discharge its duties of protecting the State and ensuring that its governance is in accordance with the Constitution.

What are the suggestions?

The Sarkaria Commission on Centre-State Relations (1987), the National Commission to Review the Working of the Constitution (2002), and the Panchhi Commission on Centre-State Relations (2010) have all opined that Article 355 not only imposes a duty on the Union but also grants it the power to take necessary actions for the effective performance of that duty. Imposition of the President's rule under Article 356 must be used as a last resort in situations of utmost gravity and urgency.

The situation in Manipur is grave. Large-scale violence against innocent civilians, women and children; looting of ammunition from police armoury, drone and missile attacks targeting civilians cannot be viewed as just an ordinary breakdown of law and order.

Constitutional as well as political expediency, considering that the same party is in power at the Centre and the State, has resulted in Article 356 not being invoked. However, under Article 355, all possible instructions and actions should continue to be pursued to restore normalcy at the earliest. Rangarajan R is a former IAS officer and author of 'Polity Simplified'. Views expressed are personal.

THE GIST

India's federal system divides power between the Union and State governments, with States responsible for maintaining law and order.

Articles 355 and 356 of the Constitution allow the Centre to intervene in States under certain conditions. Article 355 mandates the Centre to protect States from internal and external threats, while Article 356 permits the imposition of President's rule if a State's government fails to function according to the Constitution.

- ❑ The recent violence in Manipur has reignited discussions about the **role of emergency provisions in India's federal structure** and their impact on Centre-State relations.
- ❑ This debate focuses on the use of emergency powers under **Articles 355 and 356 of the Indian Constitution**, especially in light of the ongoing crisis in Manipur.

- ❑ India is a **federal republic** with a **division of powers** between the Union and State governments, as outlined in the **Seventh Schedule** of the Constitution.
- ❑ States are primarily responsible for maintaining law and order within their territories.

Emergency Provisions:

- ❑ Emergency provision is a unique feature of Indian Constitution that allows the Centre to assume wide powers so as to handle special situations.
- ❑ The emergency provisions are provided in **Part XVIII of the Constitution.**

- ❑ The Constitution of India provides for three different kinds of abnormal situations which call for a departure from the normal governmental machinery setup by the Constitution:
 - ❑ **National Emergency (Article 352):** An emergency due to war, an external aggression or armed rebellion.
 - ❑ **State Emergency or Presidential Rule (Article 356):** Failure of constitutional machinery in states
 - ❑ **Financial Emergency (Article 360)**

	National Emergency	State Emergency
Applicability	In situations of war, external aggression or armed rebellion.	In situation of failure of constitutional machinery in State
Effect	No authority to the Centre to suspend the Constitution in a state.	The Council of Ministers is dissolved, vacating the office of Chief Minister. Furthermore, the Vidhan Sabha is either prorogued or dissolved, necessitating a new election.
Fundamental Rights	It affects Fundamental Rights	It does not affect Fundamental Rights
Centre-State Relationship	the relationship of all the states with the Centre changes	the relationship of only one state where the action is taken changes with the Centre
Proclamation	Approved by the Parliament within 1 month and thereafter every 6 months and there is no maximum duration prescribed	Approved by the Parliament within 2 months and thereafter every 6 months, and the maximum period that it remains in force is 3 years.

Judicial Interpretations

- ❑ Historically, Article 356 has been misused to dismiss elected State governments for reasons not strictly related to constitutional breakdown.
- ❑ **S R Bommai Case (1994)**: The Supreme Court restricted the **misuse of Article 356**, stating it should only be used in cases of constitutional machinery breakdown, and is subject to judicial review.
- ❑ Subsequent rulings have **expanded the scope of Article 355**, allowing the Union to take actions to protect States and ensure constitutional governance.

Suggestions and Recommendations

- ❑ **Sarkaria Commission (1987)** suggested that Article 355 should empower the Union to take necessary actions for State protection and governance.
- ❑ **National Commission to Review the Working of the Constitution (2002)** and **Punchhi Commission (2010)** emphasized that Article 356 should be used only as a last resort in extreme situations.

