

## Updates 2008-India

### Speaker Chatterjee disqualifies BSP MPs

Campaigning against one's party sufficient ground for anti-defection act to come into play

Lok Sabha Speaker Somnath Chatterjee has disqualified three Bahujan Samaj Party (BSP) members of the Lok Sabha from Uttar Pradesh on grounds of defection to the Samajwadi Party (SP). Those disqualified by the Speaker are Bhalchandra Yadav, Ramakant Yadav and Mohammad Shahid Akhlaque and, their seats in the House have been declared vacant. The Speaker's order is based on many evidences, including media reports, about the three MPs making public statements against the party on whose symbol they had got elected to the House.

Chatterjee's order is the third major disqualification by a Lok Sabha Speaker after the coming into force of the anti-defection law in 1985. The first instance was the disqualification of eight Janata Dal MPs in 1991 by the then Speaker Rabi Ray and later of four MPs of the Ajit Singh group by the then Speaker Shivraj Patil, which was later challenged in the High Court of Delhi.

Petitions for the disqualification of the three BSP MPs were filed by the party under the 10th schedule of the Constitution (anti-defection law) on the ground that the 3 MPs had "voluntarily" given up their membership of their party and joined SP. These members had actively campaigned for SP during the last assembly polls in Uttar Pradesh.

### Aborting foetus: A question of life

Niketa Mehta, who had approached the Bombay High Court for aborting her first child due to a heart anomaly in the foetus, suffered a miscarriage. The High Court had dismissed Haresh and Niketa Mehta's application on August 4, observing that medical experts did not express any "categorical opinion that if the child is born it would suffer from serious handicaps."

Under the Medical Termination of Pregnancy (MTP) Act, pregnancy can be terminated before twenty weeks if doctors believe that the child, if born, will have serious abnormalities, so as to render it handicapped. Niketa was in the 26th week of pregnancy. She had moved the court seeking permission to abort, as her doctor found out in the 24th week that the foetus had congenital heart block.

Haresh and Niketa along with their doctor Nikhil Datar had moved the High Court seeking permission to abort the foetus as it had a congenital complete heart block. The couple, coming from a middle class background, told the court that the pacemaker which costs about Rs. 1 lakh had a limited life. Changing the pacemaker every five years was not economically viable for the family. Niketa is a school teacher while her husband Haresh is a stock broker. Also, life would be traumatic not only for the couple but also for the child. The child, if born, would require pacemaker instantly, and would have a poor-quality life.

The plight of parents cannot be overlooked either. In Niketa and Haresh Mehta's case, doctors say the child would probably have to be fitted with a costly pacemaker, which would have to be changed periodically.

Do parents have the right to deny life to a baby just because it is "deformed"? Would Niketa's decision have been different if the government or an NGO stepped forward to pay for the treatment of the congenital disease? There are no easy and categorical answers to such questions.

### **Union govt changes Sethu track**

Advocates on behalf of the Union government argued that the Ram Sethu did not exist because according to 'Kamba Ramayan', Lord Rama had destroyed the bridge after rescuing Sita from demon king Ravana.

Previously the government received flak for claiming in its affidavit that the characters of Ramayan were fictional and that the Ram Sethu did not exist at all, inciting protests all over the country.

Seeking to move away from controversies this time, senior advocate Fali S. Nariman, appearing for the govt said those who relied on scriptures of faith in their attempt to block the venture should also consider other aspects of faith. "Lord Rama destroyed the bridge and details are there in the scriptures. You cannot damage something which does not exist," replying to petitioners that the dredging was destroying the Ram Sethu bridge.

The Supreme Court bench headed by Chief Justice K.G. Balakrishnan said that it favoured exploring the possibility of scientifically and politically viable solution to the controversial project clarifying that it was not willing to get into the debate on whether the bridge was man made or not. But the government questioned the religious grounds on which it was opposed.

### **Crafted to take on the world**

The GI status will curb piracy of traditional designs

Ten products from five Indian states have joined the league of brands such as Darjeeling tea and Mysore silk. Kathputlis of Rajasthan, blue pottery of Jaipur, baghprints of Madhya Pradesh along with seven other traditional products were awarded geographical indications (GI) status recently, taking the total number of GIs to 83.

The other products which were issued GIs certificates recently included molela clay idols of Rajasthan, leather toys of Indore, sankheda furniture from Gujarat, bell metalware of Datia and Tikamgarh in Madhya Pradesh, brass broidered coconut shell crafts of Kerala, Kutch embroidery and Machilipatnam Kalamkari from Andhra Pradesh.

The Geographical Indications of Goods (Registration and Protection) Act, 1999, which was brought into force in September 2003, was intended to give better protection of intellectual property inherent in geographical indications and to give impetus to Indian exports of goods bearing geographical indication.

Experts say GI is necessary for promoting India's cultural heritage in the global market. In textiles there is a lot of poaching from China. With the registration of geographical indications, Indian craftsmen will now have some protection. No one will be able to sell their products under the same name. GI is necessary to keep our cultural heritage intact in the global market.

### **RBI men to join Sahara Fin board**

The financial company will have to be wound up by 2015

All independent directors of Sahara India Financial Corporation (SIFCL) have stepped down. They will be replaced by a new team, handpicked by the Reserve Bank of India (RBI). The new nominees on the Sahara board are: former ICICI Bank managing director & CEO HN Sinor; former president of Institute of Chartered Accountants of India TN Manoharan; and AKD Jadhav, a former IAS officer from the Maharashtra cadre.

The decision was formalised recently. While Sahara Group founder Subrata Roy will remain the chairman of SIFCL, his wife Swapna Roy has resigned from the board. However two other Sahara group old-timers will continue as board members.

According to the central bank's directive, the new set of independent directors will continue till the depositors of the country's largest residuary non-banking company are repaid in full.

According to an order issued by RBI, SIFCL will have to shut shop by 2015. While the company can collect deposits, the power to do so has been severely restricted since it will have to progressively bring down the deposit outstanding in the next few years.

The RBI had originally issued an order in June, directing Sahara to stop accepting deposits. The order was later softened to give the company some breathing space. The subsequent order was issued after the SC asked the RBI to give a personal hearing to SIFCL.

### **NCAER, Future Capital identify 20 cities to watch**

These cities account for close to one-third of India's disposable income

The National Council of Applied Economic Research (NCAER) and Future Capital have identified 20 key cities to track as centres of economic development over the coming decades.

