DAILY NEWSPAPER ANALYSIS

DATE - 19/02/2026

SOURCE
THE HINDU & INDIAN EXPRESS

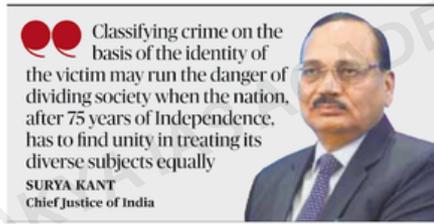# SC asks govt. to consider plea to treat 'racial slur' as a hate crime

The Supreme Court on Wednesday disagreed with the notion of pigeonholing crime on the basis of race and region, saying it would fuel polarisation, while hearing a petition seeking comprehensive guidelines to recognise 'racial slur' as a separate category of hate crime.

Chief Justice of India Surya Kant, heading a three-judge Bench, said crime, whoever was on either end of it, should be dealt with an iron hand.

Classifying crimes based on a victim's identity could risk dividing society, Chief Justice Kant said, adding that 75 years after Independence, the nation must find strength and unity in treating all its diverse citizens equally.

Parting words

The court asked Attorney-General R. Venkataramani to consider the petition and refer it to an appropriate authority.

The petition was filed by advocate Anoop Prakash Awasthi in the aftermath of shock and public grief over the fatal attack on Anjel Chakma, a 24-year-old MBA student from Tripura, by a group of men in Uttarakhand.

Chakma was attacked after he resisted heckling while out shopping with his younger brother. He died under medical treatment on December 27, 2025, never regaining consciousness. The petition recounted Chakma's tragic words to his attackers, "We are Indians. What certificate should we show to prove that?"

'Can't walk away'

The petitioner urged the Supreme Court "that we must do something" and said people cannot shrug and walk away when somebody was being beaten up by a mob.

He had argued that the new bouquet of criminal laws, including the Bharatiya Nyaya Sanhita, hardly addressed the issue of hate crime, racial discrimination, and violence against Indian citizens, especially from the northeastern States and other frontier regions.

> Classifying crime on the basis of the identity of the victim may run the danger of dividing society when the nation, after 75 years of Independence, has to find unity in treating its diverse subjects equally
>
> **SURYA KANT**
> Chief Justice of India

KEY HIGHLIGHTS

Context
- The Supreme Court declined to support classification of crimes separately on the basis of race or region while hearing a petition seeking guidelines to recognise "racial slur" as a distinct hate crime category.
- The petition was filed after the fatal assault of a student from Tripura in Uttarakhand.
- The Court observed that crime must be dealt with strictly irrespective of identity and cautioned against identity-based categorisation that could deepen social divisions.
- The matter was referred to the Attorney-General for consideration by an appropriate authority.

Key Exam-Relevant Points
- No standalone hate crime law in India.
- Bharatiya Nyaya Sanhita (BNS), 2023 contains provisions penalising:
  - Promoting enmity between groups.
  - Acts prejudicial to harmony.
  - Assault, grievous hurt, murder.
- NCRB does not maintain a separate nationwide category exclusively for "racial hate crimes."
- Bezbaruah Committee (2014) recommended:
  - Specific legal provisions to address racial discrimination against persons from North-East India.
  - Sensitisation of police and public authorities.

Constitutional Provisions
- Article 14 – Equality before law and equal protection of laws.
- Article 15(1) – Prohibits discrimination on grounds of religion, race, caste, sex, place of birth.
- Article 19(2) – Reasonable restrictions on speech in the interest of public order.
- Article 21 – Protection of life and personal liberty.
- Article 51A(e) – Fundamental Duty to promote harmony and brotherhood transcending regional or sectional diversities.

International Dimension
- India is a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
- Requires states to condemn and eliminate racial discrimination.

Issues Analysis
1. Legal Debate
- Whether motive-based classification (hate crime) strengthens deterrence.
- Challenge of proving discriminatory intent in court.
2. Constitutional Morality vs. Social Reality
- Balancing formal equality (Article 14) with substantive protection for vulnerable groups.
3. Federal and Administrative Angle
- Law and order is a State subject (Seventh Schedule, List II).
- Need for coordinated action between Union (policy guidance) and States (enforcement).

Way Forward
- Strengthen enforcement of existing BNS provisions.
- Implement Bezbaruah Committee recommendations.
- Improve NCRB data classification for motive-based crimes.
- Sensitisation training for police (BPR&D framework).
- Promote constitutional values through education and awareness.

DGCA proposes swift ban on disruptive passengers

Airlines will be able to ban unruly passengers for 30 days without any referral under the proposed amendments to the Civil Aviation Requirement; regulator invites comments from stakeholders

S. Vijay Kumar
CHENNAI

Airline operators may soon be empowered to directly impose a flying ban of up to 30 days on unruly or disruptive passengers without referring the matter to the competent authority.

The Directorate General of Civil Aviation (DGCA) has proposed amendments to the Civil Aviation Requirement provisions governing the handling of unruly or disruptive passengers, emphasising that even a single disruptive passenger can jeopardise safety on board and adversely affect flight operations.

Under the proposed revision, airlines will be authorised to impose a flying ban not exceeding 30 days on passengers found guilty of disruptive behaviour during a flight without prior referral to an independent committee.

The DGCA said the definition of disruptive acts included smoking on board, consumption of alcohol on domestic flights, tampering with emergency exits, unauthorised use of life-saving equipment such as life jackets, engaging in protests or sloganeering, and unruly conduct arising from intoxication. Additionally, screaming, causing annoyance to fellow passengers, and kicking or banging seat backs or tray tables have also been categorised as disruptive behaviour. Airlines will be re-quired to maintain a database of such passengers and inform the DGCA about any flying ban imposed. However, passengers banned under this provision would not be included in the regulator's official "No Fly List".

The aviation regulator has invited comments from stakeholders on the proposed amendments issued under Rule 133A of the Aircraft Rules, 1937.

Currently, airlines must refer cases of disruptive conduct to an independent committee. The committee is required to examine the matter and give its decision within 45 days before a flying ban can be enforced. The revision seeks to streamline the process, enabling airlines to act swiftly in the interest of passenger safety.

Aerial decorum

Under the proposed revision, airlines would be authorised to impose a flying ban not exceeding 30 days on passengers found guilty of disruptive behaviour during a flight without prior referral to the existing independent committee mechanism

Disruptive acts include:
- Consumption of alcohol on domestic flights
- Smoking on board
- Tampering with emergency exits
- Engaging in protests or sloganeering
- Unruly conduct arising from intoxication

While airlines will inform the DGCA about any flying ban imposed and maintain a database of such passengers, the ban does not add passengers to the regulator's official No Fly List

KEY HIGHLIGHTS

What Is the News?
- The Directorate General of Civil Aviation (DGCA) has proposed amendments to the Civil Aviation Requirements (CAR) issued under Rule 133A of the Aircraft Rules, 1937.
- The proposal allows airlines to directly impose a flying ban of up to 30 days on passengers who behave in a disruptive manner during a flight — without first referring the case to an independent committee.

What Is the Current System?
At present:
- If a passenger behaves in a disruptive manner:
  - The airline refers the case to an internal committee.
  - The committee must give its decision within 45 days.
  - Only after this decision can the airline impose a ban.

This system is considered time-consuming and less effective as a deterrent.

What Change Is Being Proposed?
Under the proposed amendment:
- Airlines can immediately impose a temporary ban (maximum 30 days).
- No prior approval from an independent committee is required.
- Airlines must:
  - Maintain a record/database of banned passengers.
  - Inform DGCA about the ban imposed.
- Such passengers will not automatically be placed on the official DGCA "No-Fly List."

The aim is to enable swift action to ensure passenger safety and smooth flight operations.

What Is Considered Disruptive Behaviour?
According to DGCA, disruptive acts include:
- Smoking onboard.
- Consuming alcohol on domestic flights.
- Tampering with emergency exits.
- Unauthorized use of safety equipment (like life jackets).
- Protests or sloganeering during flight.
- Intoxicated unruly conduct.
- Screaming or creating disturbance.
- Kicking/banging seats or tray tables.

Even one disruptive passenger can:
- Distract the crew,
- Endanger safety,
- Force flight diversion,
- Cause financial and operational losses.

Legal Basis of the Proposal
The DGCA derives its authority from:
- Aircraft Act, 1934
- Aircraft Rules, 1937

It issues regulations under delegated legislation powers (Rule 133A).

This is an example of executive rule-making under parliamentary authority.

Constitutional Dimensions
The proposal must comply with Fundamental Rights:

Article 19(1)(d)
- Guarantees freedom of movement.
- However, it allows reasonable restrictions in public interest.
- Air travel is not an absolute right.

Article 21
- No person can be deprived of personal liberty except by fair, just and reasonable procedure.
- After the landmark case
- Maneka Gandhi v. Union of India,
- administrative decisions must not be arbitrary.

