



# drishti

## News Analysis (04 Jan, 2019)

[drishtiias.com/current-affairs-news-analysis-editorials/news-analysis/04-01-2019/print](https://drishtiias.com/current-affairs-news-analysis-editorials/news-analysis/04-01-2019/print)

### Retirement Age of Judges

The Ministry of Law and Justice has said there was no proposal as of now to increase the retirement age of **Supreme Court judges from 65 to 67 and of High Court judges from 62 to 65.**

- The Ministry was responding to the recommendation of a **Parliamentary Standing Committee** that raising the retirement age of judges would help retain the existing judges, which in turn would help in **reducing both vacancy and pendency** of cases in short run.
- Another key factor highlighted by the committee was the **life expectancy, which has increased considerably** in the last few years.

### Background

- The **Venkatachaliah Report (Report of the National Commission to review the working of the Constitution, 2002)** recommended that the retirement age of the Judges of the High Court **should be increased** to 65 years and that of the Judges of the Supreme Court should be increased to 68 years.
- The **Constitution (114<sup>th</sup> Amendment) Bill** was introduced in 2010 to increase the retirement age of High Court judges to 65. However, it was not taken up for consideration in Parliament and lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.
- Recently Justice Kurian Joseph of Supreme Court also recommended increasing retirement age of judges in higher judiciary to decrease the pendency of cases.
- However, it has also been argued that 65 years is a good enough an age to retire, because at this age, **mental and physical wear and tear start manifesting.**
- As of now, out of a total **approved strength of 1,079 judges in 24 High Courts** (excluding the 25<sup>th</sup> High Court of Andhra Pradesh) across the country, **only 695 posts are filled.**

## The Case in Western Democracies

---

- A retirement **age of around 70** for judges is commonplace in **most Western liberal democracies**. Some of them even opt for **tenures for life**. E.g.:
  - In the Supreme Court of the **United States**, and in constitutional courts in **Austria and Greece**, judges are **appointed for life**.
  - In Belgium, Denmark, Ireland, the Netherlands, Norway and Australia, the retirement age for **judges is 70 years**.
- India should also consider increasing the retirement age for judges of the High Courts and the Supreme Court.

## Need

---

- The **judge-population ratio in India is among the lowest** in the world at 19.66 judges per million (10 lakh) people as of today. In 2016, the U.K. had 51 judges per million people, the U.S. had 107, Australia had 41, and Canada had 75.
- It is also necessary to increase the number of judges in the pool to enable the judiciary to **deal with the enormous pendency of cases**.
- According to **National Judicial Data Grid data**, more than 2.84 crore cases are pending in the subordinate courts, 43 lakh cases are pending before the High Courts, and 57,987 cases are pending before the Supreme Court.
- Moreover, legislations provide for retired High Court and Supreme Court judges to **man tribunals till the age of 70 as chairman and 65 as members**. There is no reason why these judges should be retired so early.
- One aspect which has not been factored in is that as the **Indian economy grows**, the ratio of litigation to population will increase exponentially. Advanced economies such as Australia, Canada, France, the U.S., the U.K., and Japan have much **higher litigation-to- population ratios**.

## Positive Consequences

---

- This will have significant benefits. Senior serving judges will bring with them **years of experience**.
- It will ensure the continued presence of a **strong talent pool of experienced judges**.
- New judges can be appointed without displacing existing judges.
- It will address the **problem of mounting arrears**.
- It will be a buffer against **impending litigation explosion**.
- It will render **post-retirement assignments unattractive** and, as a consequence, **strengthen the rule of law and the independence of the judiciary**, both of which are crucial to sustain democracy.

