



Updated Classroom Study Material

July - August 2018




MAINS 365 - UPDATION

JULY – AUGUST 2018

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1. POLITY AND CONSTITUTION

1.1. ISSUES RELATED TO RTI

1.1.1. THE RIGHT TO INFORMATION (AMENDMENT) BILL, 2018

Why in News?

A copy of the RTI (Amendment) Bill, 2018 circulated among members of Parliament drew widespread criticism from the opposition and activists.

Arguments against the Amendments

- Proposed amendments allow the **Central government to decide** the tenure and salaries of Central and state information commissioners, by issuing notifications from time to time and need not go to Parliament to amend RTI Act. Uncertain term and salary changeable by executive **notification reduces CIC to an obedient subordinate.**
- This also **hampers accountability** as it calls people's right to information under question.
- Though the amendment maintains that salaries and allowances and other conditions of service of these officials shall not be varied to their disadvantage after their appointment, the **government can reduce it for future appointees.**
- Chief Information Commissioner and Chief Election Commissioner (and the state level officers) were kept at the same footing, as according to the Supreme Court of India **RTI and Right to vote are equally important** fundamental rights. However, the amendments tend to change this scenario.
- RTI Act 2005 recognizes sovereign authority of states to select their State Information Commissioners, the Bill of 2018 strangely does not allow states to decide their term, status and salary. Centre will prescribe it from time to time. This enables the central government to **encroach upon the sovereignty of the State Governments.**
- This Bill was introduced in the Parliament **without consulting the civil society** and the state Governments which amounts to undemocratic imposition.

Arguments in favour for the amendment proposals

- The purpose of the amendments proposed is to provide for enabling provision under the RTI Act to **frame Rules regarding salaries, allowances and conditions of service** for Chief Information Commissioners and Information Commissioners and State Information Commissioners. Presently, there are no such provisions available under the RTI Act 2005.
- The functions being carried out by the Election Commission of India and Central and State Information Commissions are totally different. Thus, the two may not be required to be kept at equal footing.

Way forward

- In light of the issues highlighted above with regard to the amendment proposals, it is advisable that the Amendment Bill may be dropped. Instead requisite orders may be issued to upgrade the salaries of the Information Commissioners at all levels in accordance with the provisions of the RTI Act as they exist today and initiate measures to improve their functioning by providing them with an adequate number of staff of high caliber for quickly disposing appeals and complaints.
- With the increasing number of attacks on RTI users, the government may also focus its efforts on better proactive disclosure of information and offer protection to people who show truth to power by exposing corruption and wrongdoing.

WHAT'S BEING CHANGED

SECTION 13: TERM OF OFFICE AND CONDITIONS OF SERVICE



AS IT IS NOW

- (1) CIC shall hold office for 5 years
- (2) Info Commissioner (IC) shall hold office for 5 years
- (5)(a) CIC status shall be the same as that of CEC
- (b) IC's status shall be the same as that of EC



AMENDMENTS

- (1) CIC shall hold office for such term as may be prescribed by Centre
- (2) IC shall hold office for such term as may be prescribed by Centre
- (5) Pay & perks and other service conditions of CIC, ICs shall be such as may be prescribed by Centre

1.1.2. RIGHT TO INFORMATION V/S RIGHT TO PRIVACY

Why in news?

The B.N. Srikrishna Committee report on the protection of personal data was recently unveiled which proposes to amend Right to Information Act, 2005

Right to Privacy and Right to Information

RTI and the right to privacy are both complementary and in conflict. While RTI increases access to information, the right to privacy veils it instead. At the same time, they both function as citizen rights safeguarding liberty against state overreach.

Section 8(1)(j) of RTI Act
 Information which relates to **personal information** the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person

Right to privacy	Right to Information
<p>In <i>Justice K. S. Puttaswamy (retd.) vs Union of India</i>, a nine-judge Constitution Bench of the Supreme Court ruled that right to privacy is an intrinsic part of life and liberty under Article 21.</p> <p>According to International Covenant of- Civil and Political Rights, under article 17, “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home and correspondence, nor to unlawful attacks on his honour and reputation”</p>	<p>Right to Information Act 2005 mandates timely response to citizen requests for government information. It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions</p> <p>The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense</p>

Conflict between Right to Privacy and Right to Information

The amending of the existing Section 8(1)(j) of the RTI Act tilts the law in **favour of privacy** and **against disclosure of information**. The proposed amendments will allow for the disclosure of personal only under following principles:

- the personal data relates to a function, action or any other activity of the public authority in which **transparency** is required to be maintained having regard to larger public interest in the accountability of the working of the public authority
- any harm likely to be caused to data principal by the disclosure is outweighed by the interest of the citizen in obtaining such personal data having regard to the object of transparency referred to in clause (a)

Judgments on Balancing of Right to Privacy and Right to Information

- In the case of *Centre of Earth Science Studies v. Dr. Mrs. Anson Sebastian (2010)*, the respondent requested access to documents pertaining to a domestic enquiry against another employee and confidential reports of six other. The appellant claimed immunity under Section 8(1)(j) of the RTI Act. It was held that a domestic inquiry is an open trial, and the Confidential Reports are essentially performance appraisals which, if disclosed, would not cause an invasion of privacy. Therefore, this case became a **landmark for upholding the essence of the Right to Information, while at the same time maintaining its balance with privacy.**
- In *A.D. Sharma v. Municipal Corporation Delhi (2013)*, while denying the petitioner the authority to inspect the private property of a third party individual, the Central Information Commission referred to a previous Delhi High Court case (*Secretary General, Supreme Court of India v. Subhash Chandra Agarwal, 2010*). The Court analyzed the interplay between Right to Information and Right to Privacy, stressing on the necessity of showing a larger public activity or interest in order to warrant an invasion of an individual’s privacy. They also pointed out that the nature of restriction on the right to privacy of a public official can be higher than that on an individual, as the official is expected to act for public good and be accountable in discharge of his duties.

Possible framework for managing the conflict

1. Oversight

Two Body Model

- In most jurisdictions, the information commission and privacy commission are separate and distinct bodies. Countries which have two commissions are able to balance these rights distinctively as they are restricted to their respective domain.
- But disagreements between two authorities can increase heighten transaction and opportunity costs involved in reconciliation, reducing overall efficiency in grievance redressal. For example: Canada had witnessed this tension between the two commissions due to politics and policy concerns.

Single Body Model

- Adopting a single commission (as in the UK) may reduce the transaction costs associated with conflict between two commissions and it would increase administrative efficiency by having shared interest and reducing conflict. But this may also face danger of the one interest may be stronger or perceived as more powerful and the bodies do not equally protect or balance both interests.

Indian Scenario

- Single body model might be attractive in Indian context owing to its cost-effectiveness but it may include high level of corruption which would encourage conflict of interest and tendency to safeguard personal gains.
- Moreover, Information Commissioner's mandate is concerned with personal data only of public officials and not of citizens at large.
- A body with specialized expertise in this field would be far more suited to serve this purpose.

2. Legislation

Single RTI and Privacy Law

- Both laws can be adopted under single act which will allow for common definitions and internal consistency and for limiting conflict and establishing a balance from the start. Ex- In Canada Bill C-43, adopted in 1982, contained both the Access to Information Act and the Privacy Act.
- There are some disadvantages like it may cause legislative confusion over the intent of laws. Hence an act which covers both areas comprehensively will need to be as detailed as two single acts because there is little overlap in the two.

Separate RTI and Privacy Laws

- In some jurisdictions separate pieces of legislation has been introduced for RTI and data protection law. But these law needs to ensure the greatest harmony between the operations of the two laws.
- If the goal of harmony is ignored at the outset, the laws will conflict and further legislative efforts will be required later.

1.2. PROSECUTION UNDER BENAMI ACT STUCK

Why in News?

The prosecution of accused persons under the **Prohibition of Benami Property Transactions Act, 1988 (PBPT Act)** has been stalled as the special courts meant for the purpose have not yet been set up across the country.

Background

- Benami Transactions (Prohibition) Act was passed in 1988 to put an end to such transactions, and to empower the government to recover such property. However, the Act had several inherent loopholes such as lack of proper implementation machinery, absence of an appellate mechanism, and lack of provisions for vesting of the confiscated property with the Centre. Owing to these infirmities, the Rules for the Act were also not framed.

- Therefore, the act was amended in 2016 to be renamed as PBPT Act and to provide for the stringent mechanisms to put an end the rising black money and benami properties.

Provisions of the Amended Act

- The 1988 act as amended in 2016, **defines a benami transaction** as a transaction where a property is held by or transferred to a person, but has been provided or paid by another person. The definition also includes property transactions where i) a transaction been made under a fictitious name; ii) the owner is not aware or denies knowledge of the ownership of the property; iii) the person providing the property is not traceable.
- The key changes that will ensure transparency is the introduction of four authorities — **Initiating Officer, Approving Authority, Administrator, and Adjudicating Authority** — who will conduct investigations and inquiries on Benami transactions. An **Appellate Tribunal** will hear appeals passed by the Adjudicating Authority, and these in turn will be heard by the High Court.
- The act mandates the Central Government in consultation with the Chief Justice of respective High Court to designate one or more courts of session as **Special Court** for trial of offence punishable under it. The special court has to complete the trial within six months from the date of complaint filing.

Significance of the Amended act

- It is a comprehensive law which provides for the mechanism and process for attachment and confiscation of the benami property (both movable and immovable), and also the administrative structure for proper implementation of such provisions.
- It has widened the ambit of benami transactions and introduced more stringent punishment.
- This law will have long term impacts on real estate industry in the country.
 - It will increase the practice of including the correct name in property transactions. This in turn would bring transparency in residential market.
 - The stringent law would also bring down the prices of real estate because such transactions are done by cash rich investors to park their unaccounted wealth in real estate.
 - It has also boosted the confidence of lenders especially banks and also private individuals. The Act will eradicate time-consuming processes such as property checks by lenders and banks.

Issues with the amended act

- **It expands the list of exemptions vis-a-vis the 1988 Act:** It now exempts members of Hindu Undivided Family (HUF); Corporate, firms, Companies and Partners holding land in fiduciary capacity in the name of Directors, Trustees or other employees; Property in the name of spouse and kids acquired from the known source of income; Lineal descendants and ascendants. Also, Central government may exempt any property relating to charitable or religious trusts from the operation of this Act.
- **Exempting the HUF pushes a large section of population in rural areas outside the ambit of the law:** Also, the exemption being extended even to limited liability partnership in business arena can be misused under Corporate Social Responsibility by many Corporates to have Benami properties.
- **It is not clear how the act will check the misuse of powers vested under the officials:** under the act, the initiating officer can act based on discretion to notify any property as Benami which can lead to excessiveness or arbitrariness, unlike Prevention of Money laundering act where only that property is attached which is the proceed of crime.

Recent issue with the working of the Act

- As the required Special Courts have not been set up yet, therefore despite completion of investigations in 100 cases by the IT department in different states, including attachment of properties by the Adjudicating Authority, the prosecution of accused persons has not taken place.

Way Forward

- Benami transactions could be preempted and eliminated by digitization of land records.
- Simultaneously, other reforms like whistleblower protection act and Lokpal Act must be implemented.

1.3. PREVENTION OF CORRUPTION (AMENDMENT) ACT, 2018

Why in News?

Parliament has passed the Prevention of Corruption (Amendment) Act, 2018, which amends the archaic Prevention of Corruption Act, 1988.

Brief background

- Currently, offences related to corrupt practices of public officials are regulated by the Prevention of Corruption Act, 1988.
- In 2007, **Second Administrative Reforms Commission (2nd ARC)** in its fourth report recommended that the Act be amended to include bribe giving as an offence, limit prior sanction for prosecution to certain cases, and provide for the attachment of property of public officials accused of corruption.
- In 2011, India ratified the **United Nations Convention against Corruption**, and agreed to bring its domestic laws in line with the Convention that covers giving and taking a bribe, illicit enrichment and possession of disproportionate assets by a public servant as offences, addresses bribery of foreign public officials, and bribery in the private sector.