The 20 cities have been listed in the book "The next urban frontier: Twenty cities to watch", which is a collaborative effort between the two organisations.

These cities have been grouped into three broad buckets — megacities, which are the largest cities in terms of population and overall consumer markets; boomtowns, which stand out as the next set of big-population cities with high expenditure per household; and niche cities, which are smaller in terms of overall population but still hit well above their weight in spending per household.

Roopa Purushothaman, Chief Economist, Future Group, who is the co-author of this book, said that these 20 cities together account for 10 per cent of India's population, but generates 31 per cent of disposable income.

The megacities are Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, Ahmedabad and Pune. The boomtowns are Surat, Kanpur, Jaipur, Lucknow, Nagpur, Bhopal and Coimbatore. The niche cities are Faridabad, Amritsar, Ludhiana, Chandigarh and Jalandhar.

### **Sportspersons brought under TDS**

Sports bodies would have to deduct tax at source at 10.3 per cent for the match fees

Sportspersons have been unconditionally brought under the ambit of tax deduction at source (TDS) at a higher rate, with the Central Board of Direct Taxes (CBDT) now categorising their services in relation to sports activities as 'professional services'.

The TDS net under professional services (Section 194J) has also been cast wide to include umpires and referees, coaches and trainers, team physicians and physiotherapists, event managers, commentators, anchors and sports columnists, official sources said.

Hitherto, for TDS purposes, sportspersons were covered under Section 194C, which dealt with payments to contractors and pegged the TDS rate at 1-2 per cent. Now, CBDT is convinced that sportspersons are to be categorised as professionals and hence a TDS rate of 10.3 per cent valid for professional services would be applicable for them.

The latest move would imply that professional sportspersons have to pay upfront at least 10.3 per cent of their match fees and other contractual receipts like corporate logo endorsement fees as TDS. This would have huge impact on those associated with cricket who earn large incomes from this sport, which has a huge fan following here. Sports bodies like the Board of Control for Cricket in India (BCCI) would have to deduct tax at source at 10.3 per cent for the match fees paid to cricketers.

With increased popularity of new cricket formats like Twenty20, the tax department hopes to get a fair share of the incomes of those associated with such tournaments. The Finance Ministry has been focusing on boosting tax collections by broadening TDS coverage and improving compliance. Legal, medical, engineering, accountancy, technical consultancy and interior decoration services have been already categorised as professional services under Section 194J.

## **Corruption Perceptions Index: India's position worsens**

Poor are the worst victims of corruption in India

India's has been ranked 72nd, down from 70th last year, out of 163 countries in the global Corruption Perceptions Index—a ranking prepared by the global corruption watchdog, Transparency International. This means that not only is India chronically corrupt but its position is worsening too, when compared with other countries.

The least corrupt countries are Denmark, Finland and New Zealand. Bhutan, the world's youngest democracy, is the region's least corrupt country and is ranked 41st. The rest of South Asia hasn't done too well with Sri Lanka, Nepal and Pakistan being ranked 96th, 135th and 140th respectively. For decades, India's image abroad has been synonymous with corruption and that perception persists because bribes continue to swing deals and the speed at which files move.

India's poor are the worst hit by the rampant corruption in the country. The study has found that the country's poor paid Rs 940 crore as bribes for 11 types of services, including police, health care, revenue and

One third of the people living Below Poverty Line (BPL) in India pay bribes to access healthcare, education, water and other basic facilities, services that are supposed to be free, according to a recent joint study by the Transparency International India and the Centre for Media Studies (CMS).

The services covered in the survey are Public Distribution System (PDS), hospital service, senior secondary school education, electricity and water supply.

Need-based services like National Rural Employment Guarantee Scheme, land records and registration, forest, housing, banking and police service were also covered. Police most corrupt

The 'TII-CMS India Corruption Study' revealed that police tops the chart, as far as corruption in 11 selected public services is concerned. The poor have to grease palms of the police to have cases registered or avoid harassment. Land records and registration services come second in terms of monetary contribution.

The TIICMS study also revealed that the PDS service was not readily available as many BPL families had to pay bribe or use a contact to avail the services. The survey found that the situation at government hospitals was very disappointing as a large number of BPL households had to bribe hospital staff to get their works done.

The survey further revealed that in order to get electricity connection or to get faulty meter rectified, people have to bribe officials/staff of the electricity department.

Under the National Rural Employment Guarantee Scheme (NREGS), the government's flagship programme to alleviate rural poverty, families are entitled to employment for 100 days per year. But people have to pay bribes to get work or secure payment. The government's antipoverty programmes have failed to deliver because of rampant corruption.

Corruption is endemic in India. Citizens have to grease palms at every stage of their lives, from getting birth and death certificates to securing jobs, even to get ration cards. Corruption seems to have become an acceptable part of an average citizen's way of life. Steps to rid the country of this scourge are unlikely to come from the government as no politician or bureaucrat wants his life to come under a scanner. The onus is on the civil society to figure out ways to improve transparency and demand accountability from the system.

### **Gujjars call off agitation**

Assurance falls short of their demand but gives them 5 % special reservation

The Gujjars called off their month long violent agitation following an agreement with the Rajasthan government. Chief Minister Vasundhara Raje and Kirori Singh Bainsla, convener of the Gujjar Arakashan Sangarsh Samiti, announced the agreement.

What is assured to them now falls short of their demand for Scheduled Tribe status but provides five per cent special reservation for them along with Banjaras, Gadia Luhars and Raikas, all pastoral and nomadic communities.

The agitation had brought most of the State and many parts of northern India to a standstill and claimed 39 lives in Rajasthan.

The chief minister also announced 14 per cent reservation for the EBCs (Economically Backward Communities) such as Brahmins, Rajputs and Vaishyas on the basis of an interim report of the Rajasthan EBC Commission, headed by Shashikant Sharma.

The new quota regime has put Rajasthan among the States in the country with maximum reservation. Till now the State had 49 per cent quota — Scheduled Tribes (12 per cent), Scheduled Castes (16) and Other Backward Classes (21) — but the announcement, ending the Gujjar agitation, along with the new quota for EBCs (Economically Backward Classes) would take it up to 68 per cent.

