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Daily News Feed

D.N.F

04.01.2025

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Water woes

India needs to deal with rising levels of nitrate in groundwater

An annual assessment by the Central Ground Water Board (CGWB) on the state of groundwater, and its quality, has some worrying portents. First, the number of districts with excessive nitrate in their groundwater has risen from 359 in 2017 to 440 in 2023. This translates to a little more than half of India's 779 districts having excessive nitrate, or more than 45 mg/L (milligram per litre). There are two major concerns with excess nitrate content: first, methemoglobinemia, or a reduced ability of red blood cells to carry oxygen. This sometimes causes 'Blue Baby Syndrome,' in infants. The bigger problem is environmental: once nitrates in groundwater rise to the surface and become part of lakes and ponds, algal blooms throttle the health of aquatic ecosystems. What the CGWB found, from analysing 15,239 groundwater samples across the country, was that close to 19.8% samples had nitrates – nitrogen compounds – above safe limits. However, this proportion has not shifted much since 2017, when 21.6% had excessive nitrate (13,028 samples).

Rajasthan, Karnataka and Tamil Nadu reported the largest extent of nitrate contamination, with 49%, 48% and 37% of the samples reporting numbers beyond the limit. Rajasthan, Madhya Pradesh and Gujarat have a perennial nitrate problem, primarily from geological factors, with relative levels fairly constant since 2017, the report says. However regions in central and southern India are reporting a rise, which is a reason for worry. Through the years, several studies have established the correlation between elevated nitrate levels and the practice of intensive agriculture. Other significant chemical contaminants affecting groundwater quality were fluoride and uranium. Fluoride concentrations exceeding the permissible limit were "a major concern" in Rajasthan, Haryana, Karnataka, Andhra Pradesh and Telangana. The report drew attention to the fact that States with over-exploited groundwater blocks – where extraction is more than replenishment – were more likely to have excessive chemical contaminants. Overall, the country's degree of groundwater extraction is 60.4%, or roughly the same as it has been since 2009. About 73% of the blocks analysed for groundwater levels are in the 'safe' zone, meaning that they are replenished enough to compensate for the water drawn out. While it is a good sign that India now has a robust, scientific system of assessment to monitor the health of groundwater blocks annually, efforts are lacking in getting States to act on these findings. There needs to be more concerted awareness programmes led by the highest levels of leadership to contain the crisis.

India, cross-border insolvency and legal reform

The growth in international trade has amplified cross-border insolvency challenges, highlighting the need for effective regulation. A reliable and predictable insolvency framework is essential for economic stability, attracting foreign investments, and facilitating corporate restructuring.

Under the British Raj, India faced significant challenges in managing financial failures and cross-border commerce. To address domestic insolvencies, the Indian Insolvency Act of 1848 was introduced as the first insolvency law. This was later replaced by the Presidency-Towns Insolvency Act 1909, which applied to Calcutta, Bombay, and Madras, and the Provincial Insolvency Act, 1920, which governed insolvencies in mofussil regions. While these laws provided a framework for handling domestic insolvencies, they failed to address the complexities of cross-border insolvencies, leaving a critical gap in the legal system.

An evolution

After Independence, these laws remained unchanged, despite the Third Law Commission's 26th Report (1964) recommending modernisation. It was only in the 1990s, driven by economic liberalisation and the pressures of globalisation, that the need for a comprehensive insolvency law, with provisions for cross-border cases, became a focus of national discussions. Committees such as the Eradi Committee (2000), Mitra Committee (2001), and Irani Committee (2005) recommended adopting the United Nations Commission On International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency, 1997. In 2015, the Bankruptcy Law Reform Committee, drafted the Insolvency and Bankruptcy Code (IBC) Bill, focusing on domestic insolvencies.

Following concerns from the Joint Parliamentary Committee about the absence of cross-border insolvency provisions, clauses 233A and 233B were added, later codified as Sections 234 and 235 of the IBC. Section 234 allows the Indian government to enforce IBC provisions in foreign countries through reciprocal agreements, while Section 235 outlines the procedure for seeking assistance from foreign courts through a letter of request.