Article 14
- Ensures equality before law.
- Prohibits arbitrary state action.

Thus, any ban must be:
- Proportionate,
- Non-arbitrary,
- Fairly applied.

Why Is This Important?
Positive Aspects
- Faster enforcement.
- Stronger deterrence against misconduct.
- Enhances flight safety.
- Reduces procedural delays.

Concerns
- Risk of arbitrary or inconsistent action by airlines.
- Need for proper appeal mechanism.
- Importance of safeguarding natural justice.

SC panel to guide judges on sensitivity, compassion

Krishnadas Rajagopal
NEW DELHI

Over a year after a High Court judge used explicit language to narrate a sexual assault on a minor girl in his judicial order, the Supreme Court has assigned the Director of the National Judicial Academy, Justice Aniruddha Bose (retd.), to draw guidelines to infuse the qualities of sensitivity and compassion in judges, especially in the context of vulnerable cases.

A three-judge Bench headed by Chief Justice of India Surya Kant directed Justice Bose, a former top court judge, to include legal practitioners, academics, and social workers in the expert committee.

The court said the committee report should be comprehensive and written in simple language, without any legal jargon. It said there was no point to such an exercise if the victims, whose rights the exercise seeks to protect, did not understand a word of the report. The Bench said the report should be translated into regional languages and submitted in the apex court.

The court highlighted that there were several offensive words and expressions in local dialects which are used casually in society.

'Offensive words'
However, the use of these words also constitute an offence under the penal laws. The Bench said it was time to spread awareness about how such expressions were a violation of the rights of victims of sexual assault.

"It shall be highly appreciated if the committee, as a part of its report, is able to identify and compile such words/expressions, from different languages, so that they do not go unnoticed, and the complainants/victims are empowered to give a better and fuller narrative of the trauma undergone by them," the judgment, authored by Chief Justice Kant, observed.

The judgment was triggered by a petition filed by an NGO 'We the Women of India', represented by senior advocate Shobha Gupta, and other members of the Supreme Court Bar, including senior advocate H.S. Phoolka about a March 17, 2025 order passed by a Single Judge Bench of the Allahabad High Court.

In a case of sexual assault under the Protection of Children from Sexual Offences (POCSO) Act, the Single Judge had concluded that the "pulling down of pyjama string" did not amount to an "attempt to rape" but only a lesser charge of assault or force on a woman with intent to disrobe under Section 354B of the erstwhile Indian Penal Code.

Suo motu action
The Supreme Court had taken suo motu cognisance of the judgment as an example of how "judges and judicial officers have failed to imbibe compassion and empathy in the manner of handling matters involving sexual offences, especially when it comes to vulnerable and/or minor victims and witnesses".

"No judge or judgment of any court can be expected to do complete justice when it is inconsiderate towards the factual realities of a litigant and the vulnerabilities which they may be facing in approaching a court of law...," Chief Justice Kant observed in the judgment.

KEY HIGHLIGHTS

Context of the News
- The Supreme Court has directed Justice Aniruddha Bose (Retd.), Director of the National Judicial Academy, to frame guidelines to ensure sensitivity and compassion in judicial orders, particularly in sexual offence cases.
- The direction followed a controversial March 2025 judgment of the Allahabad High Court in a POCSO case.
- The Court took suo motu cognisance, observing that judges must imbibe empathy while dealing with vulnerable victims.
- The expert committee will include legal practitioners, academics, and social workers.
- The report must be written in simple, non-technical language, translated into regional languages.
- The committee will compile offensive expressions from different languages that undermine the dignity of sexual assault survivors.

Key Points
- POCSO Act, 2012
  - Special law to protect children from sexual offences.
  - Provides for child-friendly procedures during investigation and trial.
  - Special Courts for speedy trial.
- Section 354B IPC (now under BNS equivalent)
  - Assault or use of criminal force to woman with intent to disrobe.
- Suo Motu Cognisance
  - Power of constitutional courts to take action on their own.
- National Judicial Academy
  - Apex body for training judicial officers.
  - Works under the guidance of the Supreme Court.
- Constitutional Provisions
  - Article 14 – Equality before law.
  - Article 21 – Right to life includes dignity.
  - Article 15(3) – Special provisions for women and children.
  - Article 142 – Supreme Court's power to do complete justice.

Key Points
- Emphasis on trauma-informed judicial approach.
- Recognition that language used in judgments can violate dignity.
- Shift towards victim-centric jurisprudence.
- Judicial training reform through institutional mechanisms.
- Promotion of constitutional morality over social morality.

Static Linkages
- Expansion of Article 21 in Maneka Gandhi case – Due process.
- Vishaka Guidelines – Gender-sensitive interpretation of rights.
- Justice Verma Committee (2013) – Reform in sexual offence laws.
- Directive Principles: Article 39(f) – Protection of childhood.
- Fundamental Duty under Article 51A(e) – Renounce practices derogatory to women.

Critical Analysis
Significance
- Reinforces dignity as part of Article 21.
- Addresses systemic insensitivity in sexual offence adjudication.
- Promotes uniform judicial standards.
- Strengthens trust in justice delivery system.
Concerns
- Guidelines must not compromise judicial independence.
- Risk of over-standardisation of judicial reasoning.
- Implementation depends on training and monitoring.

Way Forward
- Mandatory gender-sensitivity modules in judicial training.
- Periodic evaluation of judicial language in sensitive cases.
- Integration of psychologists and social workers in trial process.
- Wider legal awareness campaigns on victim rights.
- Monitoring compliance through Supreme Court oversight.

India's moment to restoring balance to copyright

Pranesh Prakash is a tech law and policy consultant, working with think tanks, tech companies and universities.

The India-AI Impact Summit 2026 is on in New Delhi and I am reminded of a story. A former colleague, Nirmita, who is visually impaired, once found herself in an absurd legal position. She could not legally purchase a book from the United States in a disability-friendly format called DAISY (Digital Accessible Information System), even though I, as a sighted reader, was able to purchase any print or e-books I wished. This was because of the vagaries of copyright law.

To address this issue, our non-governmental organisation, together with international coalitions of disability rights organisations, engaged in years of advocacy at the international level. These efforts ultimately led to the creation of the Marrakesh Treaty, which enables the cross-border exchange of accessible-format books as well as national exceptions for visually impaired persons to use technology to convert books into accessible formats when publishers do not make them available. The copyright industry – from book publishers to the movie industry – strongly opposed the treaty, which sought to establish a 'right to read' for visually impaired persons as any exception to copyright law was viewed as fundamentally unacceptable, even if it was at the expense of denying access to the visually impaired.

It is now copyright maximalism

The struggle of visually impaired persons against overly rigid copyright laws highlights a fundamental problem: copyright has expanded far beyond its original purpose, and copyright maximalism now actively obstructs the creation of and access to knowledge. This debate has taken on a renewed vigour thanks to Artificial Intelligence (AI) models, many of which turn out to be useful only when they have large quantities of training data (which, for language models, inevitably means copyrighted works). But before looking at AI, copyright needs to be understood in a historical perspective.

We have had art for far longer than we have had copyright. The Statute of Anne, widely seen as the first copyright law, was passed in Britain in 1710, after the era of Shakespeare and Milton. The British brought copyright law to India in 1847. The current Copyright Act is from 1957. In 1710, the law granted authors a limited monopoly of 14 years, with the possibility of one renewal. The monopoly right would only vest if it was specifically registered and multiple copies of the book deposited for distribution among libraries and universities.

Under the current law, the monopoly right goes well beyond the act of publishing, vests automatically the moment 'a work' is created, and lasts for the author's entire lifetime plus 70 years posthumously. So, the thousands of random Instagram posts and notebook doodles that you have made are all protected under copyright law for centuries. While the public domain was once the default, now a nearly-perpetual copyright monopoly is the default, regardless of the commercial potential of the work or ambitions of the creator. This fundamental change in the nature of the law has deleterious consequences.

Findings from a study

As part of a research project by LIRNEasia, a Sri Lankan think tank, we studied the data governance regimes of seven countries in South and Southeast Asia. With respect to copyright, we found that in four out of seven, the law made web search engines and AI training illegal. Web search engines need to copy as much of the Web as they can (a process called 'crawling'), effectively creating a mirror copy of all that is reachable on the web through links, but permissionless copying is prohibited by copyright law. Except in the Philippines and Sri Lanka (which have a flexible 'fair use' exception) and India (which, in 2012, introduced a specific exception for the 'transient or incidental storage' for 'providing electronic links, access or integration'), no other country in our study provided an exception, meaning AI training is effectively illegal in most countries we surveyed.

