



29th December – Editorials/Opinions Analyses

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EXPLAINED: WHAT IS THE DIRECTIVE ON DETENTION CENTRES?

Background

- On December 24, the Union Cabinet approved an outlay of over ₹3,941.35 crore for updating the National Population Register (NPR) across the country, barring Assam.
 - The NPR is a mandatory exercise, to be conducted between April-September 2020.
 - The NPR, first collated in 2010, already has a database of 119 crore residents.
 - The fresh exercise will collect data on additional parameters such as “place of birth of father and mother, last place of residence” along with details like Aadhaar (optional), voter ID, mobile phone and driving licence numbers.
 - As in the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, and subsequent response furnished by the Ministry of Home Affairs (MHA) in Parliament from 2012 onwards, the NPR was the first step towards compiling the National Register of Indian Citizens (NRIC) or National Register of Citizens (NRC).
 - According to the Rules, a
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person's citizenship status will be decided by local officials.

- No new law or rules are needed to conduct this exercise across the country.
- The Assam NRC, conducted under the supervision of Supreme Court, excluded at least 19 lakh out of 3.29 crore residents.
- There are apprehensions that people will have to dig out old documents to prove their residency in India on the lines of the exercise done in Assam.
- After the Citizenship (Amendment) Act, 2019 was passed on December 11, there are fears that those excluded from NPR-NRC will be sent to detention centres.
- The government has denied that the NPR and the NRC are linked.

What are detention centres?

- Detention centres are meant to house illegal immigrants after they are declared 'foreigners' by tribunals/courts or foreigners who have served their sentence for an offence in India and are waiting for deportation to their home country.
- Immigration detention is the policy of holding individuals suspected of visa violations, illegal entry or unauthorised arrival, and those subject to deportation and removal in detention until a decision is made by immigration authorities to grant a visa and release them into the community, or to repatriate them to their country of departure.

Legislations related to deporting

- The Centre has the power to deport foreign nationals staying illegally in the country under Section 3(2)(c) of **The Foreigners Act, 1946**.
- State governments have also been entrusted under **Article 258(1)** of the Constitution to take similar steps.

Detention centres being used in the past



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- In 1998, the Ministry of Home Affairs (MHA) under the then Atal Bihari Vajpayee government instructed to all States and Union Territories asking them to restrict the movement of convicted foreign nationals who had completed their jail sentence.
 - The Govt. said that they should be confined to one of the detention centres/camps, pending confirmation of their nationality from the country concerned and to ensure their physical availability at all times for expeditious repatriation/deportation as soon as the travel documents are ready.
 - The detention centres are also used to hold foreigners who have been caught overstaying their visa term.

 - In 2009, the instructions were sent again to States, “conveying the detailed procedure to be adopted for deportation of illegal immigrants from Bangladesh”.
 - States were asked by the MHA to set up sufficient number of detention centres where the “suspected illegal immigrants would be detained pending their deportation”.
 - Similar letters were sent in 2012, 2014 and 2018. On January 9, 2019, a detailed manual on “model detention centres” was circulated to make a distinction between “jails and detention centres”.

States with Detention Centres

- **Delhi** at Lampur-under the operational control of the Foreigners Regional Registration Office (FRRO)
- **Goa** at Mapusa
- **Rajasthan** - inside Central Jail in Alwar
- **Karnataka** in Sondegoppa village on the outskirts of Bengaluru
- **Maharashtra** at Nerul in Navi Mumbai
- States without Detention Centres : **Kerala and West Bengal** have put a Hold on construction of Detention centres.

What is happening in Assam?

- The final NRC to segregate Indian citizens living in Assam from those who had illegally entered the State from Bangladesh after March 25, 1971 was published on August 31,



2019. Nearly 19 lakh people were excluded from the final list. Those who have been excluded may move Foreigners Tribunals (FTs) and can also appeal to courts if the FTs give a verdict against them. This process has not started. The Assam government wants the NRC to be repeated.

- From 1985 till October this year, the FTs declared 1,29,009 people as “foreigners.” through ex parte (one sided) proceedings. A total of 4,68,905 matters were referred to the FTs during this period. Most declared foreigners ended up in the six detention camps. To handle the influx of applications following Assam’s NRC, the MHA sanctioned 1,000 additional tribunals. Presently, there are 100 FTs in Assam of which 64 were established in 2014. According to a MHA reply in Rajya Sabha on November 27, as on November 22, 2019, 988 foreigners were lodged in six detention centres in Assam. From the year 2016 up to October 13, 28 detainees died either in the detention centres or in hospitals where they were referred to, the reply said.
- Former Chief Minister of Assam Tarun Gogoi said in a tweet that detention centres were first built in Assam under High Court’s orders in 2009 for detaining declared foreigners. “Subsequently, the BJP Government allotted funds of ₹46.41 crore in 2018 and supported the construction of a big centre in Goalpara (picture) for housing around 3,000 inmates,” the tweet said.
- On May 30, the MHA amended the Foreigners (Tribunals) Order, 1964 which empowers district magistrates in all States and Union Territories to set up tribunals. Earlier such powers to constitute tribunals vested with the Central government only. The MHA later issued a clarification on June 11 that “since the FTs have been established only in Assam, and in no other State of the country, this amendment is going to be relevant only to Assam at present”.