### **Agni-III: Flawless flight powers India into select club**

The successful test firing brings major cities in China within India's reach

India successfully test fired its surface-to-surface, nuclear-capable Agni-III missile for the second time, giving the country the capability to hit targets deep inside China. Agni-III has a range of 3,500 km.

The solid-fuel missile took off from Wheeler Island off Orissa coast and achieved its full range and accuracy by reaching its pre-designated target in 800 seconds. “The missile is now ready for induction,” jubilant DRDO scientists told reporters after the missile achieved its target. Agni-II, with a range of 2,000 km, and Agni-I, capable of striking targets within 700 km, are already in the service of the Indian Army.

With this second successful test-firing, India now joins a select group of nations having intermediate range ballistic missiles (IRBMs) with a range of up to 3,000 kms. The missile will give the nation the capability to target cities like Beijing and Shanghai. It was a sort of golden jubilee gift of the DRDO to the nation as the organisation is about to launch celebrations to commemorate 50 years of its existence.

Pakistani defence scientists quickly reacted to Agni-III by test-firing their own Hatf-8, also called the Raad (meaning “thunder” in Arabic) missile, capable of carrying nuclear warheads to a target up to 350 km away. The stealthy Raads have the advantage of launch capability from aerial platforms. Pakistan has already tested missiles of longer range.

## **Maoists rethink relations with India**

Want to scrap Indo-Nepal pact of 1950

Nepal’s former Maoist guerrillas, the largest political party in Nepal which heads the new government, wants to do away with a crucial 60-year-old treaty with India and review other pacts.

Maoist leader Prachanda has called for a revision of the Indo-Nepal Peace and Friendship Treaty of 1950, which he believes is loaded in favour of his bigger neighbour.

Nepal’s communist parties have in the past repeatedly asked for a review of the controversial 1950 treaty, calling it an unequal one that allows India a foothold in Nepal’s security matters.

Of the ten articles in the treaty, the five that are functional relate to political, security, economic and people-to-people relations.

Citizens of Nepal have the privilege of living, working, trading and owning property in India. This facility is not available to Indians on a reciprocal basis.

However, the treaty was amplified by a letter finalised in 1965 when India had just lost a war to China. It required consultation between the two countries if they were faced with a foreign aggressor. To ensure that Nepal would never become India’s adversary, it was supposed to import arms and warlike material with the “assistance” and “agreement” of India.

India has been trying to control Nepal’s arms purchases through a stick and carrot policy by selling Indian weapons to Nepal at highly subsidised rates. But in 1988-89, King Birendra

proceeded to buy arms from China without informing New Delhi. Nepalese diplomats say there were no arms on the trucks that rolled down from the northern highway bordering China.

But India noted this breach and suspended the other privilege offered to Nepal—the trade and transit treaty. This had allowed landlocked Nepal to trade with India through designated trade and transit points numbering 15 and 22, respectively. These were reduced to just two, causing hardships in Nepal, and India was roundly criticised for this economic blockade.

Little wonder then that the Maoists, set to assume power in Nepal, want a review of the treaty, which has other elements loaded in India's favour. New Delhi has the first right of refusal in development projects for which Nepal issues international tenders. When Nepal's biggest road, the East West Highway was built, it was with India's consent that China was offered some sections.

### **Monarchy abolished**

Meanwhile Nepal's new constitution-drafting body is to meet for the first time on May 28, 2008 when it will formally abolish the monarchy and declare the country a republic.

The Maoists, who scored a surprise victory in landmark elections, have vowed that the monarchy would be scrapped during the first sitting of the assembly. The former rebels overturned all predictions in the April polls, winning 220 of the 601 seats in the constitutional assembly — more than twice the number of their nearest rivals and pre-election favourites, the Nepali Congress.

### **Broadcasters agree for curbs on sting operations**

Would eschew unethical means for getting new stories

India's 12 leading broadcasters having 25 news channels have decided to use sting operations as the last resort. They have also disallowed the use of sex and sleaze, narcotics and psychotropic substances or any act of violence as a means of getting a story.

This commitment has been made by the 12-member News Broadcasters Association (NBA) through the "Code of Ethics and Broadcasting Standards" it has adopted for itself. The NBA has among its members TV Today Network Ltd., NDTV Limited, Times Global Broadcasting Company Ltd., TV18 Group and Sun TV Network.

Sting operations, according to the code, will be used as a tool of journalism only if the story serves an "identifiable larger public interest." Further, "news channels, will as a ground rule, ensure that sting operations are carried out only as a tool for getting conclusive evidence of wrongdoing or criminality, and that there is no deliberate alteration of visuals, or editing, or interposing done with the raw footage in a way that it also alters or misrepresents the truth or presents only a portion of the truth."

As for superstitions, the code states that news channels will not broadcast any material that glorifies superstition and occultism in any manner. "In broadcasting any news about such genre,

news channels will also issue public disclaimers to ensure that viewers are not misled into believing or emulating such beliefs.” +

## **IIM-A hikes fee nearly three times**

Students can avail of loans, scholarships to pay their fees

Studying at the premier Indian Institutes of Management (IIMs) will get dearer. Indian Institute of Management Ahmedabad (IIM-A) has almost trebled the fee for its flagship two-year post-graduate (PGP) management programme from Rs 4 lakh to Rs 11.5 lakh, beginning from this academic year. Earlier, IIM Bangalore and IIM Calcutta too had hiked their fees. The IIM-A decision comes in the face of stiff opposition from the HRD ministry, which had adopted a tough stand against the earlier fee hike proposals.

The IIMs are increasing the fees in view of rising costs and to meet growing expenditure, while providing better opportunities and improved facilities to the students. IIM-A, IIM-C and IIM-B do not receive grants from the government and support their academic activities with their own funds. The three IIMs are planning to hike the salaries of their professors and the increased fees would help in doing that.

Though most IIMs no longer depend on official grants, the government remains an influence because of the initial capital and land it contributed to set up these institutions.

After a meeting with Union HRD minister Arjun Singh, IIM-A chairman Singhania said that there would be no rollback of the fee hike. He explained that the fee hike was necessitated by the “sharp increase in faculty remuneration following the Sixth Pay Commission recommendations” and the fact that IIM-A corpus fund was nearing depletion.

Addressing the minister’s concern about disadvantaged students, Singhania said that the institute proposes to increase the number of scholarships. At present, students with a family income of Rs 2 lakh per annum can apply for scholarships. This limit has been raised to Rs 6 lakh per annum. The institute proposes six grades of exemptions. These measures, according to Singhania, will increase the coverage to 62 percent of students.