## Way Forward

---

- India faces the **perennial issue of backlog of cases**. Increasing the age of Judges will certainly help in addressing this issue. The retirement age of judges of the Supreme Court and High Courts could be increased, but with the **option of quitting before reaching the age of superannuation -- a practice prevailing in Zimbabwe**, where a top court judge is appointed to retire at 65 years but can opt to continue till 70.
  - Moreover, merely increasing the retirement age of the Judges is **not a solution for problems** in Indian Judiciary. Other issues like **lack of transparency (particularly in the appointment of judges), under trials of the accused, lack of information and interaction among people and courts must also be addressed**.
- 

## Government Removes Price Cap on Innovative Drugs

---

The government has removed price restrictions on new and innovative drugs developed by foreign pharmaceutical companies under the **Indian Patent Act, 1970**.

- The restrictions have been removed for the **first five years** from the date of first commercial marketing undertaken by the manufacturer in the country.
- This will give Indian patients access to drugs that are currently only available abroad. These also include **orphan drugs** that are used for treating rare medical conditions.

### Orphan drugs

- Orphan drugs are medicinal products intended for diagnosis, prevention or treatment of life-threatening or very serious diseases or disorders **that are rare**.
- These drugs are called “orphan” because under normal market conditions the pharmaceutical **industry has little interest in developing and marketing products** intended for only a small number of patients.

### Patent

- Patents provide the **patent owner with the legal means** to prevent others from making, using, or selling the new invention for a limited period of time, subject to a number of exceptions.
- A patent only gives an inventor the right to prevent others from using the patented invention. It says nothing about whether the product is safe for consumers and whether it can be supplied.
- Patented pharmaceuticals still have to go through rigorous testing and approval before they can be put on the market.

### Section 3(d) of Indian Patent Act, 1970

- Section 3(d) of Indian Patent Act **prevents the “ever-greening” of patents**.
- It means that the following inventions are **not patentable**:

- mere discovery of a new form of a known substance and which **does not result in increased efficacy** of that substance.
- mere **discovery of any new property**.
- **new use** for a known substance.
- mere use of a known process, machine or apparatus unless such process results in a new product.
- This, in other words meant that India did not support inventions which were **minor modifications** and thus prevented undue monopoly during the extended period of patent protection by the inventor/company.

### Compulsory Licensing (CL)

- **Compulsory Licensing (CL)** allows governments to **license third parties** (that is, parties other than the patent holders) to produce and market a patented product or process without the consent of patent owners.
- Any time after three years from date of sealing of a patent, application for compulsory license can be made, provided:
  - reasonable requirements of public have not been satisfied;
  - patented invention is not available to public at a reasonably affordable price;
  - Patented invention is not worked in India.
- The Union government issued this Order under **section 3 of the Essential Commodities Act, 1955**, to provide essential and life-saving medicines at a reasonable price to the general public.
- **Drug Price Control Orders (DPCO) (Ministry of Chemicals and Fertilizers)** lays down the rules for regulating the prices of medicines through a National List of Essential Medicines, known as **Schedule-I of DPCO** which is amended by the government from time to time.

### National List of Essential Medicines (NLEM)

- The first National List of Essential Medicines (NLEM) of India was **prepared and released in 1996**. This list was subsequently **revised in 2003 and 2011**.
- The list is prepared by the **Union Ministry of Health and Family Welfare**.
- Essential medicines are those that satisfy the priority health care needs of the population. These are selected with due regard to disease prevalence, evidence on efficacy and safety, and comparative cost-effectiveness.

### Background

---

- Earlier the US raised concerns about the Indian price controls on **coronary stents and knee replacement implants**, prices of which had been slashed by as much as 85% and 70%, respectively.

- The US announced that it was reviewing the **Generalized System of Preferences (GSP)** eligibility of India after the US dairy industry and the US medical device industry requested a **review of India's GSP benefits, complaining that Indian trade barriers affected US exports in these sectors.**
- 

## Rajya Sabha Passes the Bill to Abolish the No Detention Policy

---

The Rajya Sabha has passed **The Right of Children to Free & Compulsory Education (Amendment) Bill, 2018.**

The Bill, which was passed by the **Lok Sabha in July 2018**, seeks to amend the Right to Education Act, 2009 to abolish the no-detention policy in schools.

