

● POLITY

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POLITY AND GOVERNANCE

‘Urban apathy’ drives down polling to 60.4%

CONTEXT: EC flags low turnout in Mumbai, Thane, Nashik, Lucknow; Maharashtra records lowest turnout in Phase 5 at 54.33%; West Bengal, where violence broke out in many constituencies, logged 76.05%



The fifth phase of the Lok Sabha election on Monday saw a 60.48% voter turnout till 11.50 p.m., amid reports of minor incidents of violence from West Bengal.

Maharashtra recorded the lowest turnout at 54.33% this time, while West Bengal saw the highest at 76.05%. The voting percentage in Bihar was 54.85, Jharkhand 63.09, Odisha 69.34, Uttar Pradesh 57.79 and Ladakh 69.62.

The EC said it had received 1,036 complaints from different political parties alleging malfunctioning of electronic voting machines (EVMs) and agents being stopped from entering booths.

Some unidentified persons allegedly hacked an autorickshaw driver to death in Bargarh district of the State. The deceased was carrying some voters to a polling booth. While the family members claimed it was a political murder, police say personal enmity was the reason behind the crime. Of the 49 Lok Sabha seats which went to the polls on Monday, the BJP had won 32 while the Congress won only Rae Bareilly in 2019.

INTERNATIONAL RELATIONS

Helicopter crash kills Iran President, Foreign Minister

CONTEXT: Iranian President Ebrahim Raisi and Foreign Minister Hossein Amir-Abdollahian were confirmed dead after search and rescue teams found their crashed helicopter in a fog-shrouded mountain region, sparking mourning in the Islamic Republic.



Supreme leader Ayatollah Ali Khamenei declared five days of mourning and assigned Vice-President Mohammad Mokhber, 68, to assume interim duties ahead of elections which will be held on June 28. A black flag was hoisted at a major Shia shrine in the city of Qom as a sign of mourning for Raisi, whom many had considered a favourite to one day succeed the Supreme Leader.

Iranian authorities first raised the alarm on Sunday afternoon when they lost contact with Raisi's helicopter as it flew through a fog-shrouded mountain area of the Jolfa region of East Azerbaijan province. Raisi had earlier met Azerbaijan's President Ilham Aliyev on their common border to inaugurate a dam project.

Foreign countries had been closely following the search at a time of high regional tensions over the Gaza war raging since October 7. Expressions of concern and offers of help had quickly come from countries including China, Egypt, Iraq, Kuwait, Qatar, Russia, Saudi Arabia, Syria, and Turkey, which later offered their condolences.

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INTERNATIONAL RELATIONS

U.K. court allows WikiLeaks founder Assange to appeal extradition to U.S.

CONTEXT: The U.K. High Court on Monday granted WikiLeaks founder Julian Assange a reprieve by allowing him to appeal his extradition to the United States.



Julian Assange has been charged on multiple counts for publishing sensitive military and diplomatic cables in 2010 and violating the U.S.'s Espionage Act. In May, the court cleared the extradition conditional on the U.S. providing two assurances: one, the death penalty would not be applied in Mr. Assange's case and two, Mr. Assange would be allowed to rely on the First Amendment (i.e., free speech rights guaranteed by the U.S. Constitution) during his trial. The U.S. has argued that lives were put at risk because the leaked documents contained unredacted names.

In a short court session on Monday, two judges ruled that the U.S. government had not met the requirements. Specifically, in April, the U.S. government had said Mr. Assange "will have the ability to raise and seek to rely upon" the First Amendment but whether that would apply to a non-U.S. national would be up to the courts. Last week, his lawyer, Jennifer Robinson, had called that a "non-assurance".

INTERNATIONAL RELATIONS

India condoles President Raisi's death; state mourning today

CONTEXT: The helicopter carrying President Raisi, Foreign Minister Amir Abdollahian, and other senior officials went missing on Sunday when he was returning to Tehran after inaugurating a dam in the East Azerbaijan province.

Bilateral ties

Mr. Jaishankar had flown to Tehran in January when he held talks with Mr. Abdollahian and Mr. Raisi against the backdrop of the increasing number of attacks against ships by the Houthi rebels on the Red Sea. They also discussed India-Iran cooperation regarding the port of Chahbahar during that visit. India concluded a major agreement on May 13 with Iran for 10-year operation of the Chahbahar port.