Further, IIMA will allow students to apply for scholarships as soon as they are eligible for admission. This means that students will not have to deposit the entire fee at the time of admission. Instead, they will be required to deposit only the “net fee”, the portion not covered by the scholarship.

Are the IIMs justified in raising the fees? Most people agree with the logic behind the fee hike.

The IIMs are premium institutes of higher learning that command global respect. Judging from the salary offers that break new records every year, IIM “products” are as much in demand at blue-blooded Indian and multinational corporations as graduates of leading European and US B-schools.

IIM students get offers on par with their counterparts in global B-schools. To charge below-par fees and pay faculty inadequately is quite out of synch with this fact. Business education can hardly be detached from the realities of the business world.

## **Pay Panel report: Bonanza for govt employees**

The pay panel has made a number of recommendations to attract better recruits and improve quality of governance

### **Highlights of recommendations**

- ❖ Average 40% raise
- ❖ Revised pay from January 1, 2006
- ❖ Recommendations to cost Rs 12,561 crore in 2008-09; one-time extra burden of Rs 18,060 crore for arrears
- ❖ Minimum entry-level pay Rs 6,660; cabinet secretary to get Rs 90,000
- ❖ Person stagnating at maximum of any pay band for more than a year to be placed in immediate next higher pay band without change in grade
- ❖ Performance-linked incentive scheme
- ❖ High performers to get 3.5% increment against normal 2.5%
- ❖ Market-driven compensation for young scientists and those in special posts
- ❖ Only 3 national holidays
- ❖ Defence forces on a par with civilians in pay and grades
- ❖ Higher rate of pension for retired and family pensioners on reaching the age of 80,85, 90, 95 and 100 years
- ❖ Contract appointment to select posts requiring high skills
- ❖ No change in retirement age of 60. No exceptions, barring scientists and medical specialists
- ❖ Number of grades reduced to 20 from 35
- ❖ 5-day work week to continue
- ❖ Existing rates of most allowances to be doubled
- ❖ Education allowance reimbursement at Rs 1,000 a child a month against Rs 50 now
- ❖ Hostel subsidy to be increased 10 times to Rs 3,000
- ❖ All fixed allowances to be made inflation-proof

The sixth pay commission has submitted its report to the government recommending a hike in salaries of central government officials in the range of 23-55 percent. The commission, headed by Justice B N Srikrishna, submitted its report to finance minister P Chidambaram. Secretaries to the government will now get a salary of Rs 80,000 per month from the earlier Rs 26,000 per month. At the lowest level the new pay would be Rs 6,660 per month instead of Rs 2,550.

The exchequer will take a hit of Rs 12,561 crore in 2008-09, if the government decides to implement the recommendations next fiscal. There will be an additional outgo of Rs 18,060 crore as one-time expenditure on paying arrears from January 1, 2006.

In a major recommendation aimed at removing stagnation, the commission has introduced the concept of running pay bands for all posts in the government. The total number of grades has been reduced from 35 to 20 across four pay bands.

Seeking to bring cheer to the armed forces personnel, the commission recommended that like their civilian counterparts, soldiers and officers should get at least a 40 percent hike in pay packets across the board.

It has also recommended an increase in the salary of chairpersons of regulatory bodies, including SEBI, TRAI and IRDA, to up to Rs 3 lakh per month and to de-link them from government salaries in a move to attract expertise from outside the government. Scientists also would get a better deal as their salaries would be delinked from the government. Women and disabled employees have been given a special treatment in the report through a recommendation for improved leave and working conditions.

The commission has also recommended a way for awarding performers through a higher 3.5 percent rate of increment against the normal 2.5 percent. Performance-related incentive scheme has been suggested.

A liberal severance package for employees leaving service between 15 to 20 years of service has been worked out. The commission has recommended a 40 percent overall increase in pensions and higher rates for pension for retirees and family pensioners on attaining the age of 80, 85, 90, 95 and 100 years.

The commission has recommended continuation of five-day week but said that the government offices should remain closed only on three national holidays. All gazetted holidays would be abolished and compensated for by increasing the number of restricted holidays from two to eight days.

The pay commission report has not come a day too soon and a substantial increase in government salaries has been long overdue. The reason is not higher cost of living alone. The government needs to attract competent human resources to govern better. The elite administrative services stopped attracting the best students years ago, and the armed forces have faced a severe shortage of candidates for their officer corps. Disparities between private sector and government salaries have grown widely.

### **Cabinet reshuffle: A vacuous exercise**

It is difficult to believe the UPA government's claim that the induction of six ministers is an exercise intended to improve the Manmohan Singh cabinet's performance.

The Manmohan Singh cabinet got seven new ministers in a reshuffle exercise that saw the Congress leadership take in some youthful faces. The much-anticipated move was nothing more than a tinkering exercise that brought in a large number of ministers of state (MoS).

Except Raghunath Jha of RJD, all the new faces were from Congress. Those dropped were Suresh Pachouri and MV Rajasekharan (whose Rajya Sabha terms lapsed recently), Dasari Narayan Rao, Akhilesh Das, Manik Rao Gavit and Subbarami Reddy. Some existing MoS have been given additional or new responsibilities.

### **New ministers of state and their portfolios**

- ❖ JYOTIRADITYA SCINDIA: Communications and Information Technology
- ❖ JITIN PRASADA: Steel
- ❖ RAMESWAR ORAON: Tribal Affairs
- ❖ SANTOSH BAGRODIA: Coal
- ❖ V NARAYANSWAMY: Parliamentary Affairs and Planning
- ❖ RAGHUNATH JHA: Heavy Industries and Public Enterprises
- ❖ M S GILL: Sports and Youth Affairs (Independent charge)

### **Changes in portfolio**

- ❖ JAIRAM RAMESH – Gets Power in addition to Commerce
- ❖ B K HANDIQUE – Loses Parliamentary Affairs, keeps Chemicals and Fertilisers, and gets Mines
- ❖ SHAKEEL AHMED – Loses Communications and IT and gets Home
- ❖ PRITHVIRAJ CHAVAN – Keeps PMO, gets Personnel, Public Grievances and Pension
- ❖ KANTI SINGH – Loses HRD and gets Tourism and Culture
- ❖ PK BANSAL – Keeps Finance and gets Parliamentary Affairs

Ministers belonging to alliance parties are loath to delegate responsibilities to their juniors from a different party. No doubt, youngsters like Jyotiraditya Scindia and Jitin Prasada are dynamic and articulate leaders who would want to make a difference. But someone like Scindia may not be even allotted much work as the IT and Communications Ministry he is assigned to is being handled by the DMK's A Raja. Given this coalition tendency, it would appear that most of those chosen for ministerial berths were essentially brought in for political representation in an election year.