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The dismal state of cross-border insolvency law and regulation, with unenforceable governing sections and slow progress on amendments, needs to be reversed

Cross-border insolvency challenges in India

The State Bank of India vs Jet Airways (India) Limited (2019, SCC OnLine NCLT 7875), brought Sections 234 and 235 of the IBC under scrutiny. The National Company Law Tribunal (NCLT) identified two critical issues – first, the absence of a reciprocal arrangement between India and the Netherlands for cross-border insolvency resolution, and, second, the non-notification of these sections by the central government, making them legally unenforceable. The case highlighted the inactive status of these provisions, effectively labelling them as "dead letters" – provisions that exist in theory but cannot be applied in practice.

To address this regulatory gap, the Ministry of Corporate Affairs constituted two expert committees: the Insolvency Law Committee (2018) and the Cross-Border Insolvency Rules/Regulation Committee (2020). Both committees identified the shortcomings in the current framework and recommended adopting the UNCITRAL Model Law on Cross-Border Insolvency. These recommendations were later endorsed by the Parliamentary Standing Committee on Finance in its Thirty-Second Report, "Implementation of IBC - Pitfalls and Solutions" (2021), and reiterated in its Sixty-Seventh Report", (2024).

In both reports, the Standing Committee stressed the urgent need for a cross-border insolvency framework to strengthen the IBC, 2016. However, the dismal state of cross-border insolvency regulation in India persists, with unenforceable governing sections and extremely slow progress on necessary amendments.

In *Jet Airways (India) Limited vs State Bank of India* (2019 (SCC OnLine NCLAT 1216), the National Company Law Appellate Tribunal (NCLAT) considered a "cross-border insolvency protocol", an internationally recognised approach now used as an ad hoc solution for regulating cross-border insolvencies.

The need for reform

First, while protocols have been effective in addressing individual cases, they remain an ad hoc/temporary solution. The need for court approvals increases judicial burden, transaction costs, and delays resolutions, reducing the debtor's asset value. Experts underline the importance of adopting a structured framework. Therefore, it is recommended that India adopt the UNCITRAL Model Law.

Second, reforming the outdated communication methods between Indian and foreign courts is crucial, especially for cross-border insolvency cases. The adoption of the Judicial Insolvency Network (JIN) Guidelines (2016) and its Modalities of Court-to-Court Communication (2018) would modernise judicial coordination, enhance transparency, and improve efficiency in handling cross-border insolvency matters.

Third, Section 60(5) of the IBC, with its non-obstante clause, restricts civil courts from exercising jurisdiction over insolvency matters, including cross-border cases, leaving the NCLT as the sole adjudicating authority. However, the NCLT lacks the power to recognise or enforce foreign judgments or proceedings, which significantly limits its effectiveness in managing cross-border insolvency matters. This limitation is further exacerbated by the failure to implement Rule 11 of the NCLAT Rules, 2016, for IBC matters, preventing the NCLT from exercising inherent jurisdiction or comity to address cross-border insolvency issues. To resolve these challenges and ensure effective management of cross-border insolvency cases, it is imperative to expand the powers of the NCLT.

Implementing these key recommendations will pave the way for India to develop a strong and sustainable framework for managing cross-border insolvencies.

The looming threat to federalism and democratic tenets

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The ruling government, led by the Bharatiya Janata Party/National Democratic Alliance, has been pursuing the One Nation, One Election framework (ONOE) with all seriousness. This proposal seeks to synchronise the Lok Sabha and State Assembly elections under one single electoral cycle. While the advocates of the ONOE have cited several administrative and fiscal efficiencies, its opponents point to the far-reaching consequences of this plan on the democratic and federalist character of India, as laid out in the Constitution of India.