EXPLAINED: WHAT DOES THE LAW SAY ABOUT DETENTION OF MINORS



- With respect to protests against the Citizenship (Amendment) Act, 2019- In several cases of instances of police clashing with and detaining protesters - those detained were minors under 18 years. (Notably 8 Minors in Delhi and 4 Minors in UP)
- Acting on the complaints of lawyers, these minors were released by a magistrate who noted that the detention of children in a police station in the first instance is a 'flagrant violation of the law'.

What does the Juvenile Justice Act say about detention of minors?

- The **Juvenile Justice (Care and Protection of Children) Act, 2015** has specific procedures and rules in relation to children found to be in conflict with the law.
- It says that as soon as a child alleged to be in conflict with law is apprehended by the police, the child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer.
- That officer in turn, should produce the child before the Juvenile Justice Board within a period of 24 hours (excluding the time necessary for the journey)
- In **no case**, it clearly states, should a child alleged to be in conflict with the law be **placed in a police lock-up or lodged in a jail**.

NCPCR

- The **National Commission for Protection of Child Rights (NCPCR)** is a **statutory body** set up in 2007 under the **Commission for Protection of Child Rights Act, 2005**.
- The objective of the commission is to protect, promote and defend child rights in India including the rights adopted in the United Nations Convention on the Rights of the Child, 1989 — with an accession by India in 1992.
- The same convention **defines a child as being a human being under 18**.
- The commission works under



the aegis of the **Ministry of Women and Child Development.**

- State Commissions for the protection of child's rights are also to be established under its supervision.
- **Powers of NCPDR**
 - The powers given to the commission are extremely broad.
 - It examines and reviews the safeguards provided under any law for the protection of child rights and recommends measures to the government.
 - It can present a report annually, or as it deems fit, for implementation of these measures.
 - The commission can also inquire into the violation of child rights and recommend initiation of proceedings in such cases.
 - While inquiring into such matters, the NCPDR has the powers of a civil court.
 - In addition it has a host of other powers in terms of commissioning research and framing policy for child protection and safety.

Has the NCPDR intervened in the matter of minors being detained during the anti-CAA protests?

- Not directly. When the protests first started, the NCPDR, on December 14, issued an advisory to the Directors General of Police of all States regarding the "use of children in unlawful activities like stone-pelting during the protests in various States against the amended Citizenship Act".
- Guidelines of the NCPDR in respect to children's rights in areas of civil unrest, state that police and military authorities should avoid blanket characterisation of adolescent boys as security threats and that "they" (authorities) should take any arbitrary detention, mistreatment, or torture of children extremely seriously, investigate any reports of grave violations immediately, and take action against personnel involved.



EXPLAINED: IS THE ECONOMY IN A REALLY BAD SHAPE?

Why in News?

On November 30, 2019 - India's statistical machinery revealed that **growth in the quarter from July to September had slipped to 4.5%**.

This was the lowest level recorded in six-and-a-half years, with the **6.1% nominal GDP growth (real growth plus inflation) coming in as the slowest in a decade**.

Comparing the current state with the past

Compared to the previous quarter when growth clocked 5%, the 4.5% print was not a dramatic downswing, but capped off a slow and steady dip in growth over six quarters in a row — following a robust 8.1% growth recorded between January and March of 2018.

Growth in the first half of 2019 financial year has been just 4.8%, compared to 7.5% in the same period of 2018-19.

Fixed investment slumped to 1%, private consumption growth halved year on year, and manufacturing activity contracted by 1%.

What do the numbers mean?