### **Apex court validates quota, skims creamy layer**

The judgment ends the uncertainty over the fate of the quota system and has confirmed the constitutional validity of the concept of reservations for certain sections of society. It makes a strong case for excluding the well-off among the OBCs from ambit of the reservations but leaves several grey areas open to differing interpretations

### **Quota Chronology**

2007

JANUARY



§ The constitution (93rd Amendment) Act 2005 comes into effect allowing the government to provide for concessions for socially and educationally backward classes.

#### APRIL

§ Govt hints at 27% quota for OBC

#### MAY

§ Petition filed challenging 93rd Amendment Act

§ Oversight Committee set up by prime minister to quell agitation and strategies quota enforcement

#### DECEMBER

§ Parliament Standing Committee says there has been no caste-based census data since 1931

§ Parliament passes Central Educational institutions Reservation in Admissions Act 2006

2008

#### MARCH

§ Supreme Court grants interim stay to quota implementation

#### APRIL

§ Supreme Court upholds validity of the quota law

### **Much awaited verdict**

The Supreme Court has unanimously upheld the validity of the “Central Educational Institutions (Reservation in Admission) Act, 2006 (93rd Amendment of the Constitution) providing for 27 percent quota in institutions like the IITs, IIMs, AIIMS and the IISc. Almost 13 months after its move to implement other backward classes (OBC) quota in the elite central educational institutions was stalled, the UPA government has won its legal battle.

A five-judge constitutional bench of Chief Justice K G Balakrishnan, Justices Arijit Pasayat, C K Thakkar, R V Raveendran and Dalveer Bhandari ruled that reserving more seats for OBC students in government institutions did not violate the basic structure of the Constitution.

The bench clarified that the reservation would not be implemented in private and unaided institutions and the issue would be decided only when the matter came before it for hearing.

However, the verdict has left enough scope for confusion on the creamy layer front that has dogged the OBC quota system ever since its introduction in the early 1990s. “Determination on the basis of caste will be valid and the creamy layer should be kept out of the privilege quota,” said the judgment.

### **Creamy layer**

What is the “creamy layer”? Introducing the concept in the context of reservation in jobs in 1992, the Supreme Court had said the benefit of reservation should not be given to children of constitutional functionaries such as the President, judges of the Supreme Court and high courts, employees of central and state bureaucracies above a certain level, public sector employees, armed forces and paramilitary personnel above the rank of colonel, lawyers, chartered accountants, doctors, financial and management consultants, engineers, film artistes, and authors. Children of those earning Rs 2.5 lakh per year were also kept out.

### **Eligibility criteria**

Most of the seats in elite educational institutions are occupied by general category students and the additional reservation will not make much of a difference if there are minimum cut-offs for entry. This has been the experience with SC/ST reservations. Another hurdle the OBC students have to cross is the condition in the court verdict that the difference between the qualification marks of general category and OBC students cannot be more than 10 percent. Recently, the IITs decided that the cut-off mark for OBC candidates would be only 10 percent less than the general category candidates.

With all these conditions in place, it has to be seen as to how far the institutes will be able to fill the OBC seats. The Supreme Court judgment says absence of eligible persons will automatically qualify persons from the general category for the reserved seats.

### **Indore raid nabs SIMI leadership**

Snapping sources of funding and new recruits will be crucial

A major crackdown on the Students Islamic Movement of India (SIMI) has resulted in the arrest of several of the organisation’s top leaders, who had arrived to attend the organisation’s annual meeting in Indore recently. Those arrested were wanted for their alleged involvement in terrorist attacks over the past few years.

The leaders had arrived in Indore from various parts of the country, including Karnataka, Kerala, Uttar Pradesh, and Maharashtra. Intelligence agencies got wind of their presence in the city and raids were conducted. Among those arrested were general-secretary and chief ideologue, Safdar Nagori. Several among those arrested had managed to evade the police for years. Arms, ammunition, money and mobiles were also recovered in the raids.

The SIMI was declared a banned organisation by the union government in 2001. Those opposing the ban had argued that the charges levelled against it were not substantiated and it was a students’ organisation whose members were political Islamists, not terrorists. But SIMI’s role in almost all the major terror attacks in the country has been revealed over the past few years. Interrogations of SIMI cadres have divulged links between the organisation and jihadi groups abroad.

The arrest of their major leaders is being seen as big blow to SIMI. Investigators expect to unearth vital information about the network and its sources of funding. It would be premature to

say that the recent success would spell the end of SIMI. The organisation is large and its network is spread across the country. Foreign sources from which it receives financial support are yet to be identified and dealt with.

### **Govt announces setting up of new IITs, IIMs**

The seven Indian Institutes of Technology (IIT) and seven Indian Institutes of Management (IIM), considered to be India's best, produce an estimated 5,000 engineers and 1,200 post-graduates with management degrees every year. The United Progressive Alliance (UPA) government has decided to set up eight new IITs and seven new IIMs at the cost of Rs 5,700 crore over the next six years.

Providing money and other material infrastructure is just the first step. The real challenge lies in equipping the new institutions with properly trained and qualified faculty. A critical imperative is to attract the best academic talent from all over the world.

It is important to create adequate financial incentives to get qualified and experienced teachers from international universities to be on the rolls of these institutions. The salary differential between a teacher and a professional working in industry is huge and few academically bright students look at teaching as a career option. Remuneration at par with that of professionals in industry is necessary if the best minds in the country are to be encouraged to look at teaching and research also as rewarding career options.

The new IITs/IIMs and the new universities are of no use if they fail to attract world-class teachers.

### **SC stays AICTE ban on private colleges using the word Indian**

Indian Engineering College of Tamil Nadu had contested the ban

Why should non-government educational institutions be debarred from using the words "Indian" and "national"? Does the government have a monopoly over the use of these words? These questions came to the fore when a private engineering college challenged a diktat of the All India Council of Technical Education (AICTE), the apex regulatory body for engineering and technical education. The AICTE had, in 1984, prohibited private institutions from using the words. Most of the institutions complied as they were threatened with derecognition.