This does not make sense. Web search engines and AI models do not view copyrighted materials as scribblings or poems or art the way humans do; for programs, it is merely 'data' for statistical purposes. Recognising this, many jurisdictions such as the European Union, Japan and Singapore have adopted 'text and data mining' exceptions in their copyright regimes, while others such as Hong Kong and South Korea are in the process of doing so. Japan's law allows for an exemption for "Exploitations not for enjoying the ideas or emotions expressed in a work" (i.e., use by machines), and permits "using the work in data analysis". This is sensible: copyright was never meant to cover mechanistic uses.

By not allowing for a broad text and data-mining exception, India has created a pall of legal uncertainty over the collection of the training data for many forms of AI. And by not having a flexible, general and open-ended exception (as countries such as Singapore and the United States do), India ensures that copyright law will always hamper technological developments.

There are separate concerns around the outputs of generative AI substituting creative labour. But copyright is meant to be about encouraging creativity, not about protecting jobs. Further, copyright law has never prohibited learning from examples and imitating – every artist studies predecessors, and every writer reads widely. Technology has always displaced jobs – we have far fewer rickshaw pullers, telegraphists, punkhawallahs, stenographers, lift operators, bank tellers, typesetters, darkroom technicians and draughtsmen – yet, it has created new jobs as well. The advent of photography reduced the demand for portraitists, but enabled new forms of creativity and access to knowledge. We do not know what the impact of generative AI will be: we might, in the future, need greater government grants for arts and culture, or to strengthen the cooperative movement, potentially funded by taxes from large AI companies. But these ought not be dealt with in copyright law.

Creativity, access should be promoted

What copyright law should protect, however, are contributions to the commons. Open-licensed AI models and datasets exemplify this – developers and researchers absorbing massive computational costs to create what enables others to be creative. These models add to the common heritage of mankind rather than subtracting from it. Copyright law should encourage such contributions, not hinder them with the same restrictions designed to prevent commercial exploitation. Governments are also uniquely positioned to curate high-quality locally-relevant datasets for public benefit, they should establish safe harbour provisions that protect such datasets from copyright claims, at least when used for training open-source models.

We have seen copyright law repeatedly being weaponised to block beneficial technologies under the guise of protecting creators. The Authors Guild in the U.S. used copyright to block Amazon Kindle's "Read Aloud" function, despite it being assistive technology that enabled visually impaired persons to listen to books they had legally purchased. Current copyright law blocks technologies that could democratise access to knowledge, unleash creativity, and drive innovation – the very things that copyright was meant to foster. India's hosting of the AI Summit is the moment to act: it must lead efforts for all nations to adopt flexible exceptions that serve creators and the public, rather than the copyright industry. We need to bring copyright law into the 21st century by returning to its roots.

This article is based on research funded by LIRNEasia, based on a grant from IDRC, a Canadian taxpayer funded research donor. The views expressed are personal

Rigid copyright laws are undermining access, creativity and technological progress

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KEY HIGHLIGHTS

Context of the News
- The India–AI Impact Summit 2026 in New Delhi has renewed debate on AI governance and data regulation.
- Concerns raised regarding:
  - Legality of AI training on copyrighted content.
  - Need for Text and Data Mining (TDM) exceptions.
- Historical struggle for accessibility rights led to the adoption of the Marrakesh Treaty.
- India amended the Copyright Act, 1957 in 2012 to expand disability and digital exceptions.
- Debate now extends to whether India should introduce a broader AI-friendly copyright regime.

Key Points
- First modern copyright law: Statute of Anne (1710).
- Indian copyright protection period:
  - Life of author + 60 years.
- Section 52 of Copyright Act:
  - Provides "fair dealing" exceptions.
  - Allows transient or incidental storage.
  - Permits accessible formats for persons with disabilities.
- India ratified Marrakesh Treaty in 2014.
- AI training requires:
  - Web crawling.
  - Large-scale data copying (temporary reproduction).
- Countries with explicit TDM exceptions:
  - EU, Japan, Singapore.
- India currently lacks explicit TDM provision.

Static Linkages
- Article 19(1)(a) – Freedom of speech and expression (includes right to receive information).
- Article 21 – Expansive interpretation includes dignity and meaningful access to knowledge.
- Article 41 – Assistance to disabled persons.
- TRIPS Agreement – Minimum standards for IP protection.
- NITI Aayog (2018) – "AI for All" vision.
- Digital Public Infrastructure (DPI) model – India Stack precedent.

Critical Analysis
Arguments for Reform
- Promotes innovation and AI startups.
- Reduces legal uncertainty.
- Enhances accessibility and inclusion.
- Aligns with Digital India & AI leadership goals.
- Encourages open-source ecosystem.

Concerns
- Potential erosion of authors' economic rights.
- Risk of misuse by large tech corporations.
- Generative AI may substitute creative labour.
- Absence of clear regulatory safeguards.

Ethical Dimension
- Balance between:
  - Incentivising creativity.
  - Ensuring public access to knowledge.
- Accessibility as a matter of social justice.

Way Forward
- Introduce explicit Text and Data Mining (TDM) exception.
- Provide safe-harbour for non-commercial AI training.
- Promote open-licensed public datasets.
- Strengthen compensation mechanisms for creators.
- Align copyright law with emerging AI regulatory framework.
- Periodic review of IP laws in light of technological change.

AI for people, applying technology for social good

Artificial intelligence (AI) is rapidly transforming our lives, including how we work. The question is not whether AI will change jobs – it is already doing so – but whether this transformation will be shaped in ways that advance social justice, decent work and shared prosperity. As India hosts the AI Impact Summit in New Delhi – the first of its kind in the Global South, coinciding with the World Day of Social Justice observed on February 20 – we take the opportunity to call for a human-centred AI that serves people and drives inclusive social development.

By its scale and impact, India's AI journey stands at a critical moment, offering a compelling laboratory for what lies ahead. The country now has the world's largest share of monthly active users of the ChatGPT mobile application and one of the largest user bases for advanced AI platforms. By 2030, AI could generate more than three million new technology jobs in India while reshaping over 10 million existing ones. India illustrates both the scale of transformation and the promise of responsible AI deployment for social justice, job creation, economic inclusion and growth.

Divided discourse

Globally, debates on AI are increasingly polarised. Some narratives emphasise the potential for surging productivity growth, while others focus on job losses, rising inequality and governance gaps. Yet, both perspectives overlook a fundamental truth: technology alone does not determine outcomes, human beings do. This is why the way AI is governed – through inclusive institutions, social dialogue and democratic participation – matters as much as the technology itself.

When deployed inclusively and responsibly, AI can help reduce inequalities, expand access to training, employment and social protection, and improve workplace safety and conditions – benefiting workers and enterprises alike. To support this agenda, the International Labour Organization (ILO) is working together with India and other partners of the Global Coalition for Social Justice, which includes a global network of AI observatories to strengthen evidence and

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is Director-General of the International Labour Organization (ILO)

Artificial intelligence must help advance social justice, inclusive work, and equitable growth

support decision-making. Evidence from the ILO – the leading normative agency on labour standards – suggests that AI will profoundly reshape the world of work, not by replacing jobs wholesale, but by transforming roles in ways that can enhance productivity, drive innovation and improve organisational performance. Around one in four workers globally is employed in occupations exposed to generative AI, yet more roles are likely to be transformed rather than replaced. To maximise these opportunities, effective policy and governance frameworks are essential, along with meaningful worker participation and strong social dialogue to ensure that innovation promotes equitable and inclusive outcomes across the world of work.

Tech for good, AI impact

There are compelling examples of how technologies, including AI, can strengthen social justice and decent work. For instance, India's e-Shram platform, which enables over 315 million informal workers to register for social protection schemes. With the ILO's technical collaboration on the inclusion of major central and states schemes, India has increased its social protection coverage from 19% in 2015 to 64.3% in 2025. Building on this success, major investments, such as Microsoft's $17.5 billion commitment to AI diffusion, are supporting the integration of AI into e-Shram and the National Career Service portal. This approach has the potential to benefit India's informal workers by improving access to jobs, skills development and social protection.

Aligned with the vision of leveraging AI for inclusive and human-centred development, the Government of India has been proactive in preparing the country for the future of work by advancing transformative technologies through initiatives such as the AI Mission, National Quantum Mission, Anusandhan National Research Fund and the Research, Development and Innovation Fund.

Recognising that technological progress must translate into inclusive growth and quality

employment, the Union Budget 2026-27 has announced the formation of a High-Powered 'Education to Employment and Enterprise' Standing Committee to assess the impact of emerging technologies, including AI, on employment and skill requirements. It will also recommend targeted measures to embed AI education, from the school-level onwards, and enable AI-driven matching of workers with jobs and training opportunities. Through these forward-looking measures, India is positioning itself not only to harness AI for social good domestically but also to serve as a model for the Global South in building an inclusive, future-ready digital economy.