Two Years of Project Cheetah

What is the current status of the introduction of African cheetahs?

Project Cheetah has encountered significant setbacks, including prolonged captivity and cheetah fatalities; with long-term success hinging on finding sufficient habitat, scientific management, and community support, the project's future depends on overcoming these enormous challenges

Ravi Chellam

The Cheetah Action Plan (CAP) represents India's ambitious effort to introduce African cheetahs into its ecosystems, with a focus on both conserving the species and restoring the health of savanna habitats. However, the project has faced several challenges since its inception, including extended captivity of the cheetahs and fatalities, raising questions about its long-term prospects.

What is Project Cheetah?

The CAP states that the translocation of a large carnivore, African cheetahs in this case, is a strategy to conserve threatened species and restore ecosystem functions. It also states that India plans to assist the Government of Iran, and the international conservation community with conserving the Asiatic cheetah and increasing its distribution range to include protected landscapes in India.

The CAP also says cheetahs will be a flagship species for the degraded dry-open forest/savanna ecosystems in India and increase the value of restoring and conserving them, as well as improve the fortunes of local communities through eco-tourism. It has been estimated that the released population should reach the carrying capacity of Kuno National Park in about 15 years and that of the wider Kuno landscape in 30-40 years. According to the CAP, the introduction programme requires long-term (at least 25 years) financial, technical, and administrative commitments from the Ministry of Environment, Forests and Climate Change (MoEFCC), the National Tiger Conservation Authority (NTCA), the Madhya Pradesh Forest Department, and the Wildlife Institute of India.

Why are the African cheetahs in captivity?

Per the CAP, radio-collared male coalitions were to be released first from their holding enclosures (bosans) after a period of one to two months. The radio-collared females were to be released one to four weeks after the males, depending on how comfortable the males

were in their new environment. India has missed these timelines. The quarantine period in Kuno for all the cheetahs was longer than specified. Once the cheetahs were released into the bosans, they endured a prolonged period of confinement. In fact, the 12 surviving adult cheetahs of the 20 brought from Africa have spent almost all of the last 12 months in captivity.

Such long-term captivity can only be interpreted as a misguided attempt by those managing the cheetahs to play it safe, possibly in the belief that the mortality of the cats can be mitigated in captivity and that they will also be easier to breed.

The problem? Captive cats quickly become unfit to be released to range free in the wild, which is Project Cheetah's objective. A Namibian policy categorically restricts the captivity period for wild large carnivores to three months. If the period exceeds this duration, the carnivore should either be euthanised or be held permanently in captivity.

As per this policy, the 12 adult cheetahs and the 12 cubs currently in Kuno are unfit to be released into the wild.

Why did so many cheetahs die after moving?

Deaths and births are part and parcel of the lives of all species. That said, in such international projects, utmost care should be taken to assess and choose individual animals before they are imported. Once the cats are in India, we are responsible for deploying the best available knowledge and management practices to ensure they thrive, not just survive.

There have been failures on both these fronts. One female cheetah imported from Namibia had a pre-existing and chronic renal ailment resulting in her death in captivity in March 2023. A male from South Africa died in captivity in April 2023 due to suspected hypokalaemia and the resulting acute heart failure. A female from South Africa died in captivity in May 2023 as she was mated by a male coalition in an enclosure while the managers were trying to get her to mate. All three cats died before they were released at all.

In late May 2023, three of the four cubs born to Juha were found dead due to heat stroke. Between July 8 and August 2, 2023, two males from South Africa (one free-ranging and the other in captivity) and one female from Namibia (free-ranging) died. The official reason was that these cats contracted dermatitis, followed by myiasis and septicemia. The root cause was allegedly the growth of a winter coat during the Indian summer and monsoons. This is physiologically impossible since a shorter day length is required for the winter coat to grow.

In January 2024, a male from Namibia died in captivity due to septicemia. In August 2024, another male from Namibia – the only free-ranging African cheetah in Kuno – died apparently due to drowning. A few cheetah researchers with decades of experience said none had heard of a single instance of a free-ranging cheetah drowning.