The death of Mr. Raisi and Mr. Abdollahian has also cast a shadow over the SCO Foreign Ministers meeting to be held in Astana, Kazakhstan on Tuesday. Other Foreign Ministers of SCO countries have already arrived in the Kazakh capital, and sources said a decision is still to be made about how to proceed.

As the election is under way, India sent Secretary (Economic Relations) Dammu Ravi, who was due to work with other delegations to prepare the final summit agenda for the SCO summit due to be held in early August. Earlier this year, Kazakh President Kassym-Jomart Tokayev announced that all SCO leaders planned to attend the summit in Astana. Earlier, in April, Eraj Elahi, the Iranian ambassador to India had told the media here that President Raisi was expected to visit later this year.

POLITY AND GOVERNANCE

Critical times call for strong judicial adjudication

CONTEXT: The Supreme Court of India will, sooner or later, consider the question whether the Citizenship (Amendment) Act (CAA) and the rules under it can pass constitutional scrutiny.

The recently promulgated CAA Rules are unclear about the fate of the applicants whose request for citizenship is turned down has aggravated concerns over the issue. There is also a fear that persons whose applications are disallowed might end up in detention centres. Some of the petitioners before the Court have also raised concerns over dual citizenship to foreign applicants who need not have to abandon their original citizenship. This would create uncertainty in the matter of citizenship, as it goes against the spirit of the parent Act, it is pointed out.

Interdicting a statute or set of statutory rules is not a routine exercise undertaken by the constitutional courts. Generally, a law made by Parliament is presumed to be valid unless it is shown to have ostensibly breached constitutional provisions. The law presumes that, normally, malice cannot be attributed to a process of legislation (Manish Kumar vs Union Of India, 2021). In Gurudev datta Vks vs Maryadit and Ors. vs State Of Maharashtra and Ors (2001), the Supreme Court said that "legislative malice is beyond the pale of jurisdiction of the law courts...."

The lack of interdiction

This conventional wisdom, however, is incapable of addressing the contemporary challenges posed by populist regimes

across the world, which often invoke motivated or targeted legislation. Such dispensations also manipulate the electoral system or process by legislative means. This recent legislative trend calls for an advanced and assertive juridical approach. Refusing to interdict the operation of such enactments, by adhering to an obsolete presumption regarding validity of the law would severely diminish the counter-majoritarian role which constitutional courts are supposed to play in critical times.

Every piece of legislation is a political statement. A regime that does not believe in the idea of constitutional democracy would naturally enact laws with scant regard to the scheme of the Constitution. On such occasions, a sense of judicial euphoria about the 'validity' of the laws has precluded the Supreme Court from interdicting the operation of laws. The absence of an order of stay against demonetisation has allowed the tragedy to happen and by the time the case was decided in *Vivek Narayan Sharma vs Union of India* (2023), the situation was totally irreversible. The lack of interdiction of the dilution of Kashmir's special status has also made the litigation almost a *fait accompli*, as one finds in the judgment *In Re Article 370 of the Constitution of India* (2023).

Baranwal vs Union of India (2023) was a radical judgment by the Constitution Bench of the top court that called for an independent body to select the Election Commission of India (ECI), with no predominance for the executive of the day. But, recently, the Centre promulgated the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023. This Act revived the earlier position of the "Prime Minister's Committee" choosing the ECI. It comprises the Prime Minister, a Minister chosen by him and the Opposition Leader in the Lok Sabha, whose presence is inconsequential for all practical purposes. Appointments were made based on the new law.

The law was challenged in *Jaya Thakur vs Union of India* (2024). The Court, however, refused to prevent the operation and implementation of the statute based on "presumption" of its validity. This is not a targeted legislation, but an enactment, which, on the face of it, is unconstitutional. The statute threatens the very foundation of our democracy, of which free and fair elections are a basic feature. This is an illustrative case where the Court failed to protect its own judgment, essentially on account of the judicial superstition regarding the presumption of validity of the enactment. It is no wonder that in the general election 2024, the commissions and omissions by the ECI on several occasions remain questionable.

A case of targeted legislation

The CAA and the rules under it, on the other hand, clearly fall within the category of targeted legislation. Legislative malice is writ large in the law. The law classifies people in the name of religion and excludes Muslims from the process for grant of citizenship.