AI access remains unequal

AI exposure around the world is, however, uneven with persistent gaps in access to technology and skills across regions and within countries, genders, age groups and social categories. In low-income countries, only about 11.5% of employment is exposed to generative AI, compared with roughly one-third in high-income economies. These differences reflect variations in economic structures and underscore the need for tailored policy approaches rather than one-size-fits-all solutions. Targeted public investment in skills development, digital infrastructure and social protection, alongside international collaboration and solidarity, are essential to ensure that AI fosters greater inclusion and expands opportunity across all countries.

The convergence of the AI Impact Summit and the World Day of Social Justice is a reminder that technology should primarily serve workers and societies. AI is moving faster than our institutions, but it does not absolve us from our collective responsibility. The task ahead is to align technological ambition with social purpose so that innovation strengthens trust, inclusion and dignity at work. Through such an approach, AI will not only reaffirm why work matters but also its intrinsic value as a source of dignity and social cohesion, and its fundamental role in building peaceful and socially just societies.

KEY HIGHLIGHTS

Context
- India hosted the AI Impact Summit in New Delhi, coinciding with World Day of Social Justice (February 20) observed by the United Nations.
- The summit emphasized a human-centred AI framework to ensure social justice, decent work and inclusive growth.
- The International Labour Organization (ILO) highlighted that AI is more likely to transform jobs rather than replace them entirely.
- India has emerged as one of the largest user bases of generative AI platforms globally.
- By 2030, AI could generate 3 million+ new tech jobs in India while reshaping over 10 million existing roles (NITI Aayog/industry projections).

Key Points
- AI Exposure:
  - ~25% of global workers employed in occupations exposed to generative AI (ILO estimates).
  - Exposure: ~33% in high-income countries; ~11.5% in low-income countries.
- Social Protection Expansion in India:
  - Coverage increased from 19% (2015) to 64.3% (2025) (ILO data).
  - e-Shram portal: 31+ crore informal workers registered.
- Government Initiatives:
  - IndiaAI Mission – Indigenous AI ecosystem.
  - National Quantum Mission – Frontier tech advancement.
  - Anusandhan National Research Foundation – Strengthening R&D.
  - Union Budget 2026–27: Proposal for "Education to Employment and Enterprise" Standing Committee.
- Labour & Legal Framework:
  - Social Security Code, 2020 includes gig & platform workers.
  - ILO's Decent Work Agenda (1999).

Static Linkages
- Article 38 – Promote welfare of the people.
- Article 39(a) – Right to adequate livelihood.
- Article 41 – Right to work, education, public assistance.
- Article 43 – Living wage and decent conditions of work.
- Directive Principles – Social & economic justice.
- Digital India & Skill India Mission.
- NEP 2020 – Emphasis on digital & AI skills.
- Economic Survey – Technology-driven productivity growth.

Critical Analysis
Opportunities
- AI-driven productivity growth.
- Improved job matching & skilling (AI-based platforms).
- Expansion of social protection databases (e-Shram integration).
- Global leadership opportunity for India in Global South.

Challenges
- Digital divide (rural-urban, gender gaps).
- Informal workforce vulnerability (90%+ of workforce informal).
- Data privacy & algorithmic bias concerns.
- Skill mismatch & job polarization.
- Governance lag behind technological pace.

Stakeholders
- Workers (formal/informal, gig).
- Employers & MSMEs.
- Government (regulatory & welfare role).
- International bodies (ILO, UN).

Way Forward
- Institutionalise tripartite social dialogue (Govt–Employers–Workers).
- Invest in AI skilling from school to higher education.
- Strengthen digital infrastructure in rural India.
- Develop AI governance aligned with constitutional values.
- Expand portability of social protection for gig workers.
- Promote public-private partnerships for AI diffusion.

Troubled waters

Concerns about the Great Nicobar project should have got a fair appraisal

Proponents of the controversial Great Nicobar Project will be enthused by an order from the Kolkata bench of the National Green Tribunal (NGT) ruling that all environmental safeguards are in place, that the potential impact of this gargantuan project on resident native populations of the region is duly accounted for, and the project's "strategic utility" is reason enough for the government to not be fully transparent with what it shares in the public domain. But the dominant narrative around the project mirrors the classic development versus environment conflict of a pristine Pandora being ravaged for the greed of far-away mainlanders. The Great Nicobar Island Project (GNIP) envisages a trans-shipment port, an international airport, township development, and a 450 Megavolt-Amperes (MVA) gas and solar-based power plant. In the early 20th century, the British Phosphate Commissioners (a joint venture of the U.K., Australia, and New Zealand) began large-scale phosphate mining for fertilizer on Nauru and Banaba in the Pacific Ocean. By 1945, the island had been so physically devastated by strip mining that it was deemed uninhabitable. The native Banabans were forcibly relocated to Rabi Island in Fiji, over 2,000 kilometres away. Today, Banaba is a desolate landscape of jagged limestone "pinnacles" and the displaced population is fighting for the rehabilitation of its homeland. These serve as historical precedents for why economic logic alone cannot dictate actions in remote territories. Though accorded an environment and preliminary forest clearance by the Union Environment Ministry, concerns about the potential loss of biodiversity, tree-felling, and impact on resident tribes prompted the NGT to order a review of the environmental aspects of the project.

Independent scientists and environmentalist groups have said that the felling of tracts of pristine tropical forest – nearly nine lakh trees across 130 sq.km – for this project would significantly harm the biodiversity of the region and constitute an irreparable loss. This is not counting the disturbance to leatherback turtle nesting grounds and the assault on the corals. There was also the contested matter of whether the community rights of the local Shompen and the Nicobarese tribes were fully settled under the requirements of the Forest Rights Act. Recently, members of the Tribal Council said they were being coerced to sign "surrender certificates" that implied their consent to large parts of their land being diverted for the project. The NGT order essentially rubber-stamps the government's appraisal process without independently examining the concerns raised. It only imposes faith that the government will be a conscientious executor of the project. Whether the Great Nicobar Project is a 'net good' can only be judged by future generations, but the lack of a process that offers a fair appraisal of independent concerns bodes ill for the present.

KEY HIGHLIGHTS

Context

- The Kolkata Bench of the National Green Tribunal (NGT) upheld environmental and forest clearances granted to the Great Nicobar Island Project (GNIP).
- The Tribunal observed that environmental safeguards are in place and cited the project's strategic importance.
- GNIP includes:
  - International transshipment port (Galathea Bay)
  - Greenfield international airport
  - Township development
  - 450 MVA gas & solar power plant
- Project clearance granted under:
  - Environment Protection Act, 1986
  - Forest (Conservation) Act, 1980
  - Wildlife Protection Act, 1972
- Concerns raised regarding:
  - Felling of ~9 lakh trees (approx. 130 sq. km forest diversion)
  - Impact on Shompen (PVTG) and Nicobarese tribes
  - Leatherback turtle nesting sites
  - Coral ecosystems

Key Facts

- Location: Southernmost island of India (Indira Point).
- Biosphere Reserve: Great Nicobar Biosphere Reserve (UNESCO Man & Biosphere Programme).
- Tribal Communities:
  - Shompen – Particularly Vulnerable Tribal Group (PVTG)
  - Nicobarese
- Ecological Features:
  - Tropical evergreen forests
  - Endemic species
  - Leatherback turtle (IUCN: Vulnerable)
- Strategic Relevance:
  - Close to Malacca Strait (global shipping chokepoint)
  - Part of India's Indo-Pacific maritime strategy

Static Linkages

- Article 48A – State shall protect and improve environment.
- Article 51A(g) – Fundamental duty to protect natural environment.
- Doctrine of Sustainable Development.
- Precautionary Principle (Vellore Citizens Welfare Forum case).
- Doctrine of Public Trust (MC Mehta cases).
- Forest Rights Act, 2006 – Community forest resource rights.
- CRZ Notification under Environment Protection Act.
- PVTG criteria – pre-agricultural technology, low literacy, stagnant population.

Critical Analysis

Arguments in Favour
- Strategic maritime leverage near Malacca Strait.
- Boost to port-led development and Blue Economy.
- Employment and infrastructure in remote UT.
- Strengthening India's Indo-Pacific presence.

Concerns
- Large-scale forest diversion in biodiversity-rich zone.
- Threat to endemic flora & fauna.
- Impact on PVTGs and tribal consent under FRA.
- Disaster vulnerability (tsunami-prone zone – 2004 experience).
- Limited transparency citing "strategic utility".

Governance Concerns
- Whether environmental appraisal was sufficiently independent.
- Balancing national security with environmental democracy.
- Inter-generational equity implications.

Way Forward

- Strict compliance with Forest Rights Act provisions.
- Independent ecological impact reassessment.
- Phased and minimal-impact development model.
- Biodiversity offset and habitat restoration mechanisms.
- Transparent monitoring under NGT supervision.
- Disaster-resilient infrastructure planning.
- Community-based participatory governance.