Two of the cubs born in a litter of six died in June and August 2024. One cub's spine was broken.

Why are the cheetahs located in Kuno?

The CAP states that 10 sites were surveyed in five central Indian States to determine their suitability for introducing African cheetahs. Of these, Kuno National Park in Madhya Pradesh was found to be the most suitable for introducing the cheetahs because of its habitat and adequate prey base.

But even in Kuno, the cheetahs have largely been held captive. About 80 sq. km has been fenced off in Gandhi Sagar Wildlife Sanctuary and cheetahs were initially supposed to be released there by December 2023 or January 2024. Now the plan seems to be to introduce the cats in late 2024 or early 2025.

A captive breeding facility for the African cheetahs is being built in the Banni grasslands of Kachchh, Gujarat. Some cheetahs are likely to be housed here. Nauradehi Wildlife Sanctuary in Madhya Pradesh has also been mentioned as a potential site for introducing African cheetahs.

Who is responsible for the cheetahs?

An expert committee appointed by the NTCA and chaired by Rajesh Gopal has

the overall responsibility for guiding the project. The NTCA and the MoEFCC are the institutions responsible for all high-level decision-making, including negotiating with the African countries to procure the cheetahs.

The Wildlife Institute of India has been providing technical inputs and the Madhya Pradesh Forest Department has been responsible for the field implementation.

Will Project Cheetah have measurable outcomes?

The CAP outlines both short-term and long-term success criteria for introducing cheetahs in India. In the short term, the goals include a 50% survival rate for the first year, cheetahs establishing home ranges, successful reproduction in the wild, and generating revenue for local communities through eco-tourism. These goals are currently not being met due to prolonged captivity, which contradicts the plan's original prescriptions. Long-term success is measured by cheetahs becoming a stable part of the ecosystem with natural survival rates, establishing a viable metapopulation, improving habitat quality and prey diversity, and benefiting local economies through sustainable conservation efforts.

Does Project Cheetah have a sunset clause?

In some sense, the long-term criteria for success like the establishment of a viable metapopulation in India should be viewed as the sunset clause. Such projects will need almost constant management attention.

The timelines stretch across a minimum of 15 years but more realistically 30 to 40 years, as per the CAP.

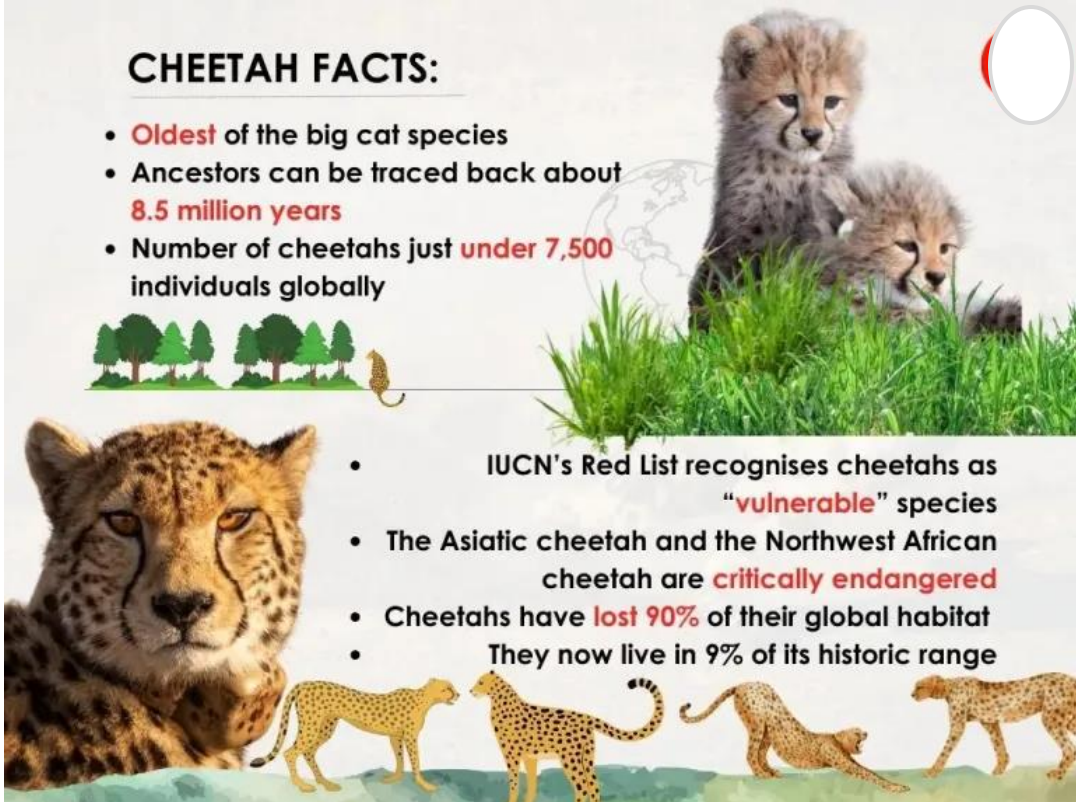
But the big question still remains: does India have sufficient habitat (4,000 to 8,000 sq. km) of the required quality to establish a viable population of free-ranging cheetahs in the wild? Ravi Chellam is a wildlife biologist and conservation scientist based in Bengaluru. He is CEO of Metamorph Foundation and Coordinator of Biodiversity Collaborative. The views expressed by him are independent and personal.