Another prominent example of targeted legislation is the Muslim Women (Protection of Rights on Marriage) Act (2019), which criminalised instant triple talaq. Significantly, the act of instant triple talaq had been invalidated by the Supreme Court in *Shayara Bano* (2017) and, therefore, there was no legal requirement to 'criminalise' an act which was non est in the eye of law. The statute only motivated the 'clever' husbands to resort to other means of divorce or to simply desert their wives, to get rid of the penal consequences. Thus, the law, which was aimed against the Muslim community, evidently did not come to the rescue of Muslim women. Often, it did the opposite. The enactment was however 'successful' in its divisive agenda. Anti-conversion laws in certain States in the country also followed suit.

An example in the U.S.

In the United States too, the conventional view did not favour judicial nullification of statutes on the ground of malice. John Hart Ely stated that the Constitution cannot be used as "an instrument for punishing the evil thoughts of members of the political branches". But evil thoughts of the majority in the legislative bodies are a harsh contemporary reality. Therefore, motivated legislations should call for a more rigorous judicial scrutiny. Scholar Susannah W. Pollvogt correctly writes that "animus can never constitute a legitimate state interest for purposes of equal protection analysis". By referring to the judgment in *United States Dept. of Agriculture vs Moreno*, 413 U.S. 528 (1973), she said that the enactment to exclude "hippies" from collective residential rights implies a "desire to harm" a particular group and therefore reflects discrimination (*Unconstitutional Animus*, *Fordham Law Review*, 2012).

There are Indian precedents where the Supreme Court has effectively interdicted operation of parliamentary legislations. In *Ashoka Kumar Thakur vs Union of India* (2007), regarding the prescription of 27% quota for Other Backward Community (OBC) candidates to professional colleges, the Court initially issued a judicial injunction. The Court's order of stay in the case of the three contentious farm laws in *Rakesh Vaishnav vs Union of India* (2021) is another example. The Court in that case effectively prevented the implementation of the farm laws which the Centre had to withdraw ultimately following farmers' protest.

As regarding the statutes which are glaringly unconstitutional or divisive, the process of judicial review should be strong, immediate, and unambiguous. The top court should be able to learn from its track record and understand the political consequences of its insensitivity during critical times. Delay often defeats the purpose of constitutional adjudication. Time is the essence of judicial review when it comes to malicious and unconstitutional laws.

POLITY AND GOVERNANCE

SC agrees to waive telcos' interest on I-T dues on licence fee

CONTEXT: A Bench of Justices B.V. Nagarathna and Ujjal Bhuyan agreed to a waiver of the interest levy after the assesses (telcos) said payment of the tax demand from the year 2000-2001 was itself a "heavy burden".



The Supreme Court held that telecom licence fee should be treated as entirely “capital in nature”, waiving off interest due on income tax for telecom service providers. The telcos had urged the court to at least waive the interest payable on the tax for the period. The 1999 policy had stipulated that a licensee (telco) would be required to pay a one-time entry fee, and additionally, a licence fee on a percentage share of gross revenue.

The October 2023 judgment had concluded that the payment of the licence fee was “intrinsic to the existence of the licence as well as trade itself to be treated or characterised as capital only”. The consequence of non-payment would result in ouster of the licensee from the trade,” the Supreme Court had observed in its October judgment.

The apex court judgment was based on appeals against a Delhi High Court judgment of December 2013. The Delhi High Court on December 2013 had confirmed an Income Tax Appellate Tribunal finding that the variable licence fee paid by telcos under the 1999 policy was revenue expenditure and not capital.

Centre objects

Additional Solicitor General N. Venkataraman, appearing for the income tax department, had objected to the request. He had contended that it was only logical for the assesseees to pay the interest if they were meeting the tax demand.

After giving thoughtful consideration to the submissions, the Bench, in a four-page order dated May 17, published on Monday, directed that “since the judgment of this court is dated October 16, 2023, and having regard to the Telecom Policy, which commenced from the year 1999, the payment of interest for the period for which the tax demand is now to be met in respect of these cases stands waived”.

‘Not a precedent’

However, the court made it clear that the order would not act as a precedent. “The order shall not be a precedent in any other case as we have passed this order bearing in mind the peculiar facts of this case and having regard to the lapse of time in litigation,” the Bench underscored. The National Telecom Policy of 1994 was substituted by the new Telecom Policy in July 1999.