Kashmir revival

Tourism that benefits locals can help counter the terrorist ecosystem

The April 2025 Pahalgam attack forced India to confront the fact that tourism recovers only when visitors can predict what will happen to them and local communities see credible benefits from keeping the sites open. Following the attack, the local administration closed 48 government-approved tourist sites, later reopening them in phases, including 14 on February 16. Tourists have rated the Kashmir Valley as relatively safe overall while still differentiating types of risk, which means that tourism policy in the region needs to focus on what visitors can be certain about and whether the state has a fixed and lucid rationale for closing or reopening sites. In the Union Budget 2026-27 announcement, Finance Minister Nirmala Sitharaman described a two-pronged plan to enhance tourism: institutional capacity building and developing trails and heritage sites. She also singled out the development of ecologically sustainable mountain trails in Jammu and Kashmir, which is good because formal trails admit better management, including ticketing, permits, deployment of rangers, and medical facilities, and reduce fragility by diversifying the 'Kashmir experience'. Kashmir could also do with a third prong: it is a biodiverse region that has become heavily militarised and shared environmental governance can help build trust.

The central government should consider paid civic roles rather than relying only on volunteer awareness campaigns, using protocols that forest protection committees already implement around protected areas. These can include trail maintenance, waste management, guiding, fire watch, and (wildlife) conflict mitigation. An influx of tourists can jolt the local economy to provide more and better services, so that over time, more families are incentivised to speak out against terrorism that suppresses tourism. Functional sites also need clear rules, reliable permits, fast help during emergencies, working roads, clean public spaces, and good communication, and the lower disruption is the state's incentive to solve these problems. Tourism can also help reduce fear and isolation by bringing people from across India into local contact and fostering business ties. Tourism and allied services can give young people a real path into the economy by skilling or reskilling them. The people of the region deserve more civilian ownership of social stability and more negotiating power, especially one that outstrips their cause for resentment.

KEY HIGHLIGHTS

Context
- April 2025 terror attack in Pahalgam disrupted tourism in Jammu & Kashmir (J&K).
- Administration closed 48 government-approved tourist sites; reopening done in phases.
- Highlighted need for predictable closure protocols and institutional tourism governance.
- Union Budget 2026–27 announced:
  - Institutional capacity building in tourism.
  - Development of trails and heritage sites.
  - Focus on ecologically sustainable mountain trails in J&K.
- Debate expanded to include community-based environmental governance as a stabilisation tool.

Key Developments
- Closure and phased reopening of tourist sites after security incident.
- Emphasis on:
  - Formal trekking trails (permits, ranger deployment, ticketing).
  - Emergency medical facilities.
  - Structured visitor management.
- Proposal for paid civic roles for locals:
  - Trail maintenance
  - Waste management
  - Fire watch
  - Wildlife conflict mitigation
- Tourism as economic stabiliser and youth employment generator.
- Focus on diversification beyond traditional hotspots.

Static Linkages
- Sustainable development principle recognized in Indian environmental jurisprudence.
- Article 51A(g): Fundamental Duty to protect the environment.
- Disaster Management Act, 2005: Preparedness and coordinated response.
- Wildlife Protection Act, 1972; Forest Conservation Act, 1980.
- Panchayati Raj and decentralized governance for local development.
- Tourism sector has high employment elasticity (Economic Survey).
- Himalayas identified as ecologically fragile and climate-vulnerable region.
- Internal security challenges in border and conflict-prone areas.

Critical Analysis
Positives
- Predictable SOPs improve investor and tourist confidence.
- Community participation reduces alienation.
- Diversified tourism reduces ecological pressure.
- Economic incentives counter radicalisation.
- Promotes national integration.

Concerns
- Over-tourism without carrying capacity assessment.
- Coordination issues among security, forest and tourism authorities.
- Militarisation vs tourism perception dilemma.
- Climate risks in Himalayan terrain.
- Trust deficit if closures appear arbitrary.

Way Forward
- Publish transparent site closure–reopening guidelines.
- Conduct scientific carrying-capacity studies.
- Institutionalise revenue-sharing eco-tourism models.
- Integrate tourism into district disaster management plans.
- Skill development for youth in hospitality and eco-guiding.
- GIS-based monitoring of fragile areas.
- Strengthen inter-departmental coordination in UT administration.

We need a more integrated education imagination. Budget recognises that

BUDGETS ARE often read as lists: New institutions announced, capacities expanded, and allocations increased. Yet, the true measure of an education budget lies not in what it builds, but in what it enables in principle, on intellectual and social grounds. The Union Budget 2026–27, with its emphasis on design education, STEM access, university-industry linkage, and focus on scientific infrastructure, shows a clear intent: India's future competitiveness will depend less on scale alone and more on the quality and coherence of its educational ecosystem.

At a time when AI is reshaping how knowledge is produced, transmitted, and applied, education systems across the world are grappling with a common question — how do we prepare young talent not just for jobs that exist today, but for ones that will be imagined in the future, especially at a time of geopolitical shifts and an evolving policy landscape?

The solution does not lie in privileging one discipline over another, educating in silos, or in narrowly aligning education with immediate market needs. Instead, it lies in cultivating intellectual breadth, ethical grounding, and the capacity to learn across domains, qualities that have long defined strong education systems. In ancient Nalanda, for example, the university had no divisions between subjects. Everybody had to learn some basic subjects such as Astronomy, Law, Literature, Theology, and Mathematics.

Several strands of this year's Budget, taken together, gesture towards such a vision. The continued emphasis on future-ready skills, interdisciplinary learning, and innovation-led education acknowledges that technical proficiency alone is insufficient in an AI-rich world. As machines become better at recognising and interpreting patterns, human value increasingly resides in areas such as critical thinking, creativity, contextual judgement, and the ability to integrate insights across disciplines.

The Budget also recognises that the relationship between education and employment can no longer be viewed as linear or static. The announcement of a high-powered standing committee is a timely step to examine the links between education, employment, and enterprise, particularly in the context of the services sector and emerging technologies. If approached thoughtfully, such a forum can support higher education institutions still grappling with aligning curriculum, pedagogy, and infrastructure with evolving market realities.

Equally significant is the enduring focus on access and inclusion. In recent years, there has been growing and consistent participation of women in national scientific and technological projects — in building the Chenab Bridge or in ISRO's Mars Orbiter mission, for instance. Nonetheless, women in tier 2-3 regions continue to face structural barriers in STEM. Investments aimed at improving participation, particularly of young women in STEM-intensive institutions, address a structural weakness in India's talent pipeline. Diversity in classrooms is a driver of better science, better design, and better decision-making. When students from varied backgrounds encounter one another, they challenge assumptions, widen perspectives, and enrich the learning environment in ways no curriculum reform can achieve on its own.

The Budget's attention to design education and creative capabilities, especially in the eastern region, is also noteworthy. The Indian design industry is expanding rapidly, and yet there is a shortage of designers. Today, design thinking sits at the intersection of technology, arts, humanities, and social environment. Such thinking requires empathy as much as analysis. By recognising design as central to national capacity-building, policy is showing a clear commitment to democratising access and strengthening talent pipelines in next-generation fields.

Most importantly, the Budget's focus on building scientific infrastructure, particularly in astronomy, plays a transformative role. Investments in upgrading the Himalayan Chandra Telescope and advancing plans for the National Large Optical Telescope in Ladakh mark a long-awaited moment for India's astronomical community. These facilities anchor a thriving national ecosystem of researchers, and of high-tech small-scale industry. They also enable Indian scientists to lead frontier science from Indian soil and offer students direct access to world-class observational platforms.

Support for modern planetariums signals a commitment to linking the highest level of research to public awareness and communicating the excitement to younger generations.

Just as the success of the Chandrayaan-3 mission captured the imagination of students across India — making astrophysics a visible and viable career path — and as the country prepares for its first human spaceflight mission under Gaganyaan, the installation of these telescopes can play a similarly catalytic role.

What ties these diverse initiatives together is the possibility of a more integrated educational imagination. Universities must break down the walls between traditional subject categories and function as spaces where engineers learn to think ethically, scientists engage with History and Philosophy, designers grapple with social realities, and students learn to communicate across differences. This is particularly critical in the age of AI, where decisions shaped by algorithms will have deep societal consequences.

The progressive outlook provided by the National Education Policy, 2020 gave a clear direction for higher education institutions to pivot towards a more future-looking, interdisciplinary mode of education system. As the world is changing fast, higher education institutions will need to fine-tune further to align with the shifts, something the Budget has captured very well.