❑ An ambitious project of the Central government of reintroducing Cheetahs in India successfully completed two years after being declared extinct in 1952.

❑ The **Cheetah Action Plan (CAP)** is India's initiative to reintroduce African cheetahs into the country's ecosystems.

What is Project Cheetah?

- ❑ **Launched in:** 2022
- ❑ **Project Cheetah** is India's ambitious attempt to introduce African cats in the wild in the country. Cheetah were the only large carnivore species that went extinct in Independent India.
- ❑ The project is the first-ever intercontinental translocation of the big cats.
- ❑ As part of the project, 20 cheetahs have been brought to the **Kuno National Park in Madhya Pradesh** so far -- eight from Namibia in September 2022 and 12 from South Africa in February 2023.



CHEETAH FACTS:

- **Oldest** of the big cat species
- Ancestors can be traced back about **8.5 million years**
- Number of cheetahs just **under 7,500** individuals globally

IUCN's Red List recognises cheetahs as "vulnerable" species

- The Asiatic cheetah and the Northwest African cheetah are **critically endangered**
- Cheetahs have **lost 90%** of their global habitat
- They now live in **9%** of its historic range

The infographic includes a globe, a cheetah cub, a cheetah, and a line of cheetahs walking across a savanna landscape.

Current status:

- ❑ Since they arrived in India, eight adult cheetahs -- three females and five males -- have died.
- ❑ Seventeen cubs have been born in India, with 12 surviving, bringing the **total number of cheetahs, including cubs, in Kuno to 24**. Currently, all are in enclosures.
- ❑ **Objective:** Introduce African cheetahs to India to **conserve the species and restore degraded dry-open forest/savanna ecosystems**. The cheetahs are intended to boost eco-tourism and benefit local communities.
- ❑ The population is expected to reach Kuno National Park's carrying capacity in about 15 years and the wider landscape in 30-40 years.
- ❑ **Why Kuno National Park?** Kuno was chosen as the most suitable location among ten surveyed sites due to its habitat and prey base. However, cheetahs have been held captive here longer than planned.
- ❑ Additional sites like **Banni Grasslands** in Gujarat and **Nauradehi Wildlife Sanctuary** in Madhya Pradesh are being considered for cheetah introduction

Indian Military exports to Israel – aiding Genocide

Indian military export to Israel – aiding genocide

A Bench of the Supreme Court of India, headed by the Chief Justice of India, recently dismissed a petition filed by former civil servants, academics, and activists. The petition, in *Ashok Kumar Sharma and Others vs Union of India*, had sought the suspension of export licences and the withholding of further licences by the government to public sector and private companies, for exporting military equipment to Israel during the ongoing war. While the Court made it clear that it was not ruling on the merits of the case, it went on to issue a somewhat detailed judgment. The dismissal raises important questions about the limits of judicial review over executive decisions in matters of foreign policy and especially where there are grave violations of international humanitarian law.