POLITY AND GOVERNANCE

CCI’s Kaur bats for new analytical tools for digital market

CONTEXT: CCI Chairperson Ravneet Kaur pitched for regulatory agility, new analytical tools and possibly, novel regulatory frameworks, specifically tailored to the digital context to deal with competition challenges posed by digital markets.

While stressing on the need for a nuanced approach blending traditional competition analysis with a deep understanding of digital-market dynamics, she said issues such as “algorithmic collusion” pose novel challenges for regulators. The CCI has been taking steps to address anti-competitive concerns in digital markets.

The CCI will be conducting a market study on Artificial Intelligence (AI) that will be aimed at developing an in-depth understanding of the emerging competition dynamics in the development ecosystems of AI.

The transformative capabilities of AI have significant pro-competition potential. At the same time, there may be competition concerns emanating from the use of AI, she said, adding there is a growing emphasis on consumer welfare in the formulation and enforcement of competition law. Authorities are increasingly considering the broader impact of new age business practices on consumer choice, innovation, and overall market health beyond just price effects.

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ECONOMICS AND DEVELOPMENT

India-China consumption comparison

CONTEXT: In 2023, India surpassed China to become the world's most populous country. The development came against the backdrop of a declining birth rate (6.4 births per 1,000 people) and total fertility rate (~1%) in China.

China also recorded a negative population growth rate for the first time in six decades. This means a rising dependency ratio, which is projected to increase over time. In contrast, India's population, despite reaching replacement levels (total fertility rate of 2.1), is expected to grow and peak around 2060.

These developments have significant consequences on domestic consumption in the two countries. Consequently, it becomes imperative to compare their consumption figures and strengths/weaknesses. A cross-comparison also assumes significance owing to the contrasting experiences of the two countries in their respective geopolitical landscapes.

How do the numbers compare?

Both India and China have a large consumer base. A consumer is anyone who spends more than \$12 a day, as per the

Purchasing Power Parity [PPP], 2017. Private Final Consumption Expenditure (PFCE), which measures total consumption expenditure by households and non-profit institutions serving households on goods and services, serves as a useful proxy for consumer spending especially as income and consumption are concentrated within the consumer classes. The data reveals that as a percentage of GDP, India spends significantly more on consumption than China. While PFCE contributes more than 58% to India's GDP currently, it contributes only 38% to China's economy. Additionally, the final consumption, which also includes government consumption expenditure, constitutes 68% of the GDP for India and 53% for China. This implies that the government is a much bigger consumer in China than in India. Furthermore, while the percentage for India is steadily increasing, the same for China has been on a decline.

The aggregate data on PFCE reveals that despite China's economy being approximately five times bigger than that of India's, its PFCE amounts to relatively a lot less, only about 3.5 times that of India's. This not only means that consumption is a much larger contributor to India's GDP, but that India will equal China's consumption

Who spends more?

Through these charts, the spending habits of India and China, two of the most populous countries in the world, are elaborated and analysed



Chart 1: Comparing India and China's consumer size (2022)

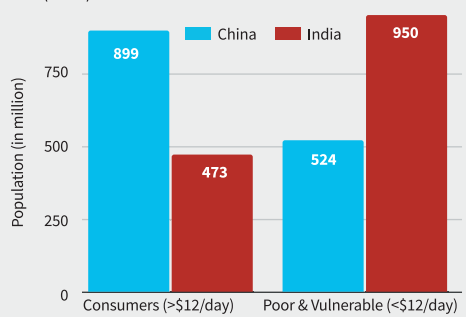


Chart 2: Contribution by region to global consumer class growth in 2024 (in million) in %

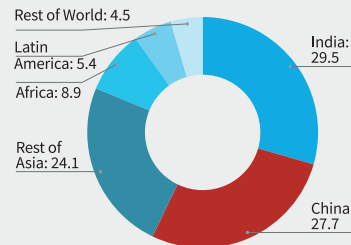


Chart 5: Private final consumption expenditure as % of GDP

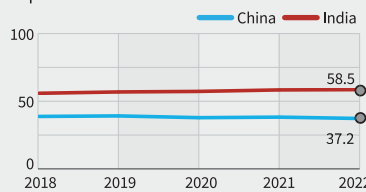


Chart 8: Per capita private final consumption expenditure

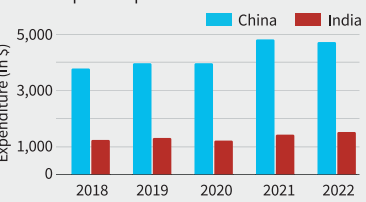


Chart 3: Addition to consumer base (in million)