- The lower number from high frequency economic indicators for the first two months of the third quarter of 2019 do not augur well for the third quarter's performance to improve much, if at all.
- Industrial output shrank 3.8% in October 2019 and Manufacturing activity dipped for the third month in a row in October 2019.
- The 12.2% decline in electricity generation was also a major indicator as it is a good barometer of demand generated by all economic activity, not just industrial production.
- Imports, merchandise exports, automobile sales, bank credit etc., which are metrics one would usually look at to assess economic activity and consumption, are in bad shape in official statistics.
- For November 2019, Goods and Services Tax (GST) collections crossed ₹1,03,000 crore, registering a 6% growth after two straight months of negative growth.
- It remains to be seen if this can be sustained, even as bank credit growth is expected to hit a 58-year low in 2019-2020.
- Amidst this gradual slowdown over 2018-19, the saving grace for the economy and consumers was that inflation had been friendly and benign but, that is no longer the case with retail inflation hitting a 40-month high of 5.54% in November 2019, more than double the 2.3% recorded on 2018.
- Food inflation hit 10%, led by vegetables (think of onions) and pulses.
- This has led to worries about India entering a phase of stagflation, where growth and employment are low but inflation is high — a difficult morass for policy makers to swim out of.
- Any further spike in inflation, that takes it closer to or over the Reserve Bank of India's (RBI's) **tolerance limit of 6%**, will take the option of cutting interest rates for spurring growth out of the equation.
- The official third quarter growth numbers will be out on February 28 2020, weeks after Finance Minister Nirmala Sitharaman presents the second Union Budget. But an advance GDP estimate for the full year is expected early January.

Views of former Chief Economic Adviser (CEA) Arvind Subramanian

- The economy's "seemingly sudden" illness is unusually severe, Mr. Subramanian has noted. "This is not an ordinary slowdown. It is India's Great Slowdown, where the economy seems headed for the intensive care unit".
- Comparing indicators for the first seven months of this financial year with the past, the two have made the case that the current slowdown is closer in nature to what was faced as far back as 1991 — the year India liberalised.
- Mr. Subramanian reckons that India's current crisis is driven by both cyclical and structural factors — but problems in finance have exacerbated the slowdown.
- Demonetisation and GST may



have hurt growth, but cannot be the reason for the precipitous fall in recent quarters.

- The preface to this crisis began in the aftermath of the 2008 global financial crisis, when slower growth threw out of whack bullish assumptions driving large infrastructure investments.
- That was the first stress point for banks, and investment and exports that had driven growth through the early 2000s stumbled.
- That India's growth recovered without fixing these problems adequately is ascribed to a series of fortuitous developments such as lower oil prices and a boom in credit from non-banking financial companies (NBFCs) which may be partly driven by demonetisation sending more cash into the formal financial system.

- With the collapse of Infrastructure Leasing and Financial Services (IL&FS) in late 2018, that party has ended too.
- And now the twin balance sheet crisis (of stressed banks and corporates with infrastructure bets) that Mr. Subramanian flagged as a CEA, has become a Four Balance Sheet challenge (adding stressed NBFCs and real estate firms).

Argument whether this is a structural or cyclical issue

- Several economists argue whether this slowdown has been driven by a structural malaise caused by significant deficiencies in the economy's framework (such as archaic rules governing factor markets) or that this is a cyclical phenomenon and will pass like the circle of life.

Views of international institutions/agencies

- The World Bank has said this cyclical slowdown is severe. This camp's rationale for the slowdown focuses on demand collapsing due to reasons ranging from poor rural income growth, the ghosts of demonetisation and a hastily implemented Goods and Services Tax (GST). World Bank had said in October 2019 that it expects 6% growth but even achieving this range (6% to 6.1%) would require a



significant uptick in the second half of this fiscal.

- The International Monetary Fund (IMF) had already pared India's growth estimate for this year to 6.1% in October from its earlier forecast of 7%, but is now expected to slash it further with the country in the "midst of a significant economic slowdown".
- Moody's Investor Services switched India's sovereign rating outlook from "Stable" to "Negative" in early November 2019, citing enhanced growth risks. It also lowered growth expectations to 5.6% (from an earlier 6.2% hope) for 2019, saying the slowdown is lasting longer than it expected.
- Fitch Ratings lowered its growth estimate for 2019-20 to 5.5% from 6.6% in October 2019.

What can the Union Budget do to help?

- The government has rolled back several measures perceived to be deterrents for investors in the Budget for 2019-20 presented in July
- In September 2019, it even slashed corporate taxes significantly in a bid to attract fresh investments.
- The Finance Ministry has unveiled some packages for particularly embattled industry sectors such as NBFCs and real estate to salvage the situation even as it has hinted that the slowdown is not structural, but cyclical and driven by global growth pressures.
- On its part, the central bank has slashed its key interest rates by 1.35% or 135 basis points over the past year, in a bid to spur growth too.

- But the room for tax cuts — after those announced in September set the exchequer back by ₹1.45 lakh crore — is very limited. GST collections this year have also been tepid and below target, leaving little room for the Centre to spend its way out of trouble.
- Stoking of inflationary pressures also need to be avoided.
- Given the constraints, the challenge for the Finance Minister is unenviable, but a focus on fixing the core crisis afflicting India's financial entities, creating a sense of certainty and predictability about India's policy direction, be it in taxation matters or reforms of labour, land and other restrictive laws, could provide some salve to the bleeding



economy.

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