ICJ opinion

The challenge was in view of the International Court of Justice (ICJ), in January, ordering provisional measures against Israel, for violations in the Gaza strip, of obligations under the Genocide Convention. The provisional measures included an immediate halt to all killings and destruction being perpetrated by Israel. In light of this judgment, United Nations experts warned against the transfer of weapons to Israel which may "constitute serious violation of human rights...and risk State complicity in international crimes". In July, the ICJ rendered a detailed opinion declaring that the sustained abuse by Israel renders "Israel's presence in the Occupied Palestinian Territory unlawful". The ICJ observed that "all States are under an obligation not to render aid or assistance in maintaining the situation created by Israel's illegal presence".

Earlier, in an adjudication before it regarding military support by Germany to Israel (*Nicaragua vs Germany*), the ICJ had significantly stated that "the Court considers it particularly important to remind all States of their international obligations relating to the transfer of arms to parties to an armed conflict, in order to avoid the risk that such arms might be used to violate the above-mentioned Conventions". Following this there have been challenges to the export of arms to Israel in various global jurisdictions, with the Hague Court of Appeal ordering the Dutch government to halt the export of F-35 fighter jet parts to Israel given the risk that "components to be exported to Israel will be used to commit serious violations of international law".

Many countries that are parties to the Geneva and Genocide Conventions have halted the supply of military equipment to Israel, in furtherance of these binding obligations. Canada, Spain and even the United Kingdom have suspended licences of companies supplying arms to Israel.



Prashant Bhushan was the counsel for the petitioners in the challenge to export of arms to Israel



Cheryl Dsouza was the counsel for the petitioners in the challenge to export of arms to Israel

As a party to these Conventions, India has similar obligations incumbent upon it. India is obligated under the Genocide Convention to take all measures within its power to prevent genocide. Article III of the Convention makes states' complicity in genocide a punishable offence. The obligation not to supply weapons to states that are possibly guilty of war crimes is an obligation directly based on common Article I of the Geneva Convention. The principles in these Conventions are peremptory norms of international law. India, therefore, cannot export any military equipment or weapons to Israel, when there is a serious risk that these weapons might be used to commit war crimes.

Where the Supreme Court failed In its judgments, the Supreme Court of India has held that India is under obligation to interpret domestic law in the light of the obligations under the conventions and treaties that India has signed and ratified. However, the Court while dismissing the present case has held, that first, international obligations are not binding, since the country (Israel) which is in violation of international law (the Genocide Convention), was not before the Court. The state of Israel not being a party before the Court in such a challenge is irrelevant, since no relief was being sought against Israel, but against the government of India and private companies exporting arms to Israel, thereby violating international law obligations. The Court further stated that the petitioner's submissions were with regard to the "conduct of an independent sovereign nation, namely Israel" and that to grant the reliefs sought, it would have to enter findings with regard to the petitioner's allegations against Israel. Again, the allegations by the petitioner were with respect to the conduct of India in sanctioning military exports, thereby abetting genocide. And the determination of the conduct of the state of Israel was premised on the ICJ, that had in a detailed order of the full court, while ordering provisional measures against Israel, noted the numerous reports by UN Special Reporters and international aid organisations documenting how Gaza was a place of "death and despair".

The top court's dismissal of a petition on the subject highlights the limits of judicial review over executive decisions in matters of foreign policy, especially in violations of humanitarian law

The Court's rationale is also indefensible given its judgments that "Constitutional provisions must be read and interpreted in a manner which would enhance their conformity with the global human rights regime...and the Court must adopt an interpretation which abides by the international commitments made by the country particularly where its constitutional and statutory mandates indicate no deviation" (2017) 10 SCC 71. The ICJ has also held that states that are party to a particular convention "whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the

instruments in question are complied with" (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), pp. 199-200, paragraph 158). Such an obligation "does not derive only from the Conventions themselves, but from the general principles of humanitarian law to which the Conventions merely give specific expression" (*Nicaragua vs United States of America*).