Prevention of Corruption Act 1988

- The act extends to whole of India except Jammu and Kashmir.
- Under this Act **special judges** were to be appointed by the Central and State Government under the Code of Criminal Procedure, 1973.
- The act shifted **the burden of proof from prosecution to the accused.**
- The **'public servant'** as per the definition includes any person in service of a government and in the pay of the government, or its department, its companies or any undertaking or control of the government.
- Misappropriation, abusing official position, obtaining a pecuniary advantage etc. are being taken as offences under this act
- **MPs and MLAs** have been kept out of this act.
- If the offences against the public servant have been proved, it is punishable with **imprisonment of not less than six months which may extend upto five years.**

KEY PROVISIONS OF THE BILL



BRIBERY

What is new

- Giving a bribe is now an offence, punishable by a 7-year prison term
- Except when one is forced to give a bribe. But it should be reported within seven days
- Bribe is termed 'undue advantage', defined as 'gratification other than legal remuneration'
- The trial in cases of bribe and corruption should be completed by the special judge within two years and in case of delays, the reasons for the same must be recorded and the total trial time must not exceed four years.

What it was

- No specific provision, except as abetment

It could empower the public to refuse to give a bribe but seven-day limit may not be enough. As to what happens if citizen's report of coercion is not registered by the police is unclear



CRIMINAL MISCONDUCT

What is new

- Only be two forms of criminal misconduct.
- Misappropriation of property entrusted to public servant
- Intentionally enriching oneself illicitly

What it was

- There were five kinds: omitted ones are taking bribe habitually, getting anything free or at a concession, obtaining pecuniary advantage for oneself or for another without public interest

This is to protect public servants from being wrongly prosecuted for official decisions. Earlier it was a crime to "obtain advantage to a private party without public interest"



PRE-INVESTIGATION APPROVAL

What is new

- Police officer cannot begin probe without prior approval of relevant authority or govt (except when caught red-handed)

What it was

- No such provision in the Act, but a rule similar to it was struck down by Supreme Court

Protection formerly available to officials of rank of joint secretary and above (before SC struck it down) is extended to all public servants



SANCTION FOR PROSECUTION

What is new

- Sanction needed for prosecuting former officials for offences done while in office
- Center may notify guidelines for sanction
- Decision on request for sanction within 3 months, which may be extended by a month

What it was

- Sanction was required under PCA for serving officers only

Sanction for IPC offences covered both serving and retired officers. Guidelines and time limit may help make sanction process easier



FORFEITURE OF PROPERTY

What is new

- Section introduced for Special Court under this act to attach and confiscate property

What it was

- This was not done under the Prevention of Corruption Act but under a 1944 ordinance through civil courts

This helps avoid a fresh procedure to confiscate property obtained through corruption, enables court conducting trial to do so itself

Benefits of the amendments

- **Potential to reduce the rising cases of corruption and frauds:** India's rank in the Corruption Perception Index, 2017 fell to 81 (out of 180 countries) signifying the rise in such cases. Strict implementation of the act can deter public functionaries to indulge in corrupt practices.
- **Safeguards to honest officers:** it would encourage public sector officials to carry out their duties fearlessly and on merit, while doing away paralysis in decision making.
- **Ensure speedy trial in corruption cases:** time bound trial of such cases would do away with long pendency of corruption related cases.
- **Inclusion of bribe giver:** The act also includes bribe giver which will act as a deterrent for promoting corruption and luring with cash or kind. In the past, the bribe giver had enjoyed immunity and that helped perpetuate corruption.

Concerns regarding the amended act

- **Partially addresses the issue of 'coerced bribe givers':** though it gives them seven days to report the matter, it ignores the situation where they might feel threatened to even approach law enforcement agencies.
- **Deters bribe giver from appearing as witness in court:** as the provision which protected a bribe giver from prosecution for any statement made by him during a corruption trial is removed in the act, it would create deterrence among bribe givers to appear as witness.
- **Increases the threshold to establish the possession of disproportionate assets:** while redefining criminal misconduct, it now also requires proving the 'intention' to acquire disproportionate assets in addition to possession of such assets.
- **Burden of proof on accused only for taking a bribe:** Under the 1988 Act, the burden of proof was on the accused for offences like taking a bribe, habitual offender and abetment. However, the amendment puts the burden of proof on accused person only for the offence of taking a bribe.
- **Certain provisions of the UN Convention against Corruption have not been included:** Provisions such as in case of bribery of foreign public officials, bribery in private sector and compensation for damage didn't find any place in the amended act.
- **Diluted the provisions of earlier act:** By including the provision of prior sanction even before the investigation stage it could considerably dilute the act and could result in undue delays in genuine cases of corruption. This further strengthens the need of prior sanctions despite the Supreme Court quashing **Section 6A of Delhi Special Police Establishment act, 1946** which required similar approval from the Government.
- **Vague terms** such as '**lawful sources of income**' remains undefined which creates the misconception that as long as tax has been paid on income received from an undisclosed and illegitimate source, such income becomes lawful.
- Despite the good intentions behind the Amendments, it should be ensured that the act is implemented in letter and spirit. The CVC must issue clear guidelines regarding sanctioning procedure so as to maintain the sanctity of the provision and inert from political influence. There is also a need to complement the amendment with holistic reforms such as electoral reforms, decriminalization of politics, de-politicization of civil services, police reforms, appointments of judges, members of CBI and Lokpal should be appointed on a priority basis etc.

1.4. CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964

Why in News?

Several provisions of **Central Civil Services (Conduct) Rules, 1964** (CCS (conduct) rules, 1964) are often used against public servants which restricts their fundamental rights.

Background about the CCS (Conduct) rules, 1964

- **CCS (conduct) rules prescribes a set of Do's and Don'ts:** These rules require them to maintain absolute integrity, devotion to duty and political neutrality

Article 19(1)(a): Guarantees the fundamental right to freedom of speech and expression to all citizens of India subject to reasonable restrictions which are enumerated in **Article 19(2)**.

Article 19(2) includes following restrictions: In the interests of Sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

which are essential requirement of any public servant but certain prohibitions may come in conflict with their fundamental rights. For instance -

- Prohibits government servants to take part in the editing or management of any newspaper or periodical.
- Prohibits speculation in stock, share or any other investment except occasional investments made through stock brokers.
- Public servants are barred from accepting gifts, buying and selling properties, making commercial investments, promoting companies and accepting commercial employment after retirement.

In 1964, following the recommendations of the Committee on Prevention of Corruption (**Santhanam Committee**), these rules were considerably enlarged.

Issues with the Rule 9 of the CCS (Conduct) Rules, 1964:

- **Rule 9** prohibits any public servant to publish in his own name or anonymously or pseudonymously any statement of fact or opinion which has the effect of an **adverse criticism** of any current or recent policy or action of the Central Government or a State Government.
- The surveillance and disciplining attitude demands no criticism and uniform and unquestioning obedience from the public servants which acts as an assault upon the fundamental right to freedom of speech and expression guaranteed in the Constitution under **Article 19 (1)(a)**.

Arguments in favour of Rule 9

- Civil servants being **permanent executives** serve with different elected executives. In this case, it becomes necessary to maintain their political neutrality and ensure implementation of policies without any bias. It thus ensures political neutrality of Public Servants and disciplinary actions are justified in case of its violation.

Arguments against Rule 9

- **By becoming a government servant, one does not surrender one's fundamental rights:** Supreme Court in **Kameshwar Prasad vs State of Bihar, 1962** held that Article 19 applies to all citizens and that government servants in common with all other citizens enjoy the protection of all fundamental rights.
- SC in **Vijay Shankar Pandey vs Union of India, 2014** reiterated that individual's fundamental rights did not get diminished by being a member of the civil service.
- **Public Order**, the reasonable restriction under Article 19(2) most often resorted to by government in disciplining the civil servants has been defined in several Judgments. In **Superintendent of Central Prison vs Ram Manohar Lohia, 1960**, it was held that public order is synonymous with public safety and tranquility which was the absence of disorder involving breaches of local significance. Moreover, Article 19 (2) kicks in only when the views expressed reach the level of incitement causing public disorder.
- Criticism is inherent in the right to freedom of speech and expression, whereas Rule 9 makes an underlying assumption that any criticism of the government is synonymous with indiscipline and subordination. Criticism does not mean disobedience and criticizing the government does not tantamount to disobeying the orders of the government.
- **Colonial origins:** these rules which apply to all public servants in the country date from colonial times and are reflective of colonial mindsets, guided by a surveillance and command and control mentality.

Civil Servants and Fundamental Rights

- Subject to the power of Parliament, under Article 33, to modify the fundamental rights in their application to members of the Armed Forces and the Police Forces, the fundamental rights guaranteed by the constitution are in favour of all 'citizens', which obviously include public servants.
- While a public servant possesses the fundamental rights as a citizen, the State also possesses, under the Proviso to Article 309, the power to regulate their 'conditions of service'.
- Now, the interests of service under the State require efficiency, honesty, impartiality and discipline and like qualities on the part of the public servant. The State has thus the constitutional power to ensure that every public servant possesses these qualities and to prevent any person who lacks these qualities from being in the public service.
- Therefore, that State regulation of the conditions of service of public servants so as to restrict their fundamental rights will be valid only to the extent that such restrictions is reasonably necessary in the interests of efficiency, integrity, impartiality, discipline, responsibility and the like which have a 'direct, proximate and rational' relation to the conditions of public service as well as the general grounds (e.g., public order, under Article 19) upon which the fundamental rights of all citizens may be restricted.

Measures taken by the Government

- In **1957**, the Department of Administrative Reforms of the Government of India had prepared a **code of ethics** for public services, prescribing standards of integrity and conduct which were never issued.
- In **2006**, the Department of Personnel had drafted a **Public Service bill** emphasizing political neutrality, objectivity, impartiality, integrity, honesty, etc., for all public servant but no action was taken.
- **The Second Administrative Reforms Commission** in its **fourth report (2007)** recommended a code of ethics for public servants and emphasized a set of “**Civil Service Values**” like integrity, impartiality, commitment to public service, open accountability, devotion to duty and exemplary behavior, the transgression of which was to attract disciplinary action.

Way Forward

- CCS (Conduct) Rules, 1964 should be replaced by a broad set of ‘**code of ethics**’ based on self-regulation, accountability, and transparency like in other countries. For instance, in UK as per the Civil Service Values (2006) and a legally enforceable code of conduct, civil servants are expected to observe integrity, honesty, objectivity and impartiality. In US, public servants follow a code of ethics devised in 1958. US office of government ethics established under the Ethics in Government Act, 1978 foster high ethical standards for employees. Similarly, OECD Council and the European Union both prescribe a broad set of principles governing ethical conduct of employees in public institutions.
- Public Service Bill must be enacted on priority basis to ensure proactive accountability of public servants to the Citizens.

1.5. NATIONAL REGISTER OF CITIZENS (NRC)

Why in news?

Assam has published the final draft of the updated National Register of Citizens (NRC).

Brief background

- Assam’s demographic changes date back to **the 19th century when British brought in tribal labourers from Chota Nagpur and Bihar** to work on the plantations. This also encouraged **the migration of Muslim farmers from Bengal** which continued after Independence and partition.
- To tackle the illegal immigration issue just after the independence, NRC was first prepared after the Census of 1951. But this process rendered ineffective due to vote bank politics.
- In **1979**, agitation was started by **All Assam student Union** for illegal migrant deportation which culminated in signing of **Assam Accord** in 1985.
- The Citizenship Act of 1955 was amended after the Assam Accord for **all Indian-origin people who came from Bangladesh before January 1, 1966 to be deemed as citizens. Those who came between January 1, 1966 and March 25, 1971 were eligible for citizenship after registering and living in the State for 10 years while those entering after March 25, 1971, were to be deported.** However, nothing much happened over the decades.
- In **2014**, the Supreme Court asked the state government **to update the 1951 NRC in a time-bound manner.** Present exercise is being conducted under the supervision of the Supreme Court.