Selvam Educational and Charitable Trust challenged the AICTE diktat in court. The trust asked the Supreme Court bench to clarify if there was a government monopoly over the words "Indian" and "national". The trust's counsel said the AICTE order was inexplicable in a scenario where all kinds of commercial establishments were free to use "Indian" or "national" but a private educational institution could not.

The Selvam Trust had set up The Indian Engineering College in 1984, which was recognised by the TN government. When the notification prohibiting the use of the words "Indian", "national",

“All India”, etc was put in place, the trust was forced to change the name of the institute to escape derecognition. The Selvam Trust then approached the Madras HC, but it rejected its protest. The AICTE justified its decision saying it was meant to protect students from being duped by unscrupulous operators, who have crowded the private sector in education.

## **Kidney bazaar**

The uncovering of the illegal kidney transplant racket in the booming IT city of Gurgaon cast a shadow on India just as the country seemed to be establishing itself as the leading healthcare destination in the world.

The kidney scam in Gurgaon in Haryana and Moradabad in UP has reiterated the fact that despite the ban on trade in human organs, India continues to be one of the major centres of the trade, hijacked by criminal elements with international linkages.

Despite the public uproar over the gruesome racket and the highest level of probe promised by the government, the two main accused managed to flee the country, showing just how organised the trade has become. On the request of the CBI, the Interpol issued red corner notices against alleged kingpin Amit Kumar and his brother Jeevan. Amit Kumar was arrested recently in Nepal and deported to India.

Police probe into the Gurgaon kidney racket shows that the kidney trade involves not only unqualified doctors and poor donors, but also hardened criminals who are the masterminds of such operations and have their links spread across the globe.

Experts point out that the kidney racket is more widespread in India than in any other country in the world. The global shortage of transplant organs has fuelled a black market that is exploiting and even threatening needy donors. Rich patients from abroad are known to pay tens of thousands of dollars to receive kidneys from poor countries, where payments are typically about \$1,000 in the black market.

Experts opine that because of the stringent rules regarding organ transplant in other countries and the shortage of kidneys, India as well as China have emerged as international centres for the transplant of kidneys. It is no more the poor and the labour class that is being exploited. Even a common man or woman who visits a quack could end up losing one of the kidneys without even getting to know about it.

The means to increase the supply of legally available kidneys, which could make the black market irrelevant, do exist. A large number of deaths occur because of fatal road accidents everyday. Experts say a significant number of kidneys can be retrieved from such deceased for therapeutic purposes. There would be no scarcity of the organ and black trade would automatically be stopped. The number of eyes retrieved is a pertinent example. The missing link is the lack of the required facilities in government hospitals.

## **PM's visit to China: Dragon's call**

Prime Minister Manmohan Singh's maiden visit to China concluded on a high note with the joint declaration on "A Shared Vision for the 21st Century", a commitment to building a harmonious world of durable peace and common prosperity through strategic and co-operative partnership. The declaration supports China's commitment to back India's aspirations in United Nations, co-operation in the field of civilian nuclear energy, and positively views India's participation in regional and sub-regional multilateral process and bilateral trade. Here is a detailed analysis of different aspects of Sino-India relationship—potential for progress and areas of concern.

### **Economic and trade relations: Advantage China**

India's trade with China skyrocketed from \$2.5 billion in 2000-01 to a whopping \$25 billion in 2006-07. However, what is deeply worrisome is the rising trade deficit in favour of China. The challenge before India is to match the burgeoning Chinese exports to India and diversify our export basket beyond iron ore and other non-renewable resources. Equally worrying is the near-monopoly of Chinese exports to India in certain critical sectors. India's trade deficit with China climbed to \$9.2 billion in 2006-07 while with the US we had a surplus of \$7.1 billion.

The share of China in India's imports has risen from 4 percent in 2001-02 to 9.4 percent in 2006-07. It is even more striking that China's industrial goods exports to India today amount to 10 percent of India's entire industrial GDP. On the other hand, India's share is a paltry 1.3 percent of China's global imports. Of course, if Chinese products are competitively replacing our imports from the developed world, what could be the harm? But if this flood of Chinese products ends up shutting down Indian manufacturing in some sectors, there is cause for worry.

India is yet to grant market economy status to China. Reasons for objection are a high level of subsidies across sectors and a pegged exchange rate. China is still the biggest source of dumping in India, shipping goods below cost. Chinese government provides subsidised inputs and capital, thanks largely to the absence of any prudent standards. Chinese exports have an unfair advantage, even if the infrastructure situation in India is not factored in. Most experts accept the complaint of Indian companies about the lack of a level playing field with Chinese exporters. Chinese firms enjoy massive subsidies and get cheap access to capital from a government-controlled banking system.

So, how should India go about its trade relations with China? After all, Indian business does have its areas of strength. Experts advocate India entering Chinese markets, wherever we have core competencies. India's core competency in pharmaceuticals is well established across the world—40 percent of India's pharmaceutical products are exported to the developed world. However, pharmaceutical exports to China are minuscule. The procedures for product and company registration and for procuring import drug licences in China are far too expensive and time-consuming. These "non-tariff barriers" are acting as an impediment to the entry of Indian pharmaceutical companies into China.

Similarly, in the case of IT, Indian companies have failed to acquire any Chinese orders and are left to work with MNCs operating in China. The government should strive to prise open the market for India's service exports to China, given our proven strength in exports to the most advanced economies of the world.

### **Border dispute: Status quo**

Critics say the visit was symbolic as there was no forward movement on the crucial issue of resolving the disputed border problem. Former Prime Minister Atal Behari Vajpayee's visit in 2003 had concluded on a high note of the Principles for Relations and Comprehensive Cooperation, which marked India's tacit recognition of Tibet as a part of China, in lieu of China's recognition of Sikkim. The latest visit comes on the heels of new developments in the border region. Border negotiations continue to be tricky and remain under wraps. The dispute in the Western Sector (Aksai Chin) and Eastern Sector (Tawang) remains intractable. There is no dispute in the Middle Sector.

The dispute in the Western Sector has become complicated with the transfer of Shaksgam Valley (in PoK) by Pakistan to China. China does not recognise the McMahon line in the north-east and incursions have been reported in Arunachal Pradesh, an area which China covertly claims as South Tibet. Indian diplomatic channels have indicated China's intransigence. China, on the other hand, alleges intrusions by India in the Western Sector.