Second, the Court reasons that seeking a suspension of licences with regard to contracts with international entities, including with the state of Israel, may involve a breach of contracts and other fallouts. Certainly, that is what the petitioners prayed for – a halt to all licences for the export of military arms to Israel in view of the genocide and yes, pending contracts. The Court's fear that this would lead to a breach of contract is misplaced, because any party to a contract to export of arms can always claim *force majeure* (here, due to the outbreak of a war and genocide by Israel). The same situation would arise if the Government of India were to itself suspend the licences, which it can do in such situations, as done by many other countries. Being aware of the serious risk that acts of genocide could have been committed by Israel, the government is bound to employ all means reasonably available to it to prevent genocide, which would include suspension of export licences for military aid to Israel. No contracting party can argue and let alone the court endorse as it does in this case, that licences cannot be suspended by the government (in a situation of genocide) because it affects the "financial viability" of the companies concerned.

And, third, the "self-imposed restraint on Courts entering areas of foreign policy" was raised as another bogey to dismiss the challenge. India has binding commitments under international law, especially in the context of the application of Conventions that it has signed and ratified, and once the Supreme Court has held that such international law obligations which are not contrary to municipal law, must be read into the law of our land, the Court must step in to exercise its judicial discretion and caution the executive government when it acts in violation of these laws.

The fallout

In the midst of an unimaginable humanitarian crisis in Palestine and the international outcry against Israel's continuing genocide, the Supreme Court's failure to ensure that the Indian government halts its military aid to Israel and complies with its commitments under international law, will have serious repercussions in this war and its devastation that continues unabated.

- ❑ The Supreme Court of India recently dismissed a petition by former civil servants, academics, and activists in the case of **Ashok Kumar Sharma and Others vs Union of India**.
- ❑ The petition sought to suspend existing and future licences for the **export of military equipment to Israel**, citing concerns over **international humanitarian law violations** amid ongoing conflict in Gaza.
- ❑ The Court's decision raises questions about judicial review limits on executive foreign policy decisions, especially **concerning international humanitarian law**.

Judicial Review Limits

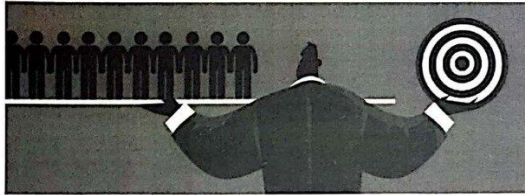
- ❑ The Supreme Court declined to rule on the merits, focusing instead on procedural aspects. It stated that **international obligations are not binding** in this context, as **Israel was not a party to the case**.
- ❑ This approach overlooks the fact that the challenge was directed at the Indian government and companies, not Israel.
- ❑ The Court's reasoning contradicts its previous judgments, which emphasized **interpreting domestic law in light of international obligations**.
- ❑ Despite the ICJ's detailed orders and obligations under conventions like the **Genocide Convention**, the Court failed to enforce these international norms domestically.
- ❑ The Court cited potential breaches of contract and other fallout as reasons for dismissing the petition.
- ❑ It overlooked that the government could invoke force majeure to halt arms exports due to international legal obligations, thus prioritizing commercial interests over humanitarian concerns.

Fallout of the Decision

- ❑ The Supreme Court's dismissal could impede efforts to halt military aid to Israel, amidst **severe humanitarian crises in Gaza**.
- ❑ This inaction might contribute to the ongoing devastation and international criticism of Israel's conduct.
- ❑ The decision underscores the **constraints of judicial review** over executive actions in foreign policy, especially in contexts involving humanitarian law violations.
- ❑ It highlights a gap in enforcing international **legal commitments within domestic judicial frameworks**.
- ❑ The Court's stance raises significant concerns about India's adherence to its international legal obligations, potentially undermining global trust in India's commitment to human rights and humanitarian laws.

Dependence on Chinese imports continues to increase despite the government's push for manufacturing in the country leading to a large trade deficit with China. Analyse its implications on the Indian economy. Enumerate the measures that are needed to bridge the trade deficit.