What is NRC?

- It is a list of all bona fide Indian citizens of Assam, the only state with such a document.
- The NRC is being updated as per **the provisions of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003**
- It will include persons whose names appear in any of the electoral rolls up to the midnight of 24th March, 1971 or National Register of Citizens, 1951 and their descendants.
- The process of verification involved house-to-house field verification, determination of authenticity of documents, family tree investigations in order to rule out bogus claims of parenthood, and linkages and separate hearings for married women.

Benefits of this exercise

- It will provide a much-needed perspective on the extent of illegal migration that has taken place into Assam, thus restricting the wild speculations about their actual number by political parties for their advantage.
- The fear that illegal immigrants will **change the demography of state** and influence the politics of state will also be done away with.
- The publication of an updated NRC is expected to deter future migrants from Bangladesh from entering Assam illegally as publication of the draft itself had created a perception that staying in Assam without valid documentation will attract detention/jail term and deportation.
- The inclusion of the names in the NRC will provide respite to all those Bengali speaking people in Assam who have been, hitherto, suspected as being Bangladeshis.
- The exercise will help identify illegal immigrants and deport them back to their country of origin and **saving resources of country** for legitimate citizens and also reduce **concern for internal security** due to illegal migration.

Issues with NRC

- **Exclusion:** Only 29 million out of 32.9 million applicants have been found eligible to be included in the register, leaving **4 million** out of the final draft.
- **Need to produce pre-1971 documents:** Given the status of document record in the country, this is an **onerous pre-condition** and difficult for many people. Unlike international conventions on establishing citizenship, **the burden of proof rests with the NRC applicant.**
- **Misinformation:** Ascertaining the authenticity of parental linkages remained a challenge. Many people were showing by different names in different places which may lead to duplicity or mistaken exclusion from the list.
- **Focus on completion:** The emphasis of Supreme Court, the Centre and the Assam government was on **completing exercise** without consideration of creating an orderly mechanism for those aggrieved by exclusion.
- **Citizenship issues**
 - One main contention is **what will be the citizenship of the children and grandchildren of illegal immigrant.**
 - While the citizenship law of the country provides for citizenship by birth irrespective of the parents' citizenship, the NRC rules do not recognize it.
 - **The Citizenship (Amendment) Bill** which makes Hindu illegal migrants and those from certain other minority communities in Afghanistan, Bangladesh and Pakistan eligible for Indian citizenship further creates apprehensions about alienation of minorities in the process.
- **Issue of D voters:** Around **2.5 lakh** out of the 40 lakh exclusions include D-voters— doubtful voters, their descendants and people whose cases are pending before the foreigners' tribunal in Assam.
 - D-voters are those who are disenfranchised by the government on the account of their alleged lack of proper citizenship credentials and their inclusion will depend on decision of the **Foreigners Tribunals.**
- **Issues post-release**
 - **Claims and objections:** The excluded people could face rejection again if they submit the same papers second time.
 - **Issue of deportation:** No state can act on illegal immigration unilaterally. As of now, there is no any bilateral agreement between India and Bangladesh, which lets the fate of those finally be excluded hang in air.
- **Humanitarian concerns:** Ignoring the concerns of those who have lived for a long time in this land will put a dent on democratic social value of the country.

What next for Excluded people?

- The list released is **only a draft and not the final one.** Final list is expected to be **published by December 2018.**
- There is scope for filing claims and objections, for which forms of correction would be available at various NRC seva kendras
- The people have a graded appeals process in the order - NRC Seva Kendras, District magistrates, The Foreigners' Tribunals, The Guwahati High Court, The Supreme Court.

Way Forward

- **Regarding finally excluded individuals:** They would officially be non-citizens but India has no fixed policy for “stateless” persons. They will surely not have voting rights but certain facilities on “humanitarian grounds” may be provided to them such as right to work etc.
- **Grant amnesty:** one option is granting Indian citizenship to the proclaimed illegal migrants after a process of naturalization but this may be protested by some sections.
- **Tackle issue of illegal migration comprehensively:** Solving illegal migrants issue in Assam will not solve the whole issue as they may very well come through states like West Bengal and then move on to the other parts of the country. Thus, following steps should be taken:
 - **Comprehensive border management:** including fencing, total surveillance 24x7, use of new imaging technology etc.
 - **Work permits:** Possibility of transparent work permits to foreigners should be explored.
 - **Punishing collusion:** Officials and people who are colluding with foreigners to ensure entry and residence etc. should be penalized for such behavior.
 - **Forging bilateral agreement** with neighboring countries that provide for taking back nationals who stay illegally in the other country after due verification.
 - **Assistance from international organisations:** such as United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other concerned international agencies with experience in this kind of complex issue.
 - **Establish a SAARC convention:** India should take the initiative to encourage other countries in the SAARC region to develop a SAARC convention or declaration on refugees in which member states would agree to ratify the 1951 Refugee Convention.

1.6. SEDITION

Why in news?

- Law commission of India has publicized a consultative paper for a comprehensive public discussion regarding Section 124A of the Indian Penal Code 1860, which deals with sedition.

Understanding Sedition - Brief Introduction

- **What is Sedition** - As per Section 124A of IPC, Sedition is an act that brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India by words, either spoken or written, or by signs, or by visible representation, or otherwise. As per this Section, a person is liable to be punished with imprisonment for life or imprisonment up to three years with fine.
- **Concerns regarding Sedition** – Relevance of this Section in a democratic and independent nation is a matter of continuous debate. Use of Section 124A by the government might go beyond the reasonable restrictions provided under fundamental right to freedom of speech and expression as per Article 19 of the Constitution. There is an apprehension that this Section might be misused by government of the day to suppress political dissent, constructive criticism of government and its policies thereby stifling democratic governance.
 - The countries like UK, Australia have already abolished sedition laws considering them draconian.

Historical Background: Colonial Relic

- **Origin and evolution** - The legitimacy of British colonial governance system rested on silencing any kind of political dissent or dissatisfaction thus the right to freedom of speech and expression of individuals was suppressed through imposition of Section 124A. Section 124A IPC added through Special Act XVII of 1870, defined Sedition and 1898 amendment made it a punishable offense.
- **Post Constitutional Journey and Sedition vis-a-vis Article 19 of the Indian Constitution** - Various verdicts by Indian Judiciary have led to re-interpretation and re-examination of ‘sedition’ in light of Article 19 of the Constitution in order to strike a balance between right to free speech and expression and power of State to impose reasonable restrictions (Article 19(2)). These verdicts have led to narrowing the ambit of ‘Sedition’ making its meaning more explicit, precise and unambiguous.
- **Essential ingredients for a seditious act** - Various verdicts in Romesh Thappar, Kedar Nath Singh case, Kanahiya Kumar case re-defined a seditious act only if it had essential ingredients as:

- Disruption of public order
- Attempt to violently overthrow a lawful government
- Threatening the security of State or of public.
- **Judicial verdicts in defense of Right to freedom of speech and expression** - The judicial pronouncements in cases like AK Gopalan vs State of Madras, Ramesh Singh vs Union of India, Shreya Singhal vs State elaborated 'what does not tantamount to sedition':
 - Political dissent
 - A thought non-consonant with the government and its policies
 - Expression of frustration over the state of affairs e.g. racist state or gender biased state
 - Expressing different or conflicting ideas of Indian nation
 - Right to offend
 - Peaceful protest

Judiciary has thus stressed that unless intention behind the act is to disrupt public order, threaten security of State or to overthrow the Government with violence or illegal means, the right to freedom of speech and expression can't be curtailed.

Sedition vis-a-vis other Statutes

- Several sections of IPC deal with offenses against State, against public tranquility. Another act named Unlawful Activities Prevention Act 1971 has been enacted to prevent terrorist activities.
- Since sedition is an offense against the State, higher standards of proof must be applied to convict a person for this offense. It must be invoked for *gravest of offenses against State*. If the same doesn't fall within the ambit of seditious act, it might attract provisions of some other laws/statutes as mentioned above.

Way Forward

- Dissent acts as a safety valve in a vibrant democracy and every restriction on free speech and liberty must be carefully imposed weighing its reasonableness.
- If the country is not open to positive criticism, there lies little difference between the pre- and post-independence eras
- In view of judicial pronouncement narrowing definition of 'sedition' and other statutes/laws dealing with offenses against the State, the paper attempts to start a debate among the legal luminaries, lawmakers, Government, NGOs, academia, students and above all, the general public, with regard to essential questions like:
 - need of sedition law in a modern democratic society where freedom to speech and expression is a Fundamental Right guaranteed by Constitution,
 - redefining sedition or need of a sedition law in light of various statutes dealing with offenses against State etc.

1.7. CONTEMPT OF COURT ACT, 1971

Why in News?

The Law Commission of India recently submitted its report examining any amendment to restrict the definition of contempt to 'only wilful disobedience of directions/judgement of the court under the Contempt of Court Act, 1971.

Introduction

- The **Contempt of Court Act, 1926** was the first statute in India with relation to law of contempt. It was repealed and replaced twice in 1952 and then in 1971 (after the recommendations of **Sanyal Committee, 1963**).
- As according to a **report of Supreme Court (SC)** there are a high number of contempt cases in both SC and the High Courts (HCs). Therefore, the **Law Commission** was given the task look into the need to restricting the definition of contempt which may further reduce the number of such cases.

Court of Record

- Constitution does not define the term "court of record" however, the SC applied the term to a court whose acts and proceedings are enrolled for a "**perpetual memory and testimony**".
- Once a court has been declared to be a "court of record" by a statute it ensues following powers-
 - power to punish for its own contempt,
 - power to punish for the contempt of the courts and tribunals subordinate to it,
 - power to determine the question of its own jurisdiction.

Provisions vis-à-vis Contempt of Court

- **Constitutional-**
 - **Article 129 and 215** provide that the SC and HCs respectively, with all the powers as a **court of record** including the power to punish for contempt of itself.
 - **Article 142(2)** enables the Supreme Court to investigate and punish any person for its contempt.
- Contempt of Courts Act of 1971- It gives powers to the courts, to restrict an individual's right to personal liberty for "scandalising the court" or for "wilful disobedience" of any judgment, writ, direction or order.
 - **Section 2 of the Act** provides with a definition of the contempt of court and categorises it under civil (wilful disobedience to any judgement, order, writ or other process of a court) and criminal contempt (publication of any matter or doing an act which lowers the authority of a court, interferes with its due proceeding & obstructs the administration of justice).
 - It provides for a **few exceptions** that would not give rise to proceedings for contempt under section 4 (fair report of judicial proceedings), section 5 (fair comments on merits of any case), etc.
 - Other **important provisions** include- section 12 specifies the punishment in case of contempt, section 14-15 deal with the procedure dealing with contempt, etc.

Relevance of power to punish for the Contempt of Court

- The **law for contempt**, with power of imposing punishment, ensures respect for the courts in the eyes of the public by **guaranteeing sanction** against conduct which might assail the honour of the courts.
- Disobedience of court's order would be a violation of the principle of **Rule of Law**. The law of contempt can thus be considered to be the thread which **holds together the basic structure** of the Constitution. And, the maintenance of dignity of the Court is one of the cardinal principles of Rule of Law.
- It enforces the equality before law - Acts as a tool against the rich and the powerful by forcing compliance with the orders of the court.
- It is also needed to maintain credibility and efficiency of judiciary. For example, the Supreme Court issued contempt proceedings against Justice Karman for his demeaning behavior.
- It is needed for the independence of the judiciary and protect its functioning from the opinion of media and the public.

Arguments for relook

- It goes against the fundamental right of Free Speech and Expression.
- In a democracy, judicial accountability is also required. For example, terming FIR against a sitting judge as contempt of court raises the question of its accountability.
- The grounds, on which contempt proceedings can be initiated such as 'scandalizing the court', are open ended and vague which are prone to misuse.
- In UK as well, the offence of 'scandalizing the court' as a ground for criminal contempt has been abolished in 2013.