With a young population and growing global influence, India can redefine what educational excellence looks like in an AI world, while charting a credible path towards the Viksit Bharat mission. The Budget gestures towards this possibility by recognising that education, science, design, and inclusion are deeply interconnected. The task ahead is to ensure that these strands are woven into a coherent whole — one that prepares students not just to participate in the future, but to shape it thoughtfully and responsibly.

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SOMAK RAYCHAUDHURY

> The Budget also recognises that the relationship between education and employment can no longer be viewed as linear or static

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KEY HIGHLIGHTS

Context of the News
- Union Budget 2026–27 emphasizes:
  - Interdisciplinary education and STEM expansion
  - Design education in eastern India
  - Education–employment linkage via a proposed standing committee
  - Scientific infrastructure upgrades in astronomy
- Upgrade of Himalayan Chandra Telescope and progress on National Large Optical Telescope.
- Aligns with objectives of National Education Policy 2020.
- Comes amid rapid AI-led transformation of labour markets and India's demographic dividend phase.

Key Points
- Education is in the Concurrent List (42nd Constitutional Amendment).
- NEP 2020 target: 50% Gross Enrolment Ratio (GER) by 2035.
- Focus on:
  - STEM access, especially for women in Tier-2 & Tier-3 regions.
  - University–industry collaboration.
  - Design as a strategic economic sector.
- Scientific push:
  - Astronomy infrastructure to strengthen indigenous research.
  - Public outreach via planetariums.
- Linked national milestones:
  - Chandrayaan-3
  - Gaganyaan
  - Role of Indian Space Research Organisation.

Key Points for Mains
1. Shift from Scale to Quality
- Focus moves beyond infrastructure expansion to:
  - Intellectual depth
  - Ethical grounding
  - Interdisciplinary integration
- Recognizes AI reduces value of routine skills; increases value of:
  - Creativity
  - Critical thinking
  - Contextual judgement
2. Education–Employment–Enterprise Nexus
- Proposal for high-powered standing committee.
- Aims to reduce skill mismatch in services and emerging tech sectors.
- Supports dynamic curriculum reforms.
3. Inclusion & Gender Equity in STEM
- Addresses structural barriers for women.
- Diversity enhances:
  - Innovation output
  - Scientific productivity
  - Better policy design
4. Strategic Scientific Infrastructure
- Astronomy projects strengthen:
  - Indigenous research capability
  - High-tech MSME ecosystem
  - Global scientific collaboration
- Enhances India's soft power in science diplomacy.
5. Design Education as Economic Multiplier
- Integrates technology + humanities + social context.
- Critical for:
  - Manufacturing competitiveness
  - Start-up ecosystem
  - Digital economy

Static Linkages
- Article 21A – Right to Education.
- Article 46 – Promotion of educational interests of weaker sections.
- Demographic dividend window (Economic Survey).
- NITI Aayog: Innovation-driven growth model.
- National Skill Development Mission.
- Atmanirbhar Bharat – Technology self-reliance.
- Women in Science initiatives (DST).

Critical Analysis

Positives

- Aligns education with AI-era skill requirements.
- Promotes interdisciplinary learning.
- Strengthens scientific sovereignty.
- Encourages gender inclusion in STEM.
- Moves towards innovation-driven economy.

Concerns

- Implementation capacity in state universities.
- Faculty shortages and research funding gaps.
- Urban–rural digital divide.
- Risk of over-centralization in curriculum design.
- Coordination challenges between ministries.

Way Forward

- Strengthen faculty training in interdisciplinary pedagogy.
- Expand research funding through public–private partnerships.
- Institutionalize periodic labour market skill audits.
- Enhance digital infrastructure in Tier-2 & Tier-3 regions.
- Integrate ethics and AI governance modules across disciplines.
- Strengthen industry internships and apprenticeship pathways.

CCI vs WhatsApp is a pivotal battle in regulatory evolution

GAURAV JAKHU, PAYAL MALIK AND MARIA KHAN

DIGITALISATION OF markets has resulted in consumer data being continuously extracted from individuals' online activities. Cross-market data use generates privacy harms and may also reinforce data-driven market power through targeted advertising, and reduction of consumer surplus by employing personalised pricing.

Regulatory authorities have focused on strengthening users' rights over personal data. India's Digital Personal Data Protection Act, 2023 does so through informed consent and rights to access, correct, and erase data. However, the consumer control approach has shortcomings: The equilibrium level of data collection can still be socially excessive, and users may not be able to exercise privacy choices effectively. To be clear, excessive data extraction is a structural phenomenon driven by network effects and the bottleneck position of digital platforms that may create competition and societal harms. Against this backdrop, India's competition regulator, the Competition Commission of India (CCI), took cognisance of the competition harm in WhatsApp's 2021 policy update.

The regulator observed that WhatsApp's privacy policy update imposed a "take it or leave it" condition on users, essentially an adhesion contract, by preconditioning access on sharing of WhatsApp data with all Meta-affiliated companies. The policy update left users with no meaningful choice. The CCI imposed a penalty of Rs 213.14 crore and issued remedies including a five-year ban on data sharing by WhatsApp for advertising purposes, transparency with respect to data sharing, and the provision of an opt-out mechanism.

The National Company Law Appellate Tribunal (NCLAT) upheld the CCI's decisions on the penalty and the opt-out mechanism, but overturned the ban on data sharing for advertising purposes. The Supreme Court in a recent hearing has challenged the relief granted by NCLAT and questioned the effectiveness of WhatsApp's opt-out framework.

Whether it is the Court's recent observation that the consent mechanism is an agreement between "lion and lamb", or the NCLAT ruling — which partially upheld the CCI's decision — this marks a watershed moment in India's digital governance. The decision signals a paradigm shift in the Indian antitrust architecture as it has made privacy and data-related aspects integral to competition law enforcement. A dominant firm's practice of collecting, combining and sharing data has become increasingly relevant as such data-related practices reinforce market power. The WhatsApp update was a strategy to tie the provision of services in one market to the acceptance of a privacy policy that allowed the bundling of user data across Meta-affiliated markets. The impugned policy arose from the imbalance of power between users and WhatsApp.

When a dominant platform controls essential digital infrastructure, then the notion of consent warrants deeper scrutiny. The CCI's directives to WhatsApp and Meta not to make WhatsApp access conditional on data sharing attempts to protect competition.

Dominant firms do not always clearly disclose the extent and type of data collected, its purpose and use. This puts the firm in a unique position to gather information, far beyond what is necessary to provide the service. Compromised privacy practice is both exploitative and exclusionary. The regulator's directives have clearly gone beyond consent and data protection, and attempt to mitigate data-driven market power. It has redesigned not just how users consent but has also reshaped how digital firms operate. NCLAT, however, limited the remedies to the core issue of exploitation by restoring user choice, but did not address the entrenchment question.

A recent policy brief ('Economics of data-driven markets', ICRIER) emphasises that regulation should move beyond consent-only frameworks and address data extractivism when network effects are strong and datasets unique or accumulated through entrenched intermediation. The CCI-WhatsApp battle is clearly a pivotal chapter in India's regulatory evolution as it blends data governance and competition policy, with the court now considering the matter through a rent-seeking lens.

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When a dominant platform controls essential digital infrastructure, then the notion of consent warrants deeper scrutiny

KEY HIGHLIGHTS

Context
- The Competition Commission of India (CCI) imposed a ₹213.14 crore penalty on WhatsApp for its 2021 privacy policy update.
- The policy mandated sharing of user data with Meta and its affiliates as a condition for continued service.
- CCI held this as abuse of dominant position under Section 4 of the Competition Act, 2002.
- The National Company Law Appellate Tribunal (NCLAT) upheld the penalty and opt-out provision but removed the five-year ban on data sharing for advertising.
- The Supreme Court of India questioned the effectiveness of the opt-out framework, indicating deeper scrutiny of "consent" in digital markets.
- The issue arises in the backdrop of the Digital Personal Data Protection Act, 2023.

Key Exam-Relevant Points
- Competition Act, 2002:
  - Section 4: Prohibits abuse of dominant position.
  - Dominance is not illegal per se; abuse is.
  - Unfair conditions and leveraging dominance across markets are prohibited.
- Nature of Abuse in Digital Markets:
  - "Take-it-or-leave-it" contracts.
  - Cross-market data combination.
  - Leveraging user base to strengthen advertising dominance.
- Data as Economic Asset:
  - Data = factor of production in digital economy.
  - Network effects create entry barriers.
  - Zero-price markets still subject to competition law (data as non-monetary consideration).
- Digital Personal Data Protection Act, 2023:
  - Consent-based framework.
  - Rights: access, correction, erasure.
  - Limitation: Does not directly address market power.

Static Linkages
- Article 14 – Non-arbitrariness doctrine.
- Article 19(1)(a) – Informational autonomy.
- Article 21 – Right to Privacy (K.S. Puttaswamy case).
- Article 39(c) – Prevent concentration of wealth.
- Market failure: Monopoly, information asymmetry, network externalities.
- Economic Survey: Data as a public good/resource in digital economy.