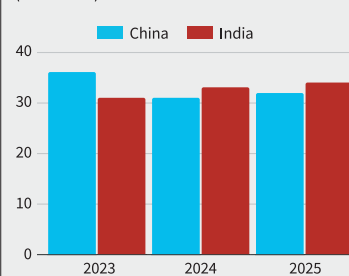


Chart 6: Final consumption expenditure as a % of GDP

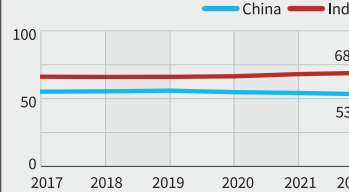


Chart 9: Private final consumption expenditure growth

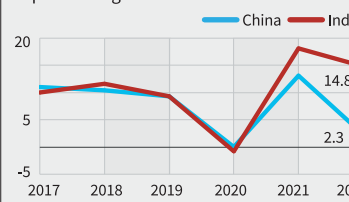


Chart 4: Consumers in 2030 (projections)

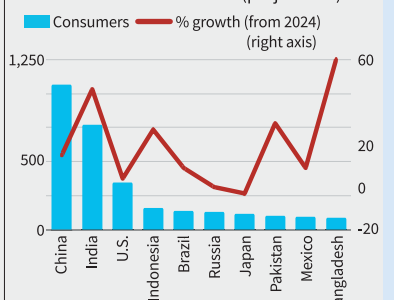


Chart 7: Private final consumption expenditure

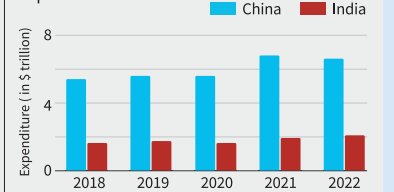


Chart 10: Per capita private final consumption expenditure growth

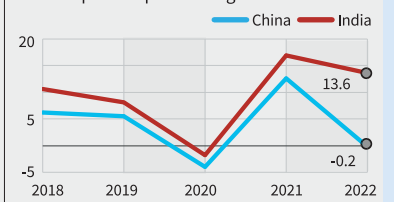


Chart 11: Private final consumption expenditure (PPP)

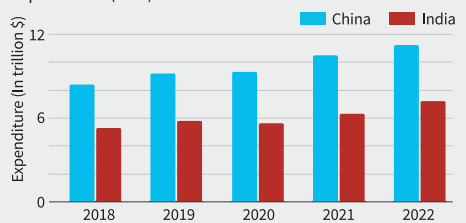


Chart 12: Per capita private final consumption expenditure (PPP)

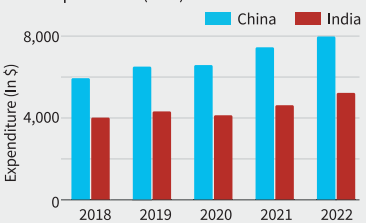


Chart 13: China's expenditure in % by category (2022)

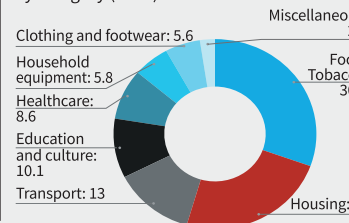
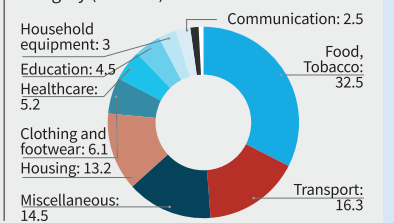


Chart 14: India's expenditure in % by category (2021-22)



Source: World Data Lab, Visual capitalist, MoSPI, NBS

level at a relatively much lower GDP (~\$10 trillion) as against China, which achieved the scale at approximately \$17 trillion.

, despite the gloomy narrative around China's consumption, its PFCE has registered a significant increase in the past four years. Its PFCE remained rather constant in 2020 (pandemic year) before registering a huge uptick in 2021. On the other hand, India's figures have steadily increased from \$1.64 trillion in 2018 to \$2.10 trillion in 2022. Thirdly, in 2022, while China recorded a decline in its numbers — both aggregate (\$6.6 trillion compared to \$6.8 trillion) and per-capita (\$4,730 compared to \$4,809) — India witnessed marginal growth in both categories. Nevertheless, the difference in the expenditure between the two countries has widened from \$3.8 trillion in 2018 to more than \$4.5 trillion in 2022.