Law Commission's Stand

- According to 274th Law Commission Report no changes are required to the 1971 statute.
- There are several safeguards built into the Act to protect against its misuse. For instance, the Act contains provisions which lays down cases that do not amount to contempt and cases where contempt is not punishable. These provisions suggest that the courts will not prosecute all cases of contempt.
- The Commission further noted that the Act had withstood judicial scrutiny, and therefore, there was no reason to amend it. In fact, the statute, by laying down procedure, restricts the vast authority of the courts in wielding contempt powers.
- Amending the definition of contempt will lead to ambiguity. This is because the superior courts will continue to exercise contempt powers under the Constitution. If there is no definition for criminal contempt in the Act, superior courts may give multiple definitions and interpretations to what constitutes contempt.
- Even in the absence of the legislation, the Courts have the power to punish for their contempt under the constitution as the **Act 1971** is not the source of 'power to punish for contempt' but a procedural statute that guides the enforcement and regulation of such power.

1.8. WRONGFUL PROSECUTION (MISCARRIAGE OF JUSTICE)

Why in News?

Recently, Law Commission of India (LCI) submitted its 277th report titled “**Wrongful Prosecution (Miscarriage of Justice): Legal Remedies**” to the Government.

Percentage of under trials	Time spent in prisons
25.1%	More than 1 year
17.8%	Upto 1 year
21.9%	3 to 6 months
35.2%	Upto 3 months

Background

- **India has one of the highest under trial populations in the world:** According to National Crime Records Bureau’s (NCRB) annual Prison Statistics India (PSI) report 2015, there were more than 4.19 lakh prisoners across India out of which 67.2% were under trials (i.e. people who have been committed to judicial custody pending investigations or trial). During 2015, more than 82,500 prisoners were released by acquittal and more than 23,400 prisoners were released in appeal.
- Thus, undertrials spend a substantial period of time awaiting trials/judicial determination of their case which becomes a **graver miscarriage of justice** when the person is wrongfully accused and incarcerated pending trial and proceedings which he should not have been subjected to in the first place.

- **Such situations often result in violations of fundamental rights** of the victim under Article 21 and 22 of the constitution, gross human rights violations, social stigma faced, precious years lost, mental, emotional and physical harassment, huge expenses incurred during the process and overcrowding of prisons.

- **Infringement of a fundamental right due to police and prosecutorial misconduct involves State liability.** However, there is a lack of effective response from the State to the victims of such wrongful prosecutions within the current Criminal Justice System in the country. Remedies available under the present system remain complex and uncertain, creating only an ex-gratia obligation without any statutory or legal backing for the rights of victim.

- **Article 14(6) of International Covenant on Civil and Political Rights, 1966 (ICCPR)** dealing with miscarriage of justice creates an obligation on the State parties to it to enact a legislation ensuring that these victims are compensated within a reasonable period of time. India ratified the ICCPR in 1968 but is yet to enact the legislation for the same.

- Delhi High Court in **Babloo Chauhan Case** had requested LCI to examine the possibility of the legislation for providing relief and rehabilitation to victims of wrongful prosecution and incarceration in India. LCI has therefore set out standards to be applied in the above cases of miscarriage of justice and has also presented a **Draft Code of Criminal Procedure (Amendment) Bill, 2018** to suitably incorporate the recommendations.

Current provisions provide for following remedies:

Currently three categories of court based remedies with respect to miscarriage of justice are available to a victim:

- **Public law remedy:** it is treated as a violation of fundamental rights under **Article 21** (the right to life and liberty) and **Article 22** (protection against arbitrary arrests and illegal detention, etc.) of the Constitution, that invokes the writ jurisdiction of Supreme Court and High Courts under **Article 32 and 226** respectively.
- **Private law remedy:** it exists in the form of civil suits against the state for monetary damages on account of **tortious acts** of public servants- especially negligence by a public servant in the course of employment. Both public and private law remedies are victim centric in nature.
- **Criminal law remedy:** it holds the wrong doer accountable i.e. proceedings with criminal action against the concerned officers of the State for their misconduct.

International Covenant on Civil and Political Rights, 1966

- It is one of the key documents dealing with the miscarriage of Justice.
- It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.
- As of August 2017, the Covenant has 172 parties and six more signatories without ratification.
- It is part of the International Bill of Human Rights, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).
- Other important parts of the covenant are-
 - Right to Physical integrity
 - Liberty & Security of Persons
 - Procedural fairness & Right of accused
 - Individual Liberties
 - Political Rights

Recommendations of LCI

- **‘Wrongful prosecution’ to be the standards of miscarriage of justice, as against ‘wrongful conviction’ and ‘wrongful incarceration’:** ‘Wrongful prosecution’ would include cases where the accused and not guilty of the offence, and the police and/or the prosecution engaged in some form of misconduct in investigating and/or prosecuting the person. It would include both the cases where the person spent time in prison as well as where he did not; and cases where the accused was found not guilty by the trial court or where the accused was convicted by one or more courts but was ultimately found to be not guilty by the Higher Court.
- **Need for a transparent legislative process:** There needs to be an established legislative process, according a transparent, uniform, affordable and efficacious and timely remedy for the loss and harm inflicted on the victims on account of wrongful prosecution.
- **Designation of Special Courts in each district** for adjudicating upon claims of compensation for wrongful prosecution. The cause for action would arise if there was malicious prosecution or prosecution without good faith and there was an acquittal.
- **Compensation, both pecuniary and non-pecuniary, to effectuate the rehabilitation of the victims into the society:** While pecuniary assistance will be in terms of monetary award as may be determined by special court, non-pecuniary assistance will be awarded in the form of services such as counseling, mental health services, vocational/employment skills development, removal of disqualifications that might affect chances of accused persons finding employment in public and private sectors, admission into educational institutes, etc.
- **Factors to determine compensation:** Compensation in such cases would depend upon various factors, including the seriousness of the offence, severity of punishment, the length of incarceration, loss or damage to health, psychological and emotional harm and the status of the victim in the society.

1.9. NON-PERFORMING NGOS

Why in News?

The Ministry of Women and Child Development has released a list of blacklisted NGOs to help the public know about the performing and non-performing organisations in their areas.

More in News

- NGOs that do not have **Darpan Portal** Registration Number, a facility offered by the NITI Aayog and National Informatics Centre for government to list authentic bodies or **FCRA registration number** or have been **blacklisted by any ministry or autonomous body** such as NABARD, NCW, etc. have been blacklisted by MoWCD.
- However, the NGOs believe that the criteria are non-transparent and they were not provided any information or notice before being categorised as non-performing.

Background

- Various reports, including reports of CBI and Intelligence Bureau, have shown the misappropriation of funds by a large number of NGOs. India is

BLACKLISTED STATES WITH "NON-PERFORMING" NGOS		
STATES	PERFORMING	NON-PERFORMING
Odisha	70	289
Andhra Pradesh	41	149
Uttar Pradesh	78	78
Tamil Nadu	49	66
Delhi	158	43
Telangana	18	42

Regulation of NGOs

- The Foreign Contribution Regulation Act (FCRA) was introduced in 2010, requiring all NGOs to apply for a license to receive foreign funding. All NGOs receiving foreign funds now have to re-register for their FCRA license. Organisations with permanent FCRA licenses now have to get these renewed every five years.
 - It's estimated that at least 10,000 FCRA licenses, needed to receive foreign funds, have been revoked.
 - the government barred several prominent NGOs from receiving funds from foreign countries after they failed to file their annual returns for five consecutive years.
 - The ministry directed NGOs across the country to validate the bank accounts in which they receive foreign funds. In a circular issued in 2017, the MHA had said all NGOs registered under FCRA should receive foreign donations in a single designated bank account.

said to lose around 2-3% of its GDP because of such NGOs.

- Therefore, the Supreme Court (in 2017) had asked Centre to examine enacting a law to regulate government funds for NGOs and prosecute them in case of misuse, misappropriation of funds or non-filing of annual statements.
- In response to this, the Centre had come up with a **guideline to blacklist such errant NGOs**.
- NGOs, including Greenpeace, Amnesty and Cordaid, were accused of serving as tools for foreign policy interests of western governments by sponsoring campaigns to protect the environment or support human rights.

Other issues with legitimacy of NGOs

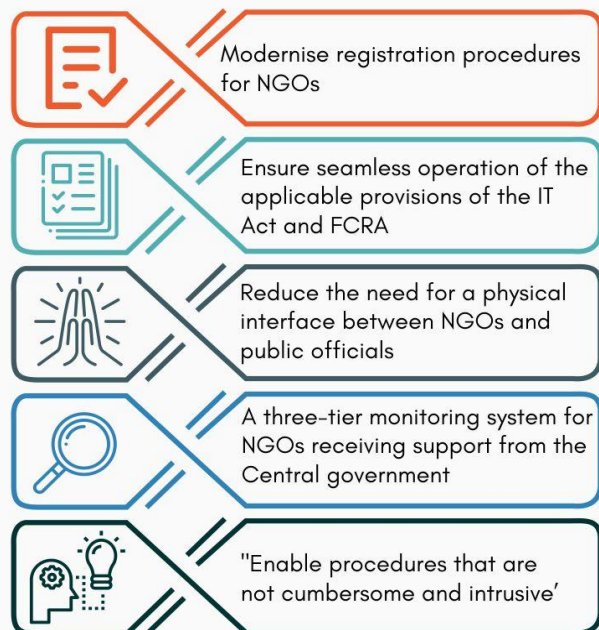
- **Independence and reliability** of the organisational structures of NGOs: For instance, questions are frequently raised regarding role and composition of the board, financial accounting, management structure, etc.
- Questions are also oriented towards **ties to the public, transparency and adherence** to the mission of an NGO, representative status (whom does it represent?), relationship to community served etc.
- Effectiveness of **NGOs as a social service delivery agent**: This usually have to do with the quality and quantity of the services offered like distribution of medicines, food etc. Inadequate trained personnel, lack of funds might also affect the effectiveness.

Way-forward

- The government should appoint commissions of enquiry or committees to cross check the misuse of funds by NGOs. The members of committee may supervise and monitor the activities of NGOs periodically.
- Further, the recommendations of **S. Vijay Kumar committee** may also be taken into consideration by the government.
- On part of NGOs in India, they have been successful in bringing about several electoral reforms to make politicians accountable. NGOs played a key role in getting the landmark Right to Information (RTI) Act passed in 2005 to make the government machinery accountable. However, it is time for NGOs in India to focus their energies at enhancing their own accountability.

FRESH OUTLOOK

Measures suggested by the committee headed by former secretary **S. Vijay Kumar**



1.10. LEGALISING SPORTS BETTING IN INDIA

Why in news?

The Law Commission of India submitted a report to the government, saying that since it is impossible to stop illegal gambling, the only viable option left is to "regulate" gambling in sports.

Betting/Gambling in India

- The Constitution of India in its Seventh Schedule, List II (State List) empowers the State Governments to make laws regarding gambling and betting activities.
- Pre-independence there was no such distinction and the **Public Gambling Act, 1867**, governed gambling and betting activities in the country.

Law Commission of India

- It is an **executive body** established by an order of the Government of India.
- Its major function is to work for legal reform.
- The First Law Commission was established in 1834 by the British Government under the Chairmanship of **Lord Macaulay**.
- The Commission is established for a fixed tenure and works as an advisory body to the Ministry of Law and Justice.

- The Public Gambling Act, 1867, prohibits any games of chance and probability except lotteries. The Act prohibits owning, keeping and being found in a common gaming house, however, the Act excludes "games of skill" from its ambit.

- **The Information Technology Act 2000** prohibits online gambling and the punishment for such activities is much more serious than for offline gambling operations.

Why Betting/Gambling should be legalised?

- The money generated can be used for **public welfare** activities.
- Regulation would empower the authorised agencies to identify and prevent instances of gambling by minors and 'problem-gamblers'.
- Regulated betting should be permitted to curb the **menace of match-fixing**. According to International Cricket Council's Anti-Corruption Unit, it is easier to monitor illegal betting activity in a regulated market.
- Other benefits include generating considerable revenue; generating employment; development of tourism as it may work as a complimentary industry; and preventing any kind of inconvenience at the hands of the law enforcement authorities.
- It will help in controlling of money laundering business. At present betting racket is run by the underworld and huge amount of money is transferred through Hawala transactions which is used for terrorism.