The historical context

Simultaneous elections are not something very new in India. During the initial years after Independence, the Election Commission of India (ECI) used to conduct simultaneous elections for both Parliament and State Assemblies. But this cycle of cooperative federalism was disrupted at the very outset with the appearance and imposition of Article 356, which is popularly known as President's Rule. When this was done for the first time in Kerala in 1959, an element of federal overreach began to take hold of the Union-State relations, as the will of the Union appeared to override State autonomy. The arrangement was essentially meant to be a constitutional mechanism and provided for restoring normalcy in States where governance had become well-nigh impossible.

Article 356 was optimistically termed a "dead letter" by Dr. B.R. Ambedkar, to be used sparingly. Yet, as H.V. Kamath aptly remarked, "Dr. Ambedkar is dead, and the Articles are very much alive", reflecting the misuse that is implicit in this provision as a tool of political expediency. From 1950 to 1994, successive governments, notwithstanding their political hue, indulged in the misuse of Article 356 to the extent of dismissing 'politically obnoxious' elected State governments. Even after the S.R. Bommai case judgment, which aims to restore the federal government's rights and limit the arbitrary acts of Governors, incidents continue. Its frequent invocation – over 130 times since Independence – has distorted that purpose.

Defection has also emerged as a strong threat to the stability of State governments. Democratically-elected governments have fallen after legislators have changed sides over various enticements. It was to prevent this form of democratic erosion that the Anti-Defection Law was enacted through the 52nd Amendment Act of 1985 as part of the Tenth Schedule of the Constitution, which attracts the disqualification penalty against defectors. But there are still loopholes. The absence of any sort of time-bound framework for Speakers to decide on disqualification petitions and provisions for "group defections" has rendered the law ineffective. The result is that defections are still commonplace, leading to unconstitutional changes in regimes.

'One Nation One Election' should not become a device for the centralisation of powers; issues such as a strengthening of anti-defection laws cannot be glossed over

This is where the proposition put forward by the ONOE to align State election cycles with that of the Lok Sabha gets deeply problematic. In fact, the proposal goes all the way to make amendments in the Constitution, particularly in Articles 83 and 172, which guarantee a five-year term for Parliament and State Assemblies. Some blatant omissions in the governance regime include the misuse of Article 356 and the inadequacy of anti-defection laws. The State governments would face a much tighter squeeze in the ONOE, as their terms would be curtailed or extended to bring them in line with the national election cycle. This reduction in State autonomy is more than an administrative nuisance. It constitutes a deep attack on the federalist structure of the Constitution.

Federal structure under siege

The federal system of India, being a basic feature of Indian democracy, enables States to function as relatively independent units in solving problems of a localised nature. State elections that would have to be held along with the national elections would blur and impair the ability of electors to evaluate the performance of the State government. If the ONOE is held and if there happens to be a midterm ONOE, then State governments which were elected only for 'abbreviated' tenures would breach the democratic principle of "one person, one vote, one value". In case a State government falls midterm, say after three years, the ONOE would lead to elections for a new government that would serve only the remaining time in the synchronised electoral cycle, roughly two years.

This cuts down the tenure of a government, making the mandate of the voter of little value; a new government would not complete its full term, reducing the democratic principle of complete representation. Truncated terms are not only an issue when it comes to State governments but are also of concern to the Lok Sabha too. For instance, from the political turbulence of the mid-1990s, there were elections in 1996, 1998, and 1999.

In fact, if the ONOE had been in place, there would have been another election in 2001, which would add up to four elections in five years. The frequency of elections results in increased costs – financial, administrative, and in terms of human capital – which are not realised in the efficiency that the ONOE is touted to bring. On nominal and practical grounds, each government needs a realistic time period to analyse the existing socio-political- economic state of affairs, frame adaptive policies and do course corrections. This artificially imposed reduction in the tenure of a government could disrupt governance, resulting in negative consequences that outweigh the usual policy paralysis caused by the enforcement of the Model Code of Conduct during elections.

The challenges in terms of logistics in implementing the ONOE are monumental. India's large electorate base, of over 900 million voters, demands enormous resources to conduct elections. If the Lok Sabha, State and local body elections are aligned, the burden would increase manifold and eventually affect the ECI, security forces, and administrative machinery. The risk of voter fatigue and confusion cannot be ruled out.