### Provisions of the Bill

---

- The Bill **amends the Right of Children to Free and Compulsory Education Act, 2009** and provides that:
- There shall be a **regular examination in the fifth class and in the eighth class** at the end of every academic year.
- If a child fails in the examination he shall be **given an opportunity for re-examination within a period of two months** from the date of declaration of the result.
- The **State Government may allow schools to hold back a child** in the fifth class or in the eighth class or in both classes if he fails in the re-examination.
- The **State Government may also decide not to hold back a child** in any class until the completion of elementary education.
- **No child shall be expelled from a school** till the completion of elementary Education.

[Read About No Detention Policy](#)

---

## Important Facts for Prelims (4th January 2019)

---

### Kadaknath Chicken

---

- Recently the Krishi Vigyan Kendra in Jhabua, Madhya Pradesh has urged the Board of Control for Cricket in India (BCCI) to include Kadaknath chicken in players' regular diet.
- Kadaknath or "**Kali Masi**" is one of the rarest poultry breeds of India which is **native to Jhabua district of Madhya Pradesh, India.**
- Kadaknath chicken from Madhya Pradesh was granted a **Geographical Indication (GI) tag by the government registry in 2017.**

- It is **popular for its black meat** which is famous for its meat quality, texture, taste, and excellent medicinal values.
- Kadaknath chicken **contains 25-27% of the protein** in comparison with other breeds of chickens that contain 18% protein. It is also known for its **high iron content**. It has **lower levels of fat and cholesterol content compared with other chicken breeds**.
- Kadaknath chickens are mainly **reared by tribal communities in the districts Jhabua** and Dhar in the state of Madhya Pradesh. It can be noted that Chhattisgarh too had sought similar recognition for the Kadaknath chickens bred in Dantewada district.

## Financial Action Task Force

---

- The **Financial Action Task Force (FATF)** has identified 11 jurisdictions, **including Pakistan and Sri Lanka**, as having strategic deficiencies in anti-money laundering (AML) measures and combating of financing of terrorism (CFT).
- The other nine jurisdictions are The Bahamas, Botswana, Ethiopia, Ghana, Serbia, Syria, Trinidad and Tobago, Tunisia and Yemen.

### FATF

- The Financial Action Task Force (FATF) was **established in July 1989** by a Group of Seven (G-7) Summit in Paris, initially to examine and develop **measures to combat money laundering**.
- In October 2001, the **FATF expanded its mandate** to incorporate efforts **to combat terrorist financing**, in addition to money laundering.
- Its objectives are to **set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing** and other related threats to the integrity of the international financial system.
- The Financial Action Task Force has developed a series of recommendations that are recognized as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction.
- FATF **monitors the progress of its members in implementing necessary measures**, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally.
- The Financial Action Task Force's decision-making body, **the Financial Action Task Force Plenary**, meets three times per year.
- FATF has **38 members. India is a member** along with 35 other countries and 2 regional organizations (European Commission and Gulf Cooperation Council).

## Astana Declaration

---

- In October 2018, the **World Health Organization (WHO)** organized **Global Conference on Primary Health Care: From Alma-Ata towards universal health coverage and the Sustainable Development Goals**, meeting at Astana, Kazakhstan.
  - The Astana Declaration was signed which aims to meet all people's health needs across the life course through comprehensive preventive, promotive, curative, rehabilitative services and palliative care.
  - The declaration is **signed by all 194 WHO member states including India.**
  - At the conference, countries declared their commitment to 'Primary Care' and re-affirmed their commitment to Alma Ata Declaration on Primary Health care signed in 1978.
  - The Astana Declaration marks the **40th anniversary of the historical Alma Alta Declaration** that declared **health a human right for all** and not just a privileged few and urged the world to make **primary health care the mainstay of universal health coverage** in 1978.
  - **India was a signatory to the Alma Ata Declaration in 1978** that assured '**health for all**' by the year 2000.
-