Why Betting/Gambling should not be legalised?

- It would be against the social norms and the principle of welfare State under Article 39 of the Constitution of India.
- Argument made for 'revenue over morality' lacks merit. States such as Gujarat, Bihar, Manipur, Nagaland etc., prioritize societal morality over revenue collection taking into account its ill-effects on the society.
- Gambling has been proven to result in financial losses, causing an adverse impact on one's economic state, personal life and social life. Such activities affect the vulnerable sections of the society in unimaginable and often, irreparable ways.
- One of the major drawbacks is **loan-sharking** i.e. taking loans at exorbitant rates for gambling.
- The existing policy of the Government (National Sports Development Code of India, 2011, etc.), the current socio-economic atmosphere in the country and the prevalent social and moral values do not encourage betting and gambling.

Recommendations

- **Model Law:** The Parliament may enact a **model law** for regulating gambling that may be adopted by the States.
- **Licensed Operation:** Gambling and betting, if any, should be offered only by Indian licensed operators from India possessing valid licences granted by the game licensing authority.
- **Define gambling:** Gambling must be classified into two categories, namely '**proper gambling**' and '**small gambling**.' Proper gambling would be for the rich who play for high stakes, while small gambling would be for the low-income groups.

Constitution and Betting

- According to **Entry 40 of List I** of the Seventh Schedule of the Constitution, the Parliament has the power to legislate on 'Lotteries organized by the Government of India as well as the Government of any State'.
- The power of the State governments to make laws on gambling can be traced to **Entry 34 List II**. Thus, the States have exclusive power to make laws on this subject including power to prohibit or regulate gambling etc. in their respective territorial jurisdiction.
- Supreme Court observed that expression "Betting and gambling" includes and has always been understood to have included the conduct of lotteries.
- Since the subject 'Lotteries organised by the Government of India or the Government of a State' has been made a subject within the exclusive legislative competence of Parliament, no legislature of a State can make a law touching lotteries.

Lodha Committee on Betting

- It recommended the legalisation of betting, except for those covered by the BCCI and IPL regulations
- Regulatory framework would enable the government in differentiating betting from match fixing.
- The Players, Administrators and others closely associated with the sport would be required to furnish the details of their income and assets for the sake of transparency.
- Licence would have to be issued to those placing the bets as well, with age and identification details recorded.

- **Cap on gambling:** The government should introduce a **cap on the number of gambling transactions** for each individual, that is, monthly, half-yearly and annual.
- **Protecting vulnerable groups:** Regulations need to **protect vulnerable groups**, minors and those below poverty line, from exploitation through gambling.
- **Risk awareness:** Information regarding the **risks involved** in gambling/betting and how to play responsibly must be displayed prominently on all gambling and betting portals/platforms.
- **Encouraging foreign capital:** Foreign Exchange Management and Foreign Direct Investment laws and policies should be amended to encourage investment in the casino/online gaming industry. This would **propel tourism and employment**.
- **Mode of transaction:** The transactions made between and among operators and players should mandatorily be made **'cashless'**. This would help authorities to keep a close eye on every single transaction so made.
- **Taxation:** Any income derived from such activities should be **made taxable** under the Income Tax Act, 1961, the Goods and Services Tax Act, 2017 and all other relevant laws.
- **Punishments:** Match-fixing and sports fraud should be specifically made **criminal offences** with severe punishments.

1.11. FUGITIVE ECONOMIC OFFENDERS BILL (FEOB), 2018

Why in news?

President recently gave his assent to the Fugitive Economic Offenders Bill (FEOB), 2018.

Background

- There have been several instances of economic offenders fleeing the jurisdiction of Indian courts, anticipating the commencement, or during the pendency of criminal proceedings. The absence of such offenders from Indian courts has several deleterious consequences such as
 - it hampers investigation in criminal cases, wastes precious time of courts and undermines the rule of law in India.
 - most such cases of economic offences involve non-repayment of bank loans thereby worsening the financial health of the banking sector in India.
- The existing civil and criminal provisions in law are not entirely adequate to deal with the severity of the problem. It is, therefore, felt necessary to provide an effective, expeditious and constitutionally permissible deterrent to ensure that such actions are curbed.
- In view of the above context, the Act was proposed in order to address the lacunae in the present laws and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts.
- The Act is expected to re-establish the rule of law by plugging gaps in the existing laws thus providing a higher deterrent effect on economic offenders.
- This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by fugitive economic offenders, improving the financial health of such institutions.

Salient Features of the Act

- The Act allows for a person to be **declared as a fugitive economic offender (FEO) if:**
 - an arrest warrant has been issued against him for any specified offences where the value involved is over Rs 100 crore, and
 - he has left the country and refuses to return to face prosecution.
- It extends not only to loan defaulters and fraudsters, but also to individuals who violate laws governing taxes, black money, benami properties and financial corruption.
- The **Enforcement Directorate (ED)** will be the apex agency to implement the law.
- To declare a person an FEO, an application will be filed in a **Special Court (designated under the Prevention of Money-Laundering Act, 2002)** containing details of the properties to be confiscated, and any information about the person's whereabouts.
- The Special Court will require the person to appear at a specified place at least six weeks from issue of notice. Proceedings will be terminated if the person appears.

- The Act allows authorities to **provisionally attach properties of an accused**, while the application is pending before the Special Court.
- Upon declaration as an FEO, **properties of a person may be confiscated** and vested in the central government, free of encumbrances (rights and claims in the property).
- Those classified as fugitives **will also not be able to pursue any civil cases** in India unless they come back to India and face prosecution.

Issues with the act

- **Against principle of justice and violates fundamental rights:** Basic principles of natural justice like -fair play, innocent until proven guilty, access to justice are being violated by several provisions of the act like:
 - Selling the property on the mere declaration of a person as a fugitive economic offender and without a proper trial.
 - Confiscating all properties belonging to a fugitive economic offender, and not just properties acquired through proceeds of crime.
- **It does not require the authorities to obtain a search warrant** or ensure the presence of witnesses before a search. These safeguards protect against harassment and planting of evidence.
- The legislation also makes an arbitrary and discriminatory distinction by virtue of which only offences involving sums over Rs 100 crore will attract the FEOB's provisions.
- Most of the procedural aspects under the Act are **similar to existing laws** such as the CrPC, 1973, and the Prevention of Money-Laundering Act (PMLA), 2002. For example, CrPC, 1973 also allows for attachment and confiscation of properties of absconders.
- **Use of sale proceeds from confiscated property not specified:** The Act specifies that an FEO's properties will be confiscated and vested in the central government. The central government may dispose off the properties after 90 days. However, the Act does not specify how the central government will use the sale proceeds i.e. would the government be obliged to share the sale proceeds with persons who may have a claim against the FEO.

फाउंडेशन कोर्स सामान्य अध्ययन

इनोवेटिव क्लासरूम प्रोग्राम के घटक

○ प्रारंभिक और मुख्य परीक्षा के लिए

DELHI 11 Sept	JAIPUR : 24 Aug LUCKNOW : 18 Sept AHMEDABAD : 23 July
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हिन्दी माध्यम में

ऑनलाइन कक्षाएं भी उपलब्ध

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- ▶ करेंट अफेयर्स मैगजीन

2. INTERNATIONAL RELATIONS

2.1. INDIA-AUSTRALIA

Why in news?

The Australian government has released an **India Economic strategy report** to **boost economic ties with India**.

Bilateral Relations

The India-Australia bilateral relationship has undergone evolution in recent years, developing along a positive track, into a friendly partnership. The two nations have much in common, underpinned by shared values of a pluralistic, Westminster-style democracies, Commonwealth traditions, expanding economic engagement and increasing high level interaction. Various aspects of their relations include-

- **Political Interactions-** Australia and India established diplomatic relations in the pre-Independence period, when the Consulate General of India was first opened as a Trade Office in Sydney in 1941.
 - Apart from various high level visits the two countries have signed MoUs in areas including Cooperation in combating International terrorism & transnational organized crime, Health and Medicine, Environment, Climate and Wildlife, etc.
 - They also co-operate in various multilateral fora. Australia supports India's candidature in an expanded UN Security Council. Both India and Australia are members of the Commonwealth, IORA, ASEAN Regional Forum, Asia Pacific Partnership on Climate and Clean Development, and have participated in the East Asia Summits.
- **Security and Stability-** With the changing global scenario, Australia has come to look at India as a potential partner in promoting regional security and stability. This led to upgradation of bilateral relationship between the two nations to a 'Strategic Partnership', including a Joint Declaration on Security Cooperation in 2009. Both are part of 'Quad' Grouping.
- **Civil Nuclear Co-operation-** A Civil Nuclear Cooperation Agreement between the two countries was signed in September 2014 during the visit of then PM Tony Abbott to India. The agreement came into force from 13 November 2015 and provides the framework for substantial new trade in energy between Australia and India. The Australian Parliament passed the "Civil Nuclear Transfer to India Bill 2016".
- **Agriculture, Science and Technology-** An Australia-India Strategic Research Fund (2006) has been set up; the two countries have identified a number of collaborative research projects in areas such as agricultural research, astronomy and astrophysics, environmental sciences, microelectronics, nanotechnology, renewable energy, marine sciences and earth systems sciences.
- **Economic & Trade-** India is Australia's tenth-largest trading partner and our fifth-largest export market. Two-way goods and services trade between Australia and India totaled \$18 billion in 2014-15. The two countries are currently discussing a Comprehensive Economic Cooperation Agreement (CECA) which will provide greater market access to exporters of goods and services.

The Economic Strategy Report aims to put substance into a growing strategic relationship. The paper comes soon after the foreign policy white paper by Australian govt, which made a big space for relations with India, pushing India to among Australia's top strategic partnerships.

Highlights of the Report

- It states that the transformation of the Indian economy is underway. Its progress will be uneven but the direction is clear and irreversible. Given its increasing significance India should be put into its top three export markets and made the third largest destination in Asia for the country's outward investment.
- It takes a long-term perspective about Australia and India: out to 2035. It expects Australian exports to India grow from 14.9 billion dollars in 2017 to around 45 billion dollars in the next 20 year and outward Australian investment to India rise from 10.3 billion dollars to over the 100-billion mark.
- Australia should focus on securing some of the **objectives of the CECA** with India through **the Regional Comprehensive Economic Partnership (RCEP)**.
- **Three pillars** on which his strategy rests: **geopolitical convergence** (in terms of security partnership in the Indo-Pacific), **economic relations**, and **people-to-people links**. Indian diaspora to play a big role in building these economic linkages.

- The economic strategy would rest on the business to business relationship with a light touch from government. According to the report, it is business on both sides which should drive the trade and investment relationship. India however is a market where government cannot be left out of the equation.
- Report has divided sectors into a flagship sector (education), three lead sectors (agribusiness, resources, and tourism) and six promising sectors (energy, health, financial services, infrastructure, sport, science and innovation) and ten states in India where Australia should focus efforts.

Challenges in realising strategy

- It views India principally as an economy that will flourish on the strength of services. Of the focus sectors identified in the report, most are based around services. Further, the report alludes to 'Make in India' only from the perspective of defence manufacturing.
- Another potential challenge is the report's geopolitical focus. The two countries' partnership in the Indo-Pacific is clearly the key element of the stated geopolitical convergence. Security and strategic discussions in India are generally not associated with economic conversations. Trade policy is hardly shaped in conjunction with foreign policy.
- Further, the prominence of the Indo-Pacific concept in India remains limited to the security community. Indian trade experts are yet to engage enthusiastically with the concept. It is far-fetched for Australia to expect India to react wholesomely to the report and to endorse a deep and lasting economic partnership with Australia on predominantly geopolitical foundations.

2.2. INDIA-SOUTH KOREA

Why in news?