ILLUSTRATION BY BINAY SINHA



India's employment: The true picture

Results from the Periodic Labour Force Survey are not comparable with the previous Employment-Unemployment Surveys

A sound policy framework requires the support of robust institutions that collect and transmit good data regularly. I am a great believer in robust data being essential in diagnosing the right problem to target and to devise smart solutions for it. In the context of the ongoing debate on India's employment scenario, we need to make efforts to improve the availability of quality data so that a narrative driven debate can be resolved through objective evidence. Currently, there are three contesting narratives. The first narrative is of jobless growth, which implies that India is creating insufficient jobs. The second is opposite to first and advocates that there is no issue of employment. The third, which I believe to be true, is between the first two suggesting that though there is sufficient employment, the true challenge is to create well-paying quality jobs. Unfortunately, the leak of data from the first year of the two-year Pilot Periodic Labour Force Survey (PLFS) conducted by the National Sample Survey Office (NSSO), before it could be fully verified, and subsequent media reports jumping to conclusions based on incomplete and half-baked data, have added confusion and misdirection to the prevalent situation rather than helping.

Being a member of the National Statistical Commission (NSC), it is my prerogative to bring the facts into public domain. The report had neither been made available nor circulated to me for approval. The report was made available after I demanded it post the data leak controversy. The report does not have my approval. In fact, the meeting held on December 5 to finalise the report was attended only by Acting Chairman P.C.Mohanani. Even, Ms J.V.Meenakshi was not present in the meeting. As a standard practice, with this being the first of its kind exercise, the process of official data release should pass the most stringent scrutiny and careful verification and should definitely be subjected to peer review.

An impression has been created that the findings of the PLFS show a large jump in India's unemployment compared to the previous Employment-

Unemployment Surveys (EUS), which was last concluded in 2011-12. This is erroneous since the previous surveys and the new PLFS cannot be so easily compared. The PLFS is a two-year pilot started in July 2017, which includes a quarterly urban and an annual rural survey. The objective is to have more frequent data on labour market and hence it departed from the previous EUS exercise, which happened once every five years. Amongst other things, the PLFS has updated the sampling techniques used, a different sampling frame using 2011 Census, and adopted new data collection methods.

Let me show you how this conclusion of job loss based on comparison with 2011-12 survey data is faulty. Besides employment data, the survey also presents the basic demographic data such as an estimate of total population in the country. The PLFS estimates India's total population in 2017-18 to be lower than the EUS 2011-12. If we were to accept all such comparisons at face value, we should also be having the headline that "India's population declines in the last 6 years". There is no apparent reason for population estimates to decline in six years if one considers that the methodology and coverage of the two surveys were same and that over the previous EUS surveys (2004-05, 2009-10 and 2011-12), the estimated population showed a growing trend largely

in line with the country's official population growth rate. Another strange trend is the rate of urbanisation, which seems to have nearly stalled during 2011-12 to 2017-18. This is at odds with what we know about growth in Indian cities from numerous credible sources — all of which point that India is fast urbanising. India's rapid urbanisation has been confirmed even by NASA's satellite imagery of nightlights. Still, we also believe that India's urbanisation has stalled despite what empirical and anecdotal evidence shows us?

In the current debate, many argue that employment generation is happening at a slower pace than workforce growth. However, comparison of the PLFS with the 2011-12 survey suggests that even the absolute

number of people employed in the country has been declining at the rate of two million every year since 2011-12. This is completely at odds with any other socio-economic data available. For instance, India's real gross domestic product (GDP) has grown by 50 per cent during this period. Economic growth has come about with expansion in every sector — from infrastructure to housing, transport to healthcare and from professional services to retail. It is inconceivable that such growth could happen concurrently with shrinking number of employed workforce, which would strictly imply that productivity and capital accumulation is driving whole of India's growth. Independent report by Brookings concluded that number of people living in extreme poverty in India has reduced from 268 million in 2011 to less than 50 million. It would be difficult to explain how such rapid reduction can happen if unemployment is also rising rapidly. Finally, the massive jump in unemployment seems to also contradict with another finding in the same PLFS — growing earnings and wages across different employment types. If the labour market conditions were as poor as the unemployment rate suggests, then the economic logic would expect falling or at least stagnant wages. But they aren't. For example, the earnings/wages of rural women, for which unemployment rate is particularly high, have grown consistently in each quarter starting July-September 2017 and reached growth of 13 per cent and 8 per cent respectively by the last quarter.