Finally, in terms of ratio, India's PFCE has closed the gap with China from ~3.3 to ~3.1. The significance of India closing the gap in terms of ratio here needs to be underlined. Usually, with a country like China that is operating on a huge base, even a marginal growth rate could inflate the aggregate numbers manifold. This would be true even if India, on the other hand, were adding expenditure at a relatively higher growth rate than China. But to beat China in terms of ratio would have required India to grow at a significantly higher rate than China, which it did. In terms of per capita PFCE, while the values mirror aggregate numbers, there is one exception. Even as India closed the gap in aggregate terms, China widened the per capita PFCE marginally from ~3.0 times of India in 2018 to ~3.1 in 2022. This could be explained by China's negative population growth in 2022.

Comparing the nominal PFCE numbers alone could sometimes lead to a distortion. This is because the nominal figures do not take into account the discrepancies between the cost of living that might exist. Consumption is not just about consumed value but also consumed volume. And nominal figures only give an idea of total consumption value — might not give an idea of the volume of goods and services consumed. Thus, to account for consumption by value, a comparison of PPP figures becomes imperative.

On comparing the PPP numbers, the gap between the consumption expenditure further closes down. In PPP terms, China's PFCE is approximately 1.5 times that of India. To put this in

context, China's GDP (PPP) is approximately 2.5 times of India's. The relative gap between China and India widened from ~1.58 in 2018 to ~1.66 in 2020 and 2021, but 2022 witnessed India closing the gap to ~1.55.

However, in PPP terms, China witnessed a marginal increase of ~\$0.7 trillion owing to improved yuan-dollar PPP exchange rates. On the other hand, India added a trillion dollars to its consumption expenditure (PPP) in 2022 despite a worsening exchange rate.

Expenditure by categories

India's consumption expenditure is characterised by higher spending on food, clothing, footwear, and transport and low spending on education, culture, recreation, and healthcare — typical of an underdeveloped or developing market. China's consumption basket, on the other hand, represents a relatively developed market. Even as food and beverages constitute the biggest chunk of China's consumption, it is declining as a percentage of its total consumption expenditure — a sign of a maturing market. Additionally, it spends a substantially higher percentage of its expenditure on housing, white goods, recreation, education, and healthcare than India. To put things in context, in advanced economies like the U.S., Japan, EU, Germany and the U.K., expenditure on food isn't the highest bracket.

In aggregate terms, India spends around half of what China spends on food, transport and communication, and clothing and footwear. For India, which is a fifth of the Chinese economy and spends almost the same percentage (of the total expenditure) as China on these three sectors, the fact that its total expenditure in the above three categories is around half of China is quite significant. In fact, India spends a little over 50% of what China spends on transport and communication. (Note: India's data for 2022 were not available.)

Adding to the optimism is the fact that the real growth rate registered by each of these individual categories in India often outperformed even the nominal growth rates observed in China.

Whether India's consumer class with increased spending enhances its appeal to foreign businesses as a preferred destination over its competitors amidst the China+1 narrative remains to be seen.



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ECONOMICS AND DEVELOPMENT

Flight cancellations affected 1.5 lakh people since Dec. 2023

Since December 2023, hundreds of cancellations and poor on-time performance of airlines have left thousands of people stranded at airports across India. Between March 31 and April 3 this year, 150 Vistara flights were cancelled and 200 flights were delayed by more than two hours. On May 8, Air India Express cancelled 90 of its 360 flights. Similar cancellations, though not at this scale, were recorded across many large airlines at various points this year.

The recent crisis to hit the aviation industry is fuelled by the unavailability of crew. In the case of Air India Express, about 200 cabin crew reported “sick”. In the case of Vistara too, crew unavailability was cited as the reason. There has been a mismatch between demand and supply of crew amid the expansion of the network.

The new troubles have come just as the aviation industry has started shrugging off the effects of the COVID-19 pandemic, which resulted in record losses for all airlines. During the first few months of the pandemic, in 2020, passenger flow came to a halt as airlines were grounded. In later months, passenger flow trickled in as airlines had to follow pandemic-related protocols. Despite that, airlines continued to pay salaries, airport fees, and aircraft and engine rentals and thus faced heavy losses. Later in 2022, when passenger flow returned to pre-COVID-19 levels, aviation fuel prices shot up. Airlines continued to suffer since passing on the fuel price to customers was not an option.