South Korean President Moon Jae-in recently visited India for the first time since being elected last year.

Key Highlights of the visit

- Moon coined a new acronym '**3P Plus**' for boosting bilateral ties through **cooperation for people, prosperity and peace**.
- Indian Prime Minister and President of the Republic of Korea inaugurated **Samsung's mobile manufacturing plant**, touted as the biggest in the world, in Noida.
- South Korean President also **set a trade target of \$50 billion to be achieved by 2030**, up from the \$20 billion at present.
- South Korea would be the second country after China with whom India would undertake a joint project in Afghanistan.
- Joint Statement on **Early Harvest Package of the Upgraded Comprehensive Economic Partnership Agreement (CEPA)**: its objective is to facilitate ongoing negotiations on upgrading the India-South Korea CEPA by identifying key areas for trade liberalisation (including shrimp, molluscs and processed fish).

Important Agreements Signed

India and South Korea signed 11 agreements, including in the areas of trade, cultural and scientific and technological cooperation, during the visit of South Korean President Moon Jae-in to India. Following are some major MoUs signed-

- **On Trade Remedies**: its objective is for cooperation in the area of trade remedies viz. anti-dumping, subsidy, countervailing
- **On Future Strategy Group** for cooperation in the development of cutting edge technologies for commercialisation to reap benefits of **the fourth industrial revolution**.
- On cooperation in the field of scientific and technological research.
- On cooperation in the field of biotechnology and bio-economics, ICT and Telecommunications, etc.

India-South Korea relations

- **Politically** India played an important and positive role in Korean affairs after Korea's independence in 1945. Bilateral consular relations were established in 1962 which was upgraded to Ambassador-level in 1973. Since then various high level meetings have taken place between the two.
- **In terms of Commercial relations**, in course of time, RoK's open market policies found resonance with India's economic liberalization and 'Look East Policy' as well as "Act East Policy". Trade and economic relations have gathered momentum following the implementation of CEPA in 2010 and the bilateral trade in 2011 crossed USD 20.5 billion registering a 70% growth over a two-year period. Economic engagement constitutes the core of our relations.
 - India and South Korea launched an initiative '**Korea Plus**', as proposed by Indian Prime Minister in June 2016 to promote and facilitate Korean Investments in India.

- Major Korean conglomerates such as Samsung, Hyundai Motors and LG have made significant investments into India, estimated at over \$4.43 billion (as of March 2017).
- The **large trade deficit in South Korea's favour** has led India to be wary of further opening up. In turn, Korean companies cite problems in doing business in India, despite a special “Korea Plus” desk set up by the Prime Minister’s Office in 2015.

- **Cultural Relations-** To further enhance cultural exchanges between India and Korea, various cultural centres have been established in Seoul, Busan, etc.
- **Other Areas- Tourism** between the two countries has always been low while **strategically** both New Delhi and Seoul are preoccupied with tensions in their immediate neighbourhoods.

Way forward

- **Trade:** Agreement to invoke the “**early harvest**” clause in the 2010 CEPA will allow both to do away with tariffs in 11 areas, benefiting Indian seafood exporters and food processing units, as well as South Korean petrochemical companies.
- **Investment:** More Korean companies should be persuaded to invest, by projecting a counter-narrative to the failed bid by the steel company Posco to set up its plant in Odisha. Much will depend on negotiations on the regional free trade agreement, the Regional Comprehensive Economic Partnership.
- **Strategic front:** On the strategic front, **India has asserted its place as a “stakeholder” in the Korean peace process**, while South Korea has for the first time shown an interest in talking about an Indo-Pacific policy.
- In the short term, a symbolic token towards shared interests will be seen in a **joint “capacity-building” programme in Afghanistan**.

Conclusion

- South Korea can be an indispensable partner of India in its Act East Policy in the Indo-Pacific region.
- South Korea’s technological advancement and manufacturing capabilities can be helpful in India’s economic growth and human resource development.
- At a time when U.S. foreign policy is capricious and unpredictable, and China’s is making purposeful moves towards global domination, it is important that the South Korea-India partnership grows and consolidates, to contribute to stability in the region.

New Southern Policy

- The new S. Korean government is seeking to elevate strategic ties with the Association of Southeast Asian Nations (ASEAN) on par with Korea’s four traditional, major diplomatic partners of the United States, China, Japan and Russia.
- It is a new policy orientation is being pursued under the government’s broader strategy of promoting a “Northeast Asia Plus Community for Responsibility-sharing (NEAPC)”.
- New Southern Policy is one of the 3 parts of NEAPC which would involve deepening relations with India as well as the countries of Southeast Asia, including in the economic realm.
- Moon’s New Southern Policy aims to strengthen the economic-cooperation and build a prosperous and people-centric community of peace while India’s “Act East Policy,” as articulated by Modi, focuses on promoting deeper economic engagement, reinvigorating cultural and civilizational relations, and developing new strategic partnerships with countries in the Indo-Pacific region through continuous engagement at bilateral as well as at multilateral levels. Both these policies show convergence in their objectives and should further strengthen the Special Strategic Partnership between India and South Korea.

2.3. BIMSTEC SUMMIT

Why in News?

Recently, the 4th summit of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) was held in Nepal.

More about 4th summit

- The meeting is taking place after a gap of four years, the 3rd BIMSTEC Summit took place in Nay Phi Taw in 2014.

About BIMSTEC

- It was formed nearly two decades ago on June 06, 1997.
- It includes India, Bangladesh, Bhutan, Myanmar, Nepal, Sri Lanka, and Thailand.
- The permanent secretariat of BIMSTEC was established in Dhaka in 2014.
- It is a sector-driven cooperative organization, starting with six sectors—including trade, technology, energy, transport, tourism and fisheries.
- It expanded to embrace eight more sectors—including agriculture, public health, poverty alleviation, counter-terrorism, environment, culture, people to people contact and climate change.

- Several important decisions taken in the summit include:
 - **Drafting a charter** for BIMSTEC, which has functioned so far on the basis of the Bangkok Declaration of 1997.
 - **Setting up of a Permanent Working Committee** to provide direction during the period between two summits and also to prepare the Rules of Procedure.
 - The Secretariat has been promised **additional financial and human resources** and enhancement of its role to coordinate, monitor and facilitate the grouping's activities.
 - Establishing a **BIMSTEC Development Fund**, with voluntary contributions from the Member States.
 - Welcomed Thailand proposed **new strategy of five pillars** (viz. connectivity, trade and investment, people-to-people contacts, security, and science and technology) as a part of rationalisation of focus sectors
 - **Strongly condemn terrorism** in all its forms and manifestations.

Significance of BIMSTEC

- Around **22% of the world's population** live in the seven countries around the Bay of Bengal, with a combined GDP close to \$2.7 trillion. A fourth of the world's traded goods cross the bay every year.
- It has **high economic potential**, given the region's economic dynamism, huge markets and rich natural resources.
- It appears as a **connector to multiple regional initiatives**. Among seven-member countries, five members of BIMSTEC are also members of SAARC, two are part of ASEAN and six are part of SASEC.
- **Bangladesh** views BIMSTEC as a platform to position itself as more than just a small state in the Bay of Bengal and Sri Lanka sees it as an opportunity to connect with Southeast Asia and serve as the subcontinent's hub for the wider Indian Ocean and Pacific regions.
- **For Nepal and Bhutan**, BIMSTEC stands to further their aspirations to reconnect with the Bay of Bengal region and escape their landlocked geographic positions.
- **For Myanmar and Thailand**, connecting more deeply with India across the Bay of Bengal would allow them to access a rising consumer market and, at the same time, balance Beijing and develop an alternative to China's massive inroads into Southeast Asia.
- **Importance for India**
 - For India, it is a natural platform to fulfil our key foreign policy priorities of '**Neighbourhood First**' and '**Act East**'.
 - **Stagnation of SAARC** is also a key reason for India to reach out to BIMSTEC as stagnation limited the scope of India's growing economic aspirations as well as the role it could play in improving regional governance.
 - BIMSTEC provides new battleground for India-China. It could allow India to push a constructive agenda to **counter Chinese investments** such as in Belt and Road initiative, and follow international norms for connectivity projects which Chinese projects are widely seen as violating.
 - It could develop codes of conduct that **preserve freedom of navigation** and apply existing law of the seas regionally.
 - It could stem the region's creeping militarisation by instituting, for instance, a **Bay of Bengal Zone of Peace** that seeks to limit any bellicose behaviour of extra regional power

Achievements of BIMSTEC

- **BIMSTEC Coastal Shipping Agreement** and **BIMSTEC Motor Vehicle Agreement (MVA)** are being negotiated.
- BIMSTEC countries have completed negotiations for the Memorandum of Understanding (MoU) on the establishment of the **BIMSTEC Grid Interconnection**.
- BIMSTEC Agreement on Mutual Assistance on Customs Matters has been signed and is under ratification.
- Considerable progress has been achieved in areas such as cooperation among national security agencies, cooperation to check security threats such as smuggling, human trafficking, drugs and piracy, etc.
- **Secretariat has been established at Dhaka** along with few BIMSTEC Centres in the region.

Challenges

- **BIMSTEC Free Trade Agreement** which was negotiated in 2004 boost the intra-regional trade from its present level of 7% to 21% is yet to be finalized.
- **India-Myanmar-Thailand Trilateral Highway** had not been completed, which is crucial to trade movement between the countries.

- BIMSTEC had the advantage of having a number of rising economies in the region but it was one of the **least integrated parts of the world**.
- **Lack of consistency in the Summit:** In its 2 decades, BIMSTEC leaders met only thrice at the summit level.
- It has **slow pace of growth** due to absence of focus on areas of cooperation, weak institutional mechanism, financial constraints etc.
- **Terrorism** is the most significant threat in the Bay of Bengal region as well as South East Asia and there is need for more cooperation amongst the member states on this issue.
- **Maritime Security Issues:**
 - **2015 Rohingya refugee crisis** which made thousands of 'boat people' vulnerable to recruitment by criminal networks, sea pirates, and Islamist militants.
 - The Bay is also prone to some of the most severe natural disasters, incidents of sea piracy, and illegal, unreported, and unregulated (IUU) fishing.
 - At present, maritime security cooperation initiatives within the sub-region do not include all the coastal Bay states– for instance, CORPAT exercises, Milan exercises, and the 'IO 5' grouping.

Way forward

- To make BIMSTEC further lucrative, there is a need for increasing its membership base. BIMSTEC should consider **expanding its membership** to Indonesia, Malaysia, and Singapore, three major Asian powers
- BIMSTEC shall give special focus on **BIMSTEC cross-border e-commerce and digital connectivity**. It may also consider opening a negotiation on BIMSTEC Railway Agreement
- **More socio-cultural interactions** will build greater sense of ownership of BIMSTEC among the people of the region.
- A regional trade facilitation agreement is also needed for cooperation in the matter of customs, training and capacity building, exchange of information, setting disputes, etc. It should also aim for **regulatory harmonisation** to ensure export of goods without requiring additional certification.
- **Strengthen IPR cooperation** to help countries move higher up in the technology ladder, encourage transfer of technology and stimulate innovation and creativity.
- BIMSTEC countries should facilitate air connectivity, particularly to **link India's Northeast with Bangladesh, Myanmar and Thailand**. It may prove to be a catalyst for promotion of tourism and services trade.
- BIMSTEC should consider **forging tie-ups with other multilateral organizations** in areas like manpower training, knowledge exchanges.

2.4. BRICS SUMMIT

Why in News?

Recently, the 10th BRICS Summit took place from 25th to 27th July, at Johannesburg in South Africa. The Theme of the summit was **'BRICS in Africa: Collaboration for Inclusive Growth and Shared Prosperity in the 4th Industrial Revolution.'**

About the Johannesburg Declaration:

It reaffirms the principles of democracy, inclusiveness and agrees to fight unilateralism and protectionism. Some of the important takeaways of Johannesburg Declaration includes:

- **Multilateral Trading System:** It stresses the centrality of rules based, transparent, non-discriminatory, open and inclusive multilateral trading based on WTO.