It is undeniable that India is encircled by China. There may or may not be any hostile intent in this encirclement, but the fact is that from Myanmar to Pakistan, in a northern arc, India is encircled either by Chinese-controlled territory or by allies of the Chinese. It is also incontrovertible that China has used one of these allies—Pakistan—to constantly needle India. On the foreign policy chessboard vis-à-vis China, India is not too favourably placed.

Prime Minister Manmohan Singh and his Chinese counterpart Wen Jiabao signed a document, called "A Shared Vision for the 21st Century". The document commits Beijing to supporting New Delhi's desire to play a greater role in the United Nations Security Council. The agreement also commits India and China to pursuing bilateral co-operation in civilian nuclear energy. Analysts say China's stance on India's role in the UN Security Council is not a major improvement on the existing position. Even in the past, the Chinese have spoken favourably about India's role in the United Nations.

However, the same cannot be said about their stance on India's aspirations for a permanent seat in the UN Security Council. The gain that the Indians claim they have made in the new agreement is that, for the first time, the Chinese have recognised India's "aspirations to play a greater role in the UN, including the Security Council". However, whether this will help India secure Chinese support for India's claim to a permanent seat in the Security Council remains unclear.

### **Tempering euphoria**

Critics say Manmohan Singh's visit to China was a goodwill visit, not a diplomatic triumph. India and China have not exactly been at daggers drawn after 1962, but neither have they been the best of friends. Bilateral trade has grown. Indian leaders have visited China and the latter has reciprocated. Occasionally, the two countries have spoken in one voice at international fora. This often creates an illusion that India and China can, one day in the foreseeable future, become allies. The illusion hides certain fundamental contradictions that determine Sino-Indian relations. India and China are competitors for the same turf. Both are growing economic powers. Both want to be recognised as the most important power in Asia. Both have the size and the muscle to back such a claim. These are facts that cannot be wished away by any goodwill visit.

The appropriate approach to India's foreign policy is, in the words of a famous sinologist, to see "China by daylight", that is, to understand China in all its complexities and rein in both unbridled enthusiasm and cynicism about China. Geo-strategic compulsions and globalisation have underlined that there are no permanent friends or enemies.

### **Spread of the Red Corridor**

Naxal violence has grown unabated in face of inadequate police response

The year saw an enlargement of the militancy base by Maoists groups across the country. The Prime Minister, Dr Manmohan Singh, admitted this at the Chief Ministers' conference on internal security. He expressed concern over the success achieved by Naxal extremists in enlarging their militancy base besides being better equipped and organised.

Terming "left-wing extremism" as the single biggest internal security challenge, Dr Singh said: "Although the notions of a red corridor from Nepal to Andhra Pradesh are exaggerated, we have to admit that they have achieved some degree of success in enlarging their areas of militancy. In some states, they have also got involved in local struggles relating to land and other rights."

In the last one year, Maoist groups have developed the capability to launch frontal attacks on police forces and establishments. The fresh target of Maoist groups has emerged vital economic installations, transport and logistic support systems even as they have managed to eliminate some important political leaders and their associates in some states this year.

Of the total 8,488 police stations in 11 states where Maoist activities have been observed, as many as 395 police stations are seriously affected by Maoist activity, according to official sources in Union Ministry of Home Affairs. Notably, these police stations lie in those states zeroed in by the Union government for anti-Naxal operations. Andhra Pradesh, Chhattisgarh and Jharkhand are the three worst-affected states. What makes the situation grimmer in these states is the fact that the police force to fight the Maoists in these states is "inadequate and ill-equipped", besides being "ill-trained and poorly-motivated".

The home ministry is contemplating on setting up special forces to fight the Maoist menace in the affected districts in the four states while providing all possible assistance to these forces. The union government has also urged the states to devise proper plans to fight Maoists head on

militarily. The key to tackling Maoists is to focus on cutting their support infrastructure. Security must be provided to those involved in forest operations, tendu leaf operations and contractors in interior areas who are particularly vulnerable to extortion.

However, to achieve any success on these fronts, there is a pressing need for improved coordination between the Union government and states, improved intelligence gathering, better inter-state coordination, improved policing capabilities in terms of better police infrastructure, better training facilities, better equipment and resources and dedicated forces.

### **Pravasi Bharatiya Divas: Declining interest**

Impressive growth and India's confidence in her abilities mean the country does not need to interact with the diaspora on the latter's terms

The sixth Pravasi Bharatiya Divas, a national conclave for non-resident Indians or persons of Indian origin, who are now settled in different parts of the world, was organised in New Delhi recently. The National Democratic Alliance (NDA) government, led by Atal Bihari Vajpayee, launched the annual conference in 2003 and the Congress-led United Progressive Alliance (UPA) government, led by Manmohan Singh, has been organising the annual NRIs conference since 2005. This year's theme was to build social and emotional bridges with the Indian diaspora and how NRIs could be encouraged to invest in India's social sector development.

A number of decisions taken in the last six years are indicative of the NDA and the UPA governments' belief that there are political and economic benefits in staying connected with overseas Indians. Creation of a ministry for overseas Indian affairs, grant of dual citizenship to NRIs in some countries in addition to a special passport-like identity card to all NRIs to facilitate their travel to India are just a few among the many.

The sixth edition of the Pravasi Bharatiya Divas was devoid of the excitement that was witnessed in the previous five conferences. There were no major announcements. The number of countries from where delegates came was lower at 35, compared to 50 and 56 countries at the two conferences held in 2006 and 2007, respectively.

The reason behind the lukewarm response to the Pravasi Bharatiya Divas celebrations has much to do with the way India, as a country has begun to look at herself and the world. Today, India does not need NRI dollars to shore up its foreign exchange reserves. The impressive pace of the economy's growth and a promising outlook of development on all fronts have made Indians in their own country more confident and assertive.

Earlier, the Indian government was eager to offer more incentives to the NRIs to invest their wealth in India. Now, it is the NRIs who are asking for government's help in lobbying with foreign governments to provide it protection there against racial discrimination. The diaspora invests its disposable income in India because of higher rates of return.