Off the charts

The data for the charts were sourced from the Directorate General of Civil Aviation



Chart 1: The bigger the square, the higher the cancellation rate (in %) of airlines in a month

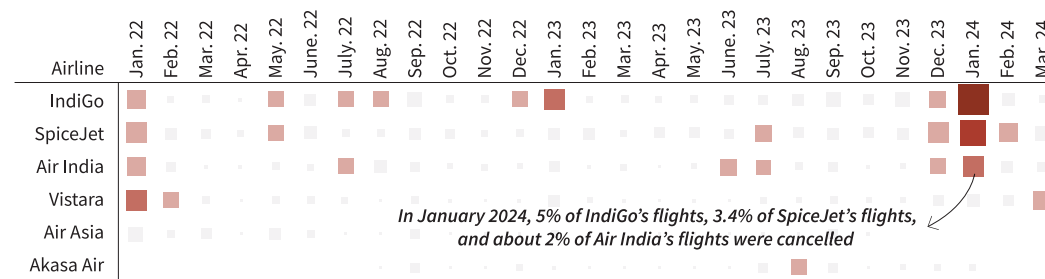


Chart 2: The bigger the square, the higher the number of passengers (absolute figures) impacted by cancellation of flights in a month

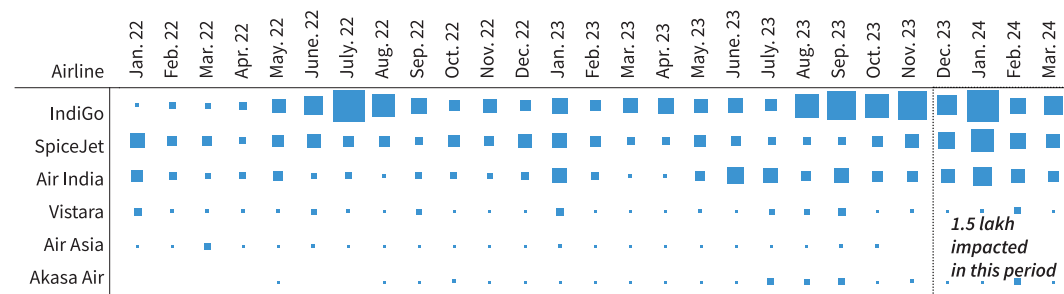


Chart 3: The chart shows complaints about refunds as a share of total complaints received by airlines month-wise

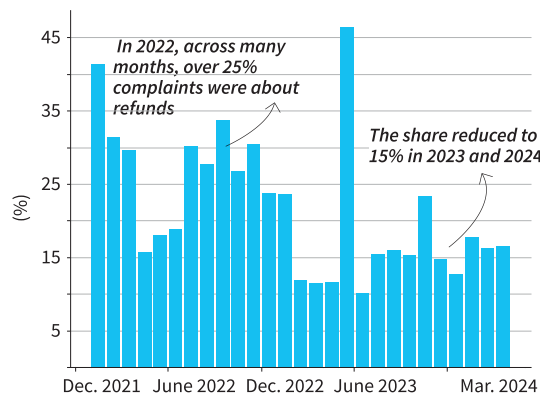
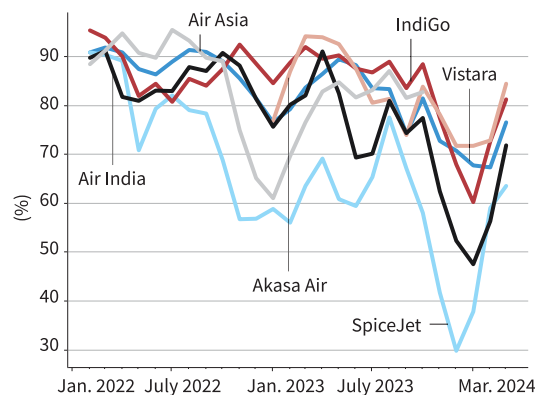


Chart 4: The chart shows the on-time performance of airlines, based on data from select airports



Rhythanya, Sherin R., and Niha Thasneem R. are interning with *The Hindu*

“Doing nothing is very hard to do. You never know when you’re finished.”—Leslie Nielsen



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