About BRICS

- **BRICS** is the acronym coined by British Economist Jim O'Neill in 2001. Officially formed in 2006, it originally included four emerging economies of **Brazil, Russia, India and China**. Its first summit took place at Russia in 2009. Later in 2010, **South Africa** became the 5th member of the grouping.

About BRICS Part NIR

- It aims at deepening BRICS cooperation in digitalization, industrialization, innovation, inclusiveness and investment to maximize the opportunities and address the challenges arising from the 4th Industrial Revolution.
- It would enhance comparative advantages, boost economic growth, promote economic transformation of BRICS countries, strengthen sustainable industrial production capacity, create networks of science parks and technology business incubators, and support small and medium-sized enterprises in technology intensive areas.

- **Commitment to United Nations:** It commits support for multilateralism and the central role of the United Nations in international affairs and uphold fair, just and equitable international order, respect for international law, promoting democracy and the rule of law.
- **Importance of 4th Industrial Revolution:** It recognizes the importance and role of culture as one of the drivers of the 4th Industrial Revolution and acknowledges the economic opportunities that it presents. It recommends the establishment of **BRICS Partnership on New Industrial Revolution (PartNIR)**.
- **On counter-terrorism:** It calls upon the international community to establish a genuinely broad international counter-terrorism coalition and support the UN's central coordinating role in this regard. It calls for expeditious finalisation and adoption of the **Comprehensive Convention on International Terrorism (CCIT)** by the United Nations General Assembly.
- Along with commitment towards **strengthening cooperation in international peace and security** there were concerns against **arms race in outer space** and calls for strict compliance with the existing legal regime providing for the peaceful use of outer space.
- **Brazil to get a New Development Bank (NDB) regional office:** The Declaration mentioned the creation of the Project Preparation Fund and establishment of the NDB Regional Office in São Paulo, Brazil, which, alongside the Africa Regional Centre, will help the NDB consolidate its presence in these continents.

Significance of BRICS

- **Represents five countries and four continents:** It consists of 43% of world population, 22% of the total world GDP and 17% world trade share. According to a UN report, the combined output of BRICS countries will surpass the aggregate GDP of US, Canada and other European nations by 2020.
- **Influential grouping,** including four developing and emerging economies and Russia, which promotes a multi-polar world. It has expanded the arc of its interests and established new institutions and partnerships. For instance, institutions like **New Development Bank** injected fresh driving force into the mechanisms' leading role in South-South cooperation.
- **Platform for addressing Global issues** such as IMF reforms, climate change, terrorism, etc. from the perspective of emerging economies. BRICS nations adhere to the principle of equality, negotiations, and pragmatic cooperation.
- **Platform for addressing bilateral issues** among its members. For instance, India has tried to use the Summit level meets for resolving mistrust and complications with China.
- **'BRICS outreach to Africa' and 'BRICS Plus' formats:** BRICS plus format initiated at Xiamen Summit in 2017 by inviting a few countries from different regions was emulated in Johannesburg Summit also. It presents an opportunity for networking among different leaders.
- **Diverse agendas under BRICS:** It is also working in issues like Global Governance reforms, Women Empowerment by a proposal to set up a BRICS Gender and Women's Forum and setting up a vaccine research center for immunization to promote research, develop and discover new vaccines.
- **Multi-layered pragmatic cooperation** has been established in the fields, such as economy and trade, finance, industry and commerce, agriculture, education, healthcare, science and technology, culture, think tanks and twinned cities which have imposed great influence on the international community.

Concerns

- **Still far from achieving its initial goals** such as a) Reform of global financial governance; b) Democratization of United Nations and expansion of UNSC are work in slow progress.
- **Contradicting views of the members:** For instance China opposed India's move to declare Pakistan based terror outfits. It is also against India's bid to UNSC and NSG membership. No decisions are taken yet on **BRICS Credit Rating Agency** favored by India.
- **Lack of commonality among the members:** While Brazil, India and South Africa are democratic, China and Russia are not. Brazil and Russia export hydrocarbons, China and India are net importers. China and Russia are permanent members of the UN Security Council – the others are not. Structure of financial systems, levels of income, education, inequality, health challenges also differ substantially within BRICS which makes it hard for them to speak with a unified voice and to co-ordinate action.
- **New Development Bank (NDB) yet to disperse loans to outside member countries:** So far all the loans dispersed totaling \$5.1 Billion are to its members only, with other developing countries like African country look at NDB for their infrastructural requirements.

Way Forward

- To **address the asymmetry of power** within the group and global governance they must reaffirm their commitment to a multi-polar world that allows for sovereign equality and democratic decision-making.
- Building on the success of the NDB it must **invest in additional institutions**, for instance, an institutional research wing, along the lines of the Organisation for Economic Co-operation and Development (OECD), can offer solutions distinct from western-led knowledge paradigms and is better suited to the developing world.
- BRICS must lead the effort to meet their commitments under the Paris Agreement on climate change and the UN's SDGs by **setting up a BRICS energy alliance and an energy policy institution**.
- BRICS members must **encourage direct interactions between their constituents** as in the digital age, seamless conversations amongst people, business and academia can foster relationships, which are more likely to cement the future of this alliance than any government efforts.

2.5. INDIAN AID TO SAARC

Why in News?

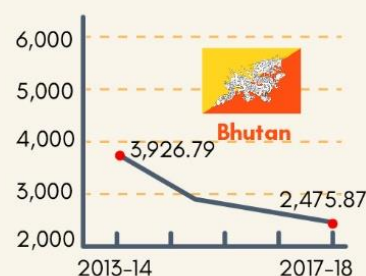
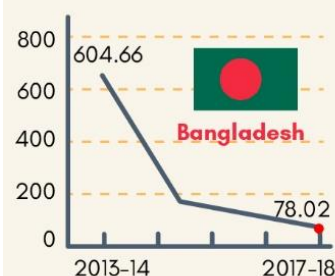
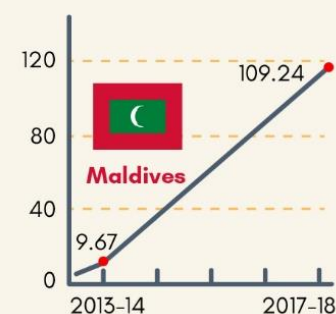
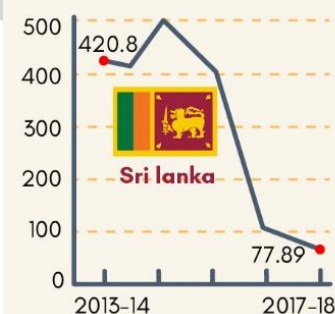
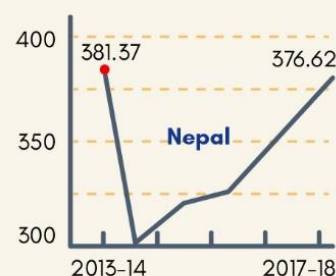
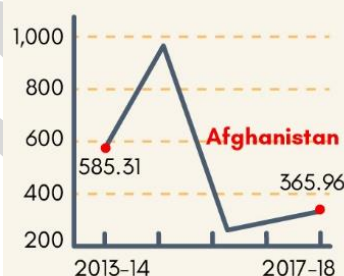
- India's financial assistance to SAARC neighbours has almost halved in the past five years, from about Rs.6000 Crore in 2013-14 to Rs.3500 Crore in 2017-18.

More on News

- The **only exception was Maldives**, to which Indian assistance has been consistently increasing.
- A possible explanation for the decline is that the assistance figures did **not include the lines of credit** (given at the minimal interest rates of 1-2%) extended to Nepal, Sri Lanka and Bangladesh.
- Another cause for such a trend can be the fact that often these nations are **not able to absorb** the additional aid.
- But the most important factor for these trends is related to **project cycles**:
 - In **Afghanistan** major projects — the Salma dam and the Afghanistan Parliament, were completed and hence there is a natural decline until next big project.
 - In **Bangladesh**, the main grant for land acquisition for the Akhaura-Agartala rail link project has now been completed leading to the declining figure.
 - In **Bhutan**, the assistance required for major HEPs have been mostly disbursed and assistance to Bhutan's five-year plan is nearly over. (However, Bhutan continues to lead the pack of South Asian nations to receive developmental assistance from India.)
 - In **Sri Lanka**, the decline was explained by delays in land acquisition.
 - The increasing trend in **Maldives** can be explained by the fact that India is still completing some major projects there.

DIP IN FINANCIAL AID

India's financial assistance to SAARC countries, with the exception of Maldives, has been dipping since 2013, Aid to Bangladesh dropped by the largest merit (87%)



Declining Relevance of SAARC

- While the fall in aid can be explained as temporary phenomenon, there has been an evident decline in SAARC's relevance which can be seen through various instances:
 - Though SAARC has succeeded in evolving as a forum and a framework but has yet to develop into a conflict-mediating or conflict-resolving institution both on multilateral and bilateral issues. For e.g. Regional Convention on Suppression of Terrorism has failed to combat terrorist activity.
 - **Inability to create economic cooperation:** Despite the South Asia Free Trade Agreement (SAFTA) coming into force the intra-regional trade in goods in the SAARC region remains around five per cent, and in services, barely 0.2 per cent, in comparison the intra-region trade in ASEAN is 26 per cent, and in MERCOSUR, it is 15 per cent.
 - Numerous agreements have been signed and institutional mechanisms established under SAARC, but they have not been adequately implemented. For e.g.: the SAARC satellite project that India proposed was abandoned following objection from Pakistan in 2016.
 - **Lack of tangible outcomes:** International experts have termed it as a '**zombie**' organisation which maintains "a level of semi-regular operation", but progress on its goals falls below expectation.
 - SAARC has been **unable to implement its plans for regional welfare** leaving much of the population in adverse socioeconomic conditions.
 - ✓ The region is home to the world's 400 million poor people, which means nearly 30 per cent of the region's population lives below the poverty line. All the SAARC countries have a low ranking on the human development index (HDI).
 - **Emergence of other organisations like BIMSTEC** are challenging the utility of SAARC.
- **Lack of regular SAARC Summits:** Although the SAARC Charter requires the heads of state to meet once a year, there have been **only 18 summits since 1985**. (Recently India has refused to proceed with the SAARC initiative citing continuing support to cross-border terrorism from Pakistan.)

SAARC

- South Asian Association for Regional Cooperation (SAARC) is a regional intergovernmental organization in South Asia set up in 1985.
- It comprises of eight Member States: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.
- Its Secretariat is in **Kathmandu**
- Australia, China, the European Union, Iran, Japan, Mauritius Myanmar, South Korea and the United States have observer status.

Reasons for declining relevance of SAARC

- **Conflict and power asymmetry** among members hinders it from making progress in regional cooperation. For eg: Historical political tensions, mistrust, cross-border conflicts and security concerns among two major players in India and Pakistan.
- **Regional problems** also have hindered cooperation: India-Sri Lanka disputes w.r.t. Katchatheevu island, Pakistan-Afghanistan tensions, Bangladesh and Pakistan's historical strained relationship, political instability in Afghanistan, etc.
- SAARC's **emphasis on the principle of unanimity for decision making and exclusion of contentious bilateral issues** from deliberations makes the organisation fragile and vulnerable.
- **Dominated by a single country:** Most of other economic groupings, be it EU or ASEAN, are groupings of the economies, which are more or less equal. But, SAARC is mainly dominated by India which accounts for nearly 60 per cent of SAARC's population, area or GDP.
- **Limited transport connectivity, logistics and regulatory impediments** have posed major hurdles for trade. For e.g.: Trade and other relations between India and Afghanistan are hampered by the fact that they don't share any border and connectivity through Pakistan, and is dependent upon good relations between India and Pakistan.
- SAARC faces a **shortage of resources**, and countries have been reluctant to increase their contributions.
- **Political uncertainties:** Some of the countries in the region have been suffering from political uncertainties and the governments there have not been strong enough to take hard decisions which are required to make any meaningful multi-lateral initiatives.
- **Opinionated Bureaucracies:** Most of the SAARC countries have strongly entrenched bureaucracies and interest groups who look at every issue from a myopic and nationalistic view point.