Mains-Focused Analysis
Why It Is Significant
- Integrates privacy concerns into competition law enforcement.
- Recognizes structural dominance in digital platforms.
- Moves beyond formal consent to substantive fairness.

Issues Highlighted
- Consent between dominant platform and user may be coercive.
- Data-driven market power can reduce consumer surplus.
- Regulatory overlap between CCI and Data Protection Board.

Challenges
- Balancing innovation with regulation.
- Defining relevant market in digital platforms.
- Assessing harm in zero-price markets.

Way Forward
- Develop ex-ante rules for systemically significant digital intermediaries.
- Strengthen interoperability and data portability.
- Institutional coordination between CCI and Data Protection Board.
- Build technical capacity in algorithmic regulation.
- Promote competitive digital public infrastructure (e.g., open network models).

Finance Commission's balancing act is misleading

SHUBHAM KUMAR

DEAR EDITOR
I disagree

A fortnightly column in which we invite readers to tell us why, when they differ with the editorial positions or news coverage of 'The Indian Express'

NUMBERS CAN reassure, but they can also distract. The editorial "Finance Commission strikes a new balance" (*IE*, February 3) invites readers to take comfort in the arithmetic of the 16th Finance Commission. Fiscal federalism, however, is not sustained by ratios alone. It rests on how power, responsibility, and risk are shared between the Union and the states. On that deeper measure, the sense of balance conveyed by the editorial appears less secure than suggested.

The centrepiece of the reassurance is the decision to retain states' share in the divisible pool at 41 per cent. In isolation, this looks like continuity. But the significance of this number depends on the size of the pool to which it applies. Over the last decade, the Centre has increasingly turned to cesses and surcharges that lie outside the divisible pool and are, therefore, not shared with states. These levies have grown from a relatively small component of Union revenues to a substantial one. As a result, the effective share of states in total Union tax collections is materially lower than what the 41 per cent headline implies, even as states continue to shoulder the bulk of spending in welfare and infrastructure.

This erosion of the shared base matters more than the stability of the rate. States can plan, borrow, and reform when the rules governing their fiscal space are predictable. When the Centre's revenue strategy steadily narrows what is shareable, continuity in the devolution ratio offers limited comfort. It also complicates the Commission's emphasis on fiscal discipline at the state level, since tightening constraints operate within a shrinking pool of discretionary resources.

The editorial suggests that regional concerns, particularly those of southern states, have been addressed through a rise in their horizontal share from 15.8 per cent to 17 per cent. Set against a longer historical arc, this is a modest adjustment. The southern region's share exceeded 21 per cent under the 11th FC and declined steadily over successive Commissions.

Equity and federal principles require that poorer and more populous states receive support. At the same time, fairness in a federation also has a temporal dimension. States that invested early in education, public health, and population stabilisation did so in line with national priorities and generated benefits that extended well beyond their borders. A framework that only marginally reflects such long-term effort risks appearing indifferent to outcomes that were once actively encouraged.

The introduction of a state's contribution to GDP as a criterion is meant to acknowledge performance, but its design limits its impact. GSDP captures structural and historical factors, many of which lie beyond current policy choices. Its relatively small weight, combined with the dominance of population-related criteria, means that the recognition of contribution remains partial. The removal of tax effort as a criterion further weakens the link between revenue mobilisation and fiscal reward.

None of this diminishes the seriousness with which the 16th FC has approached its mandate. Nor does it deny the need for reform in state finances. The concern is narrower. By focusing on stability in headline ratios and modest shifts in shares, the editorial may overstate how far a new balance has been achieved.

Over the last decade, the Centre has increasingly turned to cesses and surcharges that lie outside the divisible pool and are, therefore, not shared with states

The writer is a lawyer and public policy consultant

KEY HIGHLIGHTS

Context of the News
- Debate around recommendations of the 16th Finance Commission (FC) regarding fiscal federal balance.
- Retention of 41% vertical devolution of divisible pool to States (continuity from 15th FC).
- Concerns raised over:
  - Rising share of cesses and surcharges (not shareable with States).
  - Marginal changes in horizontal distribution.
  - Limited weight to performance-based criteria.
- Broader issue: Nature of fiscal federalism and Centre–State financial relations.

Key Facts
- Article 280 – Finance Commission constituted every 5 years by the President.
- Article 270 – Taxes distributed between Union and States.
- Article 271 – Parliament may levy surcharge for Union purposes (not shareable).
- Divisible Pool – Net proceeds of taxes shareable with States.
- Vertical Devolution – Share of States in Union tax revenue.
- Horizontal Devolution – Distribution among States.

Trends (as per Union Budget & PRS analysis)
- States' share: 42% (14th FC) → 41% (15th FC, adjusted after J&K reorganisation) → continued by 16th FC.
- Share of cesses & surcharges in gross tax revenue has increased over the last decade.
- Cesses are not part of the divisible pool.

Core Issues for Mains
1. Shrinking Divisible Pool
- Growth in cess and surcharge reduces effective devolution.
- Even with 41% share, actual transfer relative to gross tax revenue may be lower.
2. Equity vs Efficiency
- Population-based criteria favour larger/poorer States.
- Southern States argue:
  - Penalisation for successful population control.
  - Historical higher share under earlier FCs.
3. Performance Incentives
- Inclusion of GSDP aims to reward contribution.
- Removal/reduction of "tax effort" weakens incentive for revenue mobilisation.
4. Fiscal Discipline
- States bear major expenditure responsibilities:
  - Health, education, agriculture, infrastructure.
- Reduced fiscal space affects compliance with FRBM targets.

Static Concepts
- Vertical Fiscal Imbalance.
- Horizontal Fiscal Imbalance.
- Income Distance Criterion.
- Cooperative Federalism.
- Competitive Federalism.
- Principle of Subsidiarity.
- FRBM Act – Fiscal deficit and debt targets.
- Grants-in-aid under Article 275.

Critical Analysis
Positives
- Continuity in 41% share ensures predictability.
- Recognition of economic contribution through GSDP.
- Supports poorer states via equity-based formula.
Concerns
- Rising non-shareable taxes undermine spirit of federalism.
- Perception of centralisation.
- Weak performance incentives.
- Tension between demographic justice and fiscal justice.

Way Forward
- Rationalise cess and surcharge usage.
- Strengthen performance-linked criteria (tax effort, HDI improvements).
- Increase transparency in devolution formula.
- Strengthen Inter-State Council & GST Council as cooperative forums.
- Promote outcome-based fiscal incentives.

A new tango with Paris

THE ELEVATION of ties between India and France to a Special Global Strategic Partnership is testament to the durability of the relationship and to a shared commitment to strategic autonomy that avoids rigid bloc politics. France has long been one of India's most dependable partners, with whom ties have acquired renewed momentum over the past 12 months. It was exactly a year ago that PM Narendra Modi was in France — his sixth visit as head of government — to co-chair the AI Action Summit in Paris, where the two sides committed, among other things, to jointly develop nuclear reactors and deepen defence cooperation. This time, too, defence and AI dominated the agenda during talks between PM Modi and President Emmanuel Macron in Mumbai. Both countries view their engagement as one that transcends a purely bilateral framework. The long-term strategic convergence articulated in the Horizon 2047 Roadmap is designed to support one another in a world where might-is-right is increasingly the governing principle.

It is a shared reading of the strained international order that has prompted France and India to continue upgrading defence ties. A significant boost came days before President Macron's visit, when the Defence Acquisition Council, chaired by Defence Minister Rajnath Singh, cleared a long-pending proposal to procure 114 Rafale aircraft from France. Thirty-six Rafale jets are already in service in the IAF, and the Indian Navy is set to induct 26 Rafale Marine aircraft. The move aligns with India's continuing efforts to diversify defence imports and reduce its dependence on Russia as its principal military supplier. Beyond fighter jets and hard defence cooperation, the joint statement underscores collaboration across a wide spectrum, from emerging technologies and critical minerals to space, climate action, global health and AI.

The India-France friendship rests on a shared respect for each other's interests and strategic autonomy. For instance, Paris does not presume to influence New Delhi's options regarding Russia, even as, after the invasion of Ukraine, France-Russia ties have deteriorated. At the same time, China is France's largest trading partner in Asia, even as PM Modi and President Macron, in their joint statement, reaffirmed their commitment to a "rules-based order in the Indo-Pacific region". Given that the Modi-Macron meeting comes on the heels of the signing of the India-EU FTA in January, it is evident that New Delhi views Europe not as a junior partner to a US-led West, but as an independent strategic actor. The India-France partnership, thus, also serves as a conduit for deepening India's engagement with Europe.