It is overwhelmingly clear that the results from the PLFS are not comparable with the previous EUS, and the PLFS should be used strictly for measuring the changes from the baseline in 2017-18. We have seen this before also — doing surveys in India has always been tricky with small changes in methodology producing unexpected results. The PLFS also highlights fall in labour force participation rate. Even if true, it does not mention that it could be a result of other factors such as increase in attendance in school and higher education.

The problem lies with the methodology. The sample size was too small when technology could have facilitated responses from higher number of households. In rural areas, the number of households surveyed were a mere 55,000. This has to be seen in the context of 160 million households in the country. The percentage works out to be 0.03 per cent — about three households for every 10,000. Even in household selection, 75 per cent weightage was given to households who have higher number of 10th pass members above 15 years. In the present scenario there is huge probability of continuing education for above 15 years. Most people in 15-18 group would be continuing education. Those still studying would respond in a manner that they are looking for employment. The sample size is so small that sensitivity of the data will be very high. In urban households one household giving wrong answer in each area will show labour force participation rate number in the range of 25 per cent. There is no source of validation with real time data. The surveyors used were from outsource agency — not necessarily the right person for such interaction. Though these surveyors were provided with a tablet for recording data, they were not given SIM and data connectivity. Even locations were not captured. I am amazed that in today's world real time data and technology was not utilised.

[End of part 1. The second and concluding part of this article will appear on Thursday.] The writer is CEO of NITI Aayog. Views expressed are personal.

Approach

- Introduce India's excessive dependence on China for imports.
- Discuss reasons for trade deficit.
- Suggest mitigation Measures to reduce dependence on China
- Conclude the answer by writing a way forward

The latest data released by the China customs department shows India's trade deficit with the country breaching \$100 billion for the first time in 2022. This is countering the Atmanirbhar Bharat goals, especially with ongoing geopolitical tensions between the two countries.

Dependence on Chinese imports continues to increase despite the government's push for manufacturing in the country. The inability to reduce China's influence often gets voiced in the call for a boycott of Chinese goods.

Reasons for trade deficit

- ❑ Most imports from China are intermediate goods used by Indian manufacturers.
- ❑ A sharp rise in chemicals and engineering equipment, including electrical and non-electrical instruments, is driving a large part of the imports growth from China.
- ❑ They are used in the manufacturing sector here. Cheaper Chinese goods are also powering India's green transition, digital economy, and even the latest real estate and construction boom.

- ❑ The growth of Chinese manufacturing sector, in the last few decades, whereas the Indian manufacturing sector remained sluggish and comparatively inefficient.
- ❑ Given the geographical proximity of China and low prices offered by Chinese firms, it is cheaper and economically efficient to import from China rather than domestically.

Mitigation measures

- ❑ There are no shortcuts to reducing dependence on them. It will require a long and sustained policy boost to empower Indian manufacturing.
- ❑ At the same time, the government will need to look for alternative suppliers for many important raw and intermediate goods from China. India is not alone in looking for alternatives.
- ❑ The whole world is now talking about the China Plus One strategy and looking for better alternatives to China.

Government measures have been put in place for China.

- ❑ Scrutinising Chinese investments – keeping Chinese companies out of 5G trials
- ❑ Curbing opportunistic takeover of domestic firms – FDI restriction on China
- ❑ Cutting import dependency for APIs – Promotion of Bulk Drug Parks and PLI Scheme

way forward for reducing dependence on China

- ❑ India can diversify dependence by working more with the U.S., Europe, South Korea and Japan. This way it will increase its reliance on countries with which it also enjoys good political relations.
- ❑ Providing further impetus to self-reliance in major sectors where India is a net-importer is a prudent way forward where technology and capital will have a huge role to play.



Thank you

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