Address the issues first

There needs to be reflection before the ONOE can be espoused for fiscal and administrative efficiencies. There is a need to revisit some of the systemic challenges that plague State governments. There needs to be course correction to ensure that the ONOE does not become a device for the centralisation of powers without addressing issues such as the misuse of Article 356, a strengthening of anti-defection laws, and the issue of the stability of State governments. The federal character of the Constitution is not an arrangement in procedure but a recognition of the diversity and the plurality that constitute the country. Forcing States to fall in line with a unified electoral cycle unduly erodes the autonomy of States and dilutes the democratic essence of governance.

A hurried imposition of the ONOE, without sets of systemic reforms that are necessary to stem the erosion of federalism, would indeed be a frontal attack on the Constitution's basic structure. If this does not happen, then the ONOE can even be a blot instead of being deliverance for Indian democracy.

The fact that a malfunctioning fax machine sat at the heart of a cynical operation aimed at dispensing with the elected government of Jammu and Kashmir, illuminates the frailty as well as opacity regarding certain institutional processes in India, all too sharply. A few such instances make it clear that systemic reform is the immediate need so that people become accountable to the principles of the Constitution.

As long as these foundational areas remain unsorted, the ONOE, rather than solving those structural vulnerabilities, may end up making them starker. True democratic governance requires much more than a routine exercise of simultaneous elections. It is an imperative commitment to the letter and spirit of federalism and to strengthening State governments as equal partners in the federal polity of India.

India 'protests' new Chinese counties in Ladakh

- Beijing forms 2 new counties in Hotan prefecture that incorporate territory of India's Ladakh
- India has 'never accepted' illegal Chinese occupation in this area, says the Ministry of External Affairs
- MEA raises 'concerns' over announcement of mega dam project over Yarlung Tsangpo

Kallol Bhattacherjee
NEW DELHI

India has lodged a "solemn protest" with China over the formation of two counties in the Hotan prefecture that incorporates territory of India's Ladakh.

Speaking to reporters during the weekly briefing on Friday, Ministry of External Affairs (MEA) spokesperson Randhir Jaiswal reminded China that India "never accepted" Beijing's "illegal occupation of Indian territory in this area".

Concerns conveyed

He further stated categorically that India has also conveyed its "concerns" about the building a mega hydro power project in the upstream Yarlung Tsangpo, which is the Tibetan name of Brahmaputra, that flows through Arunachal Pradesh and Assam.

"We have never accepted the illegal Chinese occupation of Indian territory in this area. Creation of new counties will neither have a bearing on India's long-standing and consistent position regarding our sovereignty over the area nor lend legitimacy to China's illegal and forcible occupation of the same," said Mr. Jaiswal. "We have lodged a solemn protest with the Chinese side through diplomatic channels," he said.

The protest from the Indian side came after Chinese news agency Xinhua reported on December 27, 2024 that the authorities in northwest Xinjiang Uyghur Autonomous Region had declared the formation of

Fresh row: New counties in Hotan will have no bearing on India's sovereignty over the area, says MEA spokesperson. GETTY IMAGES

He'an County and Hekang County, in the Hotan prefecture. The Hotan prefecture contains parts of Aksai Chin that India accuses China of occupying and formation of the two new counties appears like Beijing firming up administrative measures in the region.

India-China meet

The protest from the Indian side is significant as it comes against the backdrop of the December 18, 2024 meeting between the Special Representatives for the border mechanism – National Security Adviser Ajit Doval and Chinese Foreign Minister Wang Yi.

The meeting is to resolve the tension that erupted in eastern Ladakh in June 2020 that has since been termed the 'Galwan clashes'.