KEY HIGHLIGHTS

Context of the News
- Prime Minister Narendra Modi and French President Emmanuel Macron held bilateral talks to deepen the India–France strategic partnership.
- India's Defence Acquisition Council cleared the proposal to procure 114 Rafale fighter aircraft from France.
- Discussions focused on defence, Artificial Intelligence (AI), Indo-Pacific cooperation, nuclear energy, climate action, and critical technologies.
- The engagement aligns with the long-term Horizon 2047 Roadmap and reflects shared commitment to strategic autonomy and a multipolar world order.

Key Points
Defence Cooperation
- 36 Rafale aircraft already inducted into the Indian Air Force.
- 26 Rafale Marine aircraft to be inducted into the Indian Navy.
- 114 additional Rafale jets cleared for procurement.
- Defence Acquisition Council functions under the Ministry of Defence.

Indo-Pacific Engagement
- France is a resident Indo-Pacific power due to its overseas territories in the Indian Ocean.
- Both countries support a rules-based international order in the Indo-Pacific.
- Cooperation in maritime security and joint naval exercises.

Technology and Strategic Sectors
- Collaboration in AI and emerging technologies.
- Civil nuclear cooperation.
- Space cooperation (ISRO–CNES partnership).
- India and France are founding members of the International Solar Alliance.

Strategic Dimension
- Strategic partnership established in 1998.
- Focus on diversification of defence imports.
- France supports India's strategic autonomy in foreign policy.

Static Linkages
- Evolution from Non-Alignment to Strategic Autonomy.
- Role and structure of the Defence Acquisition Council.
- Indo-Pacific Oceans Initiative (IPOI).
- International Solar Alliance objectives.
- Civil Nuclear Liability Act, 2010.
- Concept of multipolarity in international relations.
- Atmanirbhar Bharat in defence manufacturing.

Critical Analysis
Advantages
- Strengthens India's air and maritime combat capability.
- Reduces overdependence on a single defence supplier.
- Enhances India's Indo-Pacific presence.
- Promotes technology transfer and joint manufacturing.
- Strengthens India's engagement with Europe.

Challenges
- High financial cost of large-scale defence imports.
- Uncertainty regarding depth of technology transfer.
- Managing geopolitical balance among major powers.
- Ensuring long-term domestic capacity building.

Way Forward
- Ensure maximum technology transfer and local manufacturing.
- Deepen joint R&D in AI, defence technology, and green energy.
- Institutionalize maritime cooperation in the Indo-Pacific.
- Leverage the partnership to strengthen India–EU strategic ties.
- Build resilient supply chains in critical minerals and semiconductors.

When SC reviews 2018 Sabarimala ruling, the issues on the table

Shaju Philip
Thiruvananthapuram, February 18

THE SUPREME Court on Monday said a nine-judge Constitution Bench will start hearing the review petitions on April 7 regarding its 2018 verdict allowing young women entry to the Sabarimala Dharma Sastha Temple. A three-judge bench of Chief Justice of India Surya Kant and Justices Joymalya Bagchi and Vipul M Pancholi said the CJI will notify the composition of the bench separately through an administrative order.

The implementation of the 2018 verdict during the temple's 41-day pilgrimage season that year drew severe public backlash and cost the ruling CPI(M) dearly in the 2019 Lok Sabha election. The state government is weighing its prospects in the apex court, even as it maintains its position as established in its 2017 affidavit permitting entry to women of all ages.

With the review hearings scheduled with the assembly elections, here is how the issue has evolved over the years.

The initial challenge

While the temple has enforced a ban on female pilgrims aged 10 to 50 years, the first legal challenge was mounted in 1990 by S Mahendran of Kottayam in the Kerala High Court. He claimed that young women in the objectionable age group were trekking to the temple and offering prayers there.

In 1991, the HC ruled that the age restrictions on women's entry are in accordance with tradition and do not violate fundamental rights. It also directed the Travancore Devaswom Board, which oversees the temple's administration, to bar entry to women of menstruating age.

How Supreme Court weighed in

In 2006, the Indian Young Lawyers Association petitioned the Supreme Court under Article 32 of the Constitution, challenging the entry ban directed by the state government, the Devaswom Board, and the Sabarimala Chief Tantri (head priest). The petitioner sought to declare Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 as unconstitutional, in violation of Articles 14, 15, 25 and 51A(e) of the Constitution of India.

On September 28, 2018, a five-judge bench of the court, by a 4:1 majority, removed the age restrictions on women's entry to the hill shrine in Kerala. It struck down as unconstitutional Rule 3(b) of the Kerala Hindu Places of Public Worship Rules, 1965, which allowed the exclusion of women on the grounds of custom.

This verdict was heavily criticised, with several organisations and stakeholders affiliated with the temple filing review petitions.

Ahead of the temple's annual pilgrimage season in 2019, the court said that its 2018 verdict may impinge on the affairs of other religions, and referred the matter to a larger bench of at least seven judges. However, it did not stay its 2018 verdict in the matter.

In 2020, a nine-judge bench headed by then Chief Justice of India S A Bobde held the petitions seeking a review of this verdict as maintainable, and presented seven questions for the Constitution Bench to review.

Govt stand vs party stand

Depending on the party at the helm, the state has taken contrasting positions on the subject. The Left Democratic Front (LDF) government under then Chief Minister V S Achuthanandan took a progressive stance. In its affidavit before the Supreme Court in November 2007, it supported the PIL filed by the Young Lawyers Association. The state asked the apex court to constitute a commission to review the question.

The succeeding United Democratic Front government, led by the Congress Chief Minister Oommen Chandy, took a U-turn. In February 2016, the state told the Supreme Court that the assertions in the 2007 affidavit wrongly sought to support the petition. The state said the practice of restricting entry to women aged 10 to 50 years is an essential part of the customs of the temple, protected under Articles 25 and 26 of the Constitution.

The LDF returned to power later that year, and reverted to its 2007 position, advocating for the entry of women of all ages.

Now, ahead of the review hearing, the CPI(M) is attempting a balancing act.

Law Minister and CPI(M) leader P Rajeeve said the LDF government would "always stand for the protection of faith".

But the party's state secretary M V Govindan said: "The stand of the government and that of the party may not necessarily be the same."

The Sabarimala temple in Kerala's Pathanamthitta district. WIKIMEDIA COMMONS

KEY HIGHLIGHTS

Context of the News

- The Supreme Court has constituted a nine-judge Constitution Bench to hear review petitions against its 2018 judgment allowing entry of women of all ages into the Sabarimala temple.
- The 2018 verdict (4:1 majority) struck down Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.
- The case involves interpretation of Articles 14, 15, 25 and 26 and the scope of the Essential Religious Practices (ERP) doctrine.
- In 2020, a larger bench framed constitutional questions relating to:
  - Judicial review in religious matters
  - Balance between equality and religious freedom
  - Scope of constitutional morality

Key Points

- Article 14 – Equality before law.
- Article 15(1) – Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- Article 25(1) – Freedom of conscience and free profession, practice and propagation of religion (subject to public order, morality and health).
- Article 26 – Freedom to manage religious affairs (for religious denominations).
- Article 32 – Right to Constitutional Remedies.
- Essential Religious Practices Doctrine – Originated in Shirur Mutt Case (1954).
- Review petitions are heard under Article 137 (Power of SC to review its judgments).
- Constitutional Bench – Minimum five judges under Article 145(3).

Key Issues

- Whether exclusion of women violates fundamental rights.
- Whether Sabarimala constitutes a separate religious denomination.
- Scope and limits of the Essential Religious Practices test.
- Whether courts should decide what is "essential" to a religion.
- Concept of constitutional morality vs. social/religious morality.

Static Constitutional Linkages

- Doctrine of Judicial Review – Part of Basic Structure (Kesavananda Bharati).
- Constitutional Morality – Emphasized in Navtej Singh Johar (2018).
- Denominational Rights – Protected under Article 26.
- Social Reform Clause – Article 25(2)(b) allows state intervention for social welfare and reform.
- Abolition of Untouchability – Article 17 (broader equality context).

Critical Analysis

Arguments Supporting Entry

- Promotes substantive equality.
- Aligns with transformative constitutionalism.
- Ensures non-discrimination on grounds of sex.
- Reinforces judicial duty to protect fundamental rights.

Arguments Opposing Entry

- May infringe denominational autonomy under Article 26.
- Courts deciding religious essentials may violate separation of powers.
- Faith-based practices claim protection under Article 25.

Broader Constitutional Tension

- Equality vs Religious Freedom.
- Individual rights vs Group rights.
- Judicial Activism vs Judicial Restraint.

Way Forward

- Clarify scope of Essential Religious Practices doctrine.
- Develop objective standards for identifying denominational status.
- Strengthen dialogue between judiciary and religious institutions.
- Promote gender justice through constitutional literacy and social reform.
- Ensure peaceful implementation respecting public order.