## **New Linguistic Survey of India**

An effort to unravel the linguistic heritage of India

India is about to start a massive exercise to catalogue the nation's myriad known and unknown languages for the first time since an incomplete British effort over a century ago. The New Linguistic Survey of India (NLSI) also aims to salvage languages on the brink of extinction. The NLSI will be conducted by several university departments and monitored by the Mysore-based Central Institute of Indian Languages (CIIL).

Although a count of mother tongues—languages and dialects—can be based on census data, a linguistic survey is necessary because little is known about most of these languages. Several remain “unclassified”, their position on the language tree unclear. The confusion has been deepened by the fluctuating count of mother tongues as reported by the various censuses. The linguistic survey conducted by the British did not cover southern India and the Northeast, which has the highest density of languages in the country.

Classified South Asian languages belong to at least four big families—Indo-European (most belong to the sub-group Indo-Aryan), Dravidian, Austro-Asiatic and Sino-Tibetan. But several other languages have not been assigned a family and are hardly known.

The NLSI's priority will be classification, but with growing evidence that languages mutate, merge or simply disappear, the survey will also study their evolution. Linguists say dominant languages tend to eat into the geographical and demographic terrains of “minority” languages.

The HRD ministry is providing Rs 200 crore and the UGC Rs 80 crore under the 11th five-year plan for the survey.

## **Socialist tag in constitution challenged**

Petition against 42nd amendment says socialist principle is antithetical to democracy

The Supreme Court has issued notice to the Union government on a petition challenging the validity of Section 2 of the Constitution (42nd Amendment). The 42nd Amendment had inserted the word “socialist” in the Preamble to the Constitution.

The petition filed by Good Governance India Foundation also challenged the validity of a section of the Representation of the People Act which was inserted by way of another amendment in 1989. This amendment had made it incumbent upon every political party registered in India to pledge allegiance to the socialist ideal, failing which such a party would be rejected from registration.

A three-judge bench comprising Chief Justice K.G. Balakrishnan, Justice R.V. Raveendran and Justice J.M. Panchal after hearing senior counsel Fali Nariman, counsel for the petitioner, also issued notice to the Election Commission.

Nariman submitted that the 42nd Amendment evolved in the climate of national Emergency violated the basic structure of the Constitution. Prior to the amendment, the Preamble read as follows: “We, the people of India, having solemnly resolved to constitute India into a sovereign democratic republic”. After the amendment, it read: “We, the people of India, having solemnly resolved to constitute India into a sovereign socialist secular democratic republic.” Good Governance India Foundation in its petition contended that the amendment altered the Preamble and was inconsistent with the phrase “liberty of thought, expression, belief, faith and worship,” in the Preamble itself.

On the RP Act amendment, the petitioner said that calling upon every political party to swear allegiance only to a particular mindset or ideology, viz. socialist principle, was contrary to democratic foundations. The petitioner sought a direction to strike down these amendments as “unconstitutional.”

## **Government clears ordinance on delimitation**

### **Union government gets powers to exclude states from delimitation process**

The Union Cabinet has deferred delimitation in four north-eastern states and Jharkhand by approving the amendments in the Delimitation Act, 2002. This paves the way for implementation of the exercise in the rest of the country.

Delimitation is the creation of new Lok Sabha and Assembly constituencies, undertaken by the Delimitation Commission, following demographic changes. The exercise was completed taking into account the changes in the population of scheduled castes, scheduled tribes and other communities on the basis of the 2001 census, replacing the 1971 census.

The amendment in the Act would give President the power to defer delimitation in any state on certain stated grounds. Security could be one such ground. I&B minister P R Dasmunshi said delimitation could not be carried out in the north-eastern states due to the prevailing situation. The amendment Bill would be tabled in Parliament’s budget session.

Delimitation in the four north-eastern states—Assam, Arunachal Pradesh, Nagaland and Manipur—has been delayed due to a case in the Guwahati high court challenging the legality of the 2001 census, the basis for the new delimitation. A separate appeal relating to Manipur is also pending in the Supreme Court.

There is resentment in these north-eastern states against proposed delimitation of constituencies. The commission, led by Kuldip Singh, is yet to begin its work in these states. The government fears if Singh and other officers of the commission begin visiting these states, the situation might turn volatile.

In Jharkhand, carved out of Bihar as a state for tribals, delimitation is on hold because ST parliamentary constituencies would come down by one. In the case of the assembly also, the number of ST seats were coming down. Parties, cutting across their political lines, have rejected

the proposed contour of the constituencies. To avoid further trouble, the government will keep it out of delimitation for the time being. Dasmunshi said the objective of delimitation was that the number of reserved seats should not come down.

## **Gorshkov: A ship too far**

Dispute over costing of Gorshkov deal sours India's defence co-operation with Russia

The Indo-Russian deal for Admiral Gorshkov, a 44,750-tonne Kiev-class aircraft carrier rechristened INS Vikramaditya, is still in troubled waters. The \$1.5-billion deal seems unfinished with Russia demanding an additional \$1.2 billion for refitting the carrier. This has raised doubts over the ties between India and its long-time defence partner. The two countries share a defence relationship, which is pegged at a little over \$15 billion.

Navy chief Admiral Sureesh Mehta had recently expressed displeasure at the pace of refitting work, much to the dismay of the Ministry of Defence. India has paid \$400 million as part of the \$1.5-billion deal, which includes \$500 million for 16 MiG 29 K Fulcrum fighters and Kamov helicopters along with the carrier, as per the 2004 contract. The revamped Vikramaditya, which was to reach India in 2008, is likely to be delivered only by 2012-2013.

The project is also poised for a huge cost overrun. Sources in the Indian Navy say the delay in the refit of Vikramaditya was due to gross miscalculation by Russian engineers and lack of blueprints. Admiral Gorshkov, initially named Baku, was conceived in 1978 and built at Nikolayev South in Ukraine. The carrier, commissioned in 1987, was renamed Admiral Gorshkov after the disintegration of the USSR in 1991. But the sketches of the ship were not handed over to Russia. This led to lower than estimated cost for the refitting work required. There was a demand for additional payment by Russia in November last year inviting sharp criticism from the Indian Navy.

Meanwhile, the Indian Navy plans to revamp its sole ageing carrier INS Viraat. Viraat is expected to last till Vikramaditya's arrival. All this would be detrimental to the strategic designs of the Indian Navy. Meanwhile, the US is learnt to have offered its USS Nimitz, which will be decommissioned soon, to the Indian Navy.