In another significant turn, Mr. Jaiswal categorically spelt out India's concern on the announced mega dam project over Yarlung Tsangpo in the deep gorges of the eastern Himalayas that fall under Chinese control. "As a lower riparian state with established user rights to the waters of the river, we have consistently expressed, through expert-level as well as diplomatic channels, our views and concerns to the Chinese side over mega projects on rivers in their territory," said Mr. Jaiswal.

World's largest dam

Chinese news agency Xinhua had earlier announced that Beijing has approved the construction of the world's largest dam, estimated at $137 billion on the Brahmaputra river in Tibet close to the Indian border.

The Chinese authorities have approved the construction of the hydel power project in the lower reaches of Yarlung Tsangpo. The mega dam is designed to be the largest infrastructure project in the world. Once constructed, the gigantic dam would dwarf even the Three Gorges Dam, which is now considered to be the largest. The MEA spokesperson hinted that the announcement of the dam was not communicated to India through official channels as is the norm in the case of neighbours sharing major rivers and said the Ministry of External Affairs got to know the information through a news report by Xinhua on December 25, 2024. India's view, Mr. Jaiswal said, was "reiterated, along with need for transparency and consultation with downstream countries, following the latest report."

"The Chinese side has been urged to ensure that the interests of downstream states of the Brahmaputra are not harmed by activities in upstream areas. We will continue to monitor and take necessary measures to protect our interests," said Mr. Jaiswal.

Health Ministry monitoring HMPV outbreak in China

Bindu Shajan Perappadan
NEW DELHI

The Union Health Ministry said on Friday that it was closely monitoring the alleged outbreak of Human Metapneumovirus (HMPV) in China. The Ministry maintained that while China had reported a rise in respiratory illness, particularly HMPV, India had not registered any unusual spike in winter respiratory diseases.

Five years after the COVID pandemic, China is experiencing a surge in HMPV cases, particularly in children under 14 years of age. Symptoms include cough, fever, and shortness of breath, with potential complications like bronchitis and pneumonia. The country has seen cases rise in its northern provinces, *Reuters* had reported. Cases of HMPV had been reported in 2011-12 in the U.S., Canada, and Europe.

The Ministry's National Centre for Disease Control is closely monitoring respiratory and seasonal influenza cases in the country and is in touch with international agencies, noted a senior official.

No cause of alarm

Meanwhile, Director-General of Health Services Atul Goel told presspersons on Friday that no case of the respiratory illness – HMPV – has been reported in the country yet. Stating that the Union government was closely monitoring news about the possible HMPV outbreak in China, he added that as of now, there was no cause for alarm.

"HMPV is like any other respiratory virus that causes flu-like symptoms, mostly in the elderly and children," said Dr. Goel, adding that respiratory illnesses are common during winters and that hospitals in India are equipped to deal with them. "Special medicines are not needed because there are no antiviral drugs against this. There are no major cases, in hospitals or as per Indian Council of Medical Research data," he added.

Under watch: The Ministry said it is closely monitoring respiratory and seasonal influenza cases in the country. FILE PHOTO

According to the Centers for Disease Control and Prevention, the public health agency of the United States, HMPV can cause upper and lower respiratory disease in people of all ages, especially among young children, older adults, and people with weakened immune systems.

Discovered in 2001, the HMPV belongs to the Pneumoviridae family along with respiratory syncytial virus (RSV).

Broader use of molecular diagnostic testing has increased identification and awareness of HMPV as an important cause of upper and lower respiratory infection.

Symptoms commonly associated with the virus include cough, fever, nasal congestion, and shortness of breath. Clinical symptoms of HMPV infection may progress to bronchitis or pneumonia and are similar to other viral infections that cause upper and lower respiratory infections. The estimated incubation period is three to six days, and the median duration of illness can vary depending upon severity but is like other respiratory infections caused by viruses.

The HMPV is most likely to spread from an infected person to others through secretions from coughing and sneezing, and close personal contact such as touching or shaking hands, touching objects or surfaces that have the viruses on them before touching the mouth, nose, or eyes.

In the U.S., the HMPV circulates in distinct annual seasons. HMPV circulation begins in winter and lasts until or through spring.