- **Lack of Motive for formation:** It was not the pursuit of economic and developmental cooperation but the need to evade the embarrassment of being a region devoid of a regional entity which was the reason for the formation of SAARC.

Way forward

- SAARC comprises of rising economies which can provides large consumption market.
 - SAARC can provide greater voice to its members during negotiations at the global roundtable such as WTO, UN reforms, etc.
 - It can provide an adequate forum to improve bilateral ties among nations. The informal sidelines of SAARC have often served the as a tool to resolve differences and thawing hostility.
 - SAARC can also help India to enhance its “Look West” policy.
- Challenges faced by SAARC member countries such as poverty, illiteracy, healthcare, infrastructure, terrorism, etc are similar and finding solutions to them will be easier if the members work together. For example, the establishment of **South Asian University in New Delhi and “Delhi Declaration”** on education have provided a blueprint.
- SAARC should **strive to enhance investment activity between its member states**, and not merely trade. South Asian joint venture promotion schemes should also be promoted on a priority.
- Broader popular support at the grass-root level must be vastly improved by encouraging freer legal movement of people for economic and cultural tourism reasons by minimising immigration procedures.
- Effective steps must be undertaken to jointly deter cross-border, illegal migration, terror attacks and block the narcotics trade and drug trafficking.
- SAARC nations should not internationalise any bilateral issue beyond the SAARC forum.
- India needs to play a larger role in resurgence of SAARC.

2.6. TRADE WARS

Why in News?

Several countries, mainly led by USA and China, have recently resorted to unprecedented high tariffs on their imports leading to a situation called trade wars.

Brief background

- In early March 2018, US President Donald Trump proposed tariffs of 25% and 10% on imports of steel and aluminium, respectively, under ‘national security’ provisions of US trade laws.
- The US further expanded the imposition of tariffs on more than 1,300 Chinese goods account for \$46 billion of US imports from China.
- Reciprocating this, China imposed additional duty on 106 American products in April, impacting almost \$50 billion worth of Chinese imports from the US.
- Later India also imposed tariffs of 50% on a list of 30 goods imported from US in order to compensate the losses accruing from US tariffs on steel and aluminium. Similar moves were taken by European Union when it imposed tariffs on \$3.3 billion of American goods.
- Trump rejected the G-7 communique that endorsed a “rules-based trading system” for the world and further promised levies on \$200bn worth of Chinese products recently in September.

What is a Trade War?

Typically rooted in ‘**protectionism**’, a trade war is a situation where countries try and damage each other’s economies through the imposition of tariffs, quotas or other restrictions on imports and exports. This can hurt other nations’ economies and lead to rising political tensions between them.

Protectionism: Protectionism is use of various restrictions such as tariffs to boost the country’s industrial competitiveness, and shielding them from foreign competition.

Reasons behind these moves

- US accusations against China regarding unfair trade practices, IPR violations and restricting US investments
- To balance out rising trade deficits with China and address national security issues
- Protecting local manufacturing and jobs.

Role of WTO

- **WTO’s mission is to facilitate free and fair trade:** It does that by establishing rules, settling disputes and getting countries to talk to work out their differences. Countries that think other members are acting unfairly can use WTO councils, committees and its dispute settlement system to seek and obtain redress.
- **Although requiring a long-drawn process to resolve disputes, WTO still plays an important role in ensuring fair trade:** Both USA and China have previously approached the WTO Dispute Settlement Mechanism to resolve their disputes.

Global Impacts of the trade wars

- **Damage the rules based trading system under the WTO:** affect the global trade agreements and questioning the relevance of WTO affecting multilateral trading system and globalisation.
- **Weaken investments, depress spending, disturb financial markets and slowdown the global economy:** Investment decisions affect employment and taxes raised and uncertainties caused severely impacts ease of doing business and employment generation. Slowdown in the global economy under the increased burden of taxes will harm all the stakeholders and may result in global recession.
- **Fall in global currencies resulting into trade plus currency wars:** Currencies in various developing countries such as Turkish lira, Chinese Yuan and Indian Rupee is in a free fall.
- **Disrupt global supply chains, raising prices for consumers worldwide:** tensions between the US and China might go beyond taxes and directly disrupt global supply chains as investment is targeted. In the worst-case scenario, companies may have to relocate factories or distribution centers.
- **Increases inefficiency:** Tariffs create 'deadweight' losses, encouraging production and consumption inefficiencies—a net welfare loss to the US itself and to the global economy. The imposition of tariffs on aluminium and steel will hurt competitiveness of the final goods produced in industries such as automotive, machine tools and electronics, as was witnessed in the early 1980s when the US automotive companies lost competitiveness to their Japanese counterparts.
- **Denying market access to developing south:** Trade facilitates capital flows and both help many developing and lower income countries to participate in the global market and benefit from comparative advantages, specialisation and technology transfers. Trade wars will impact them.
- **Impacts on Asian and South-East Asian Economies:** These countries such as Taiwan, Malaysia, and South Korea are interdependent and are important for global manufacturing by producing components for their final assemblage in China. Restrictions on global trade will impact their manufacturing and export led growth.

Impacts on India

- **Slowdown in growth:** Along with global growth slowdown, Indian economy also faces a threat of decline in growth.
- **Reduced Indian exports:** worsening already meager exports, U.S. tariffs on steel and aluminium would cost India \$241 million. This along with rising price of oil threatens to widen India's Current Account Deficit (CAD), impacting India's macroeconomic stability.
- **Falling Rupee:** Rupee has already reached its historic low which would fuel inflation in the economy.
- **Reduce investment flows in India:** Volatility in global markets would reduce FIIs and FDIs which would impact technology transfer and crucial foreign exchange.
- **However, an Opportunity to reduce trade deficits:** India has a wide trade deficit of more than \$51 Billion with China, which it can minimize by exporting key items such as Soybean. Similarly, India can utilize the opportunity to occupy the void by increasing its exports of textiles, garments and gems and jewellery to the USA.
- **Increased domestic production and job creation:** The trade war will shift the global production from large MNCs to relatively smaller domestic businesses using more manual labour. This shift will lead to larger creation of jobs in the domestic factories.

Way Forward

- India has rightly highlighted its preference of dealing with the issue through dialogue and not through larger 'retaliatory measures'.
- Taking help of WTO's Dispute Settlement Body (DSB) for adjudicating trade disputes as done by China could be a potential step to normalise the situation.
- India should simultaneously maximize the benefits of bilateral and plurilateral trade mechanisms it is part of and must strive to join new regional groupings such as RCEP, NAFTA, etc.
- Also China should voluntarily move towards a flexible exchange rate (allowing the yuan to appreciate, which, in turn, will make imports cheaper) and enhances spending on social sectors like health and education (which will enable households to save less and spend more in China, leading to more imports), it will lower trade surplus.

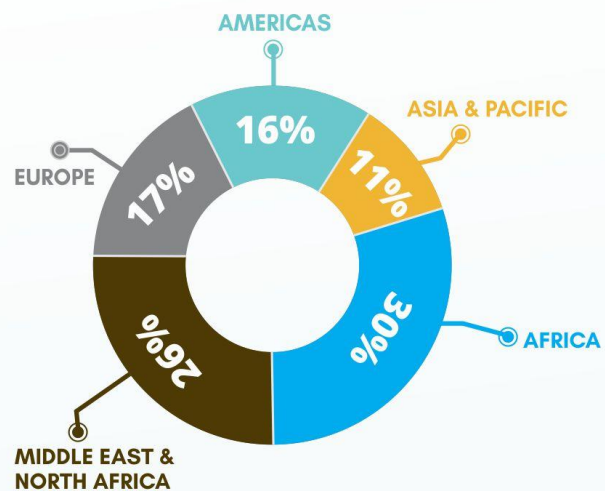
2.7. GLOBAL REFUGEE CRISIS

Refugee crisis refers to movements of large groups of displaced people, who could be either internally displaced persons, refugees or other migrants. According to the UN High Commissioner for Refugees, in 2017, 65.6 million people were forcibly displaced worldwide because of persecution, conflict, violence, or human rights violations alone.

Causes of Refugee Crisis

- **War & civil war and Persecution:** In June 2015 the UN refugee agency reported that wars and persecutions are the main reasons behind the refugee crises all over the world. The social, economic and political instability created due to war forces people to move to other places in search of better life and opportunities.
 - Persecution may take many forms such as religious, national, social, racial, or political persecution. Some of religious refugees include Rohingya Muslims persecuted in Myanmar, Christians in the Central African Republic to Hindus in Pakistan.
- **Human rights violations:** Corruption, greed, amassing of wealth by few people who are in power has resulted in suffering of masses especially in many African nations for example Uganda, Nigeria, Zimbabwe, South Sudan, Sudan, Eritrea who rank high in corrupt countries.
- **Environment and climate:**
 - Although they do not fit the definition of refugees set out in the UN Convention, people displaced by the effects of climate change have often been termed climate refugees.
 - According to Internal Displacement Monitoring Centre, every year since 2008, an average of 26.4 million persons around the world have been forcibly displaced by floods, windstorms, earthquakes or droughts.
- **Economic hardship:** People also emigrates from one region to another to seek an improvement in living standards because the living conditions or job opportunities in the migrant's own region are not sufficient.
- **Hunger:** It's estimated that 20 million people in four North African and Middle Eastern countries — Somalia, South Sudan, Nigeria, and Yemen — are facing extreme drought, and many of these individuals are becoming refugees, forced from their homelands in search of stable food sources.

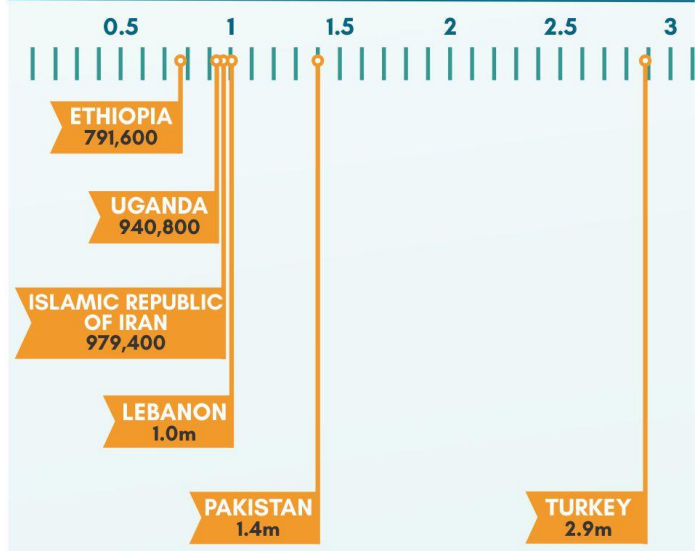
WHERE THE WORLD'S DISPLACED PEOPLE ARE BEING HOSTED



55% OF REFUGEES WORLDWIDE CAME FROM THREE COUNTRIES



TOP HOSTING COUNTRIES



- **Gender/Sexual Orientation:** LGBT individuals are the targets of killings, sexual and gender-based violence, physical attacks, torture, arbitrary detention, accusations of immoral or deviant behaviour, denial of the rights to assembly, expression and information, and discrimination in employment, health and education in all regions around the world.

Arguments in favour and against of Refugees

Benefits:

- Refugees will often **do jobs** that people in the host country will not, or cannot do;
- They often **work longer hours** and for lower salaries, and while that is controversial, sometimes exploitive, it benefits the host country;
- Refugees, when made to feel welcome in the host society, can **contribute to the diversity** of that society, which can help with tolerance and understanding;
- For the host country's economy, refugees offer an **increased talent pool**, if they have been well educated in their original country.

Drawbacks:

- **Trafficking and forced labour:** Women and children are often an easy target for inhuman treatment. Further there may be no access to schools for their children and no health services for the family.
- **Shadow Economy:** The first economic impact of the refugee crisis can be seen as the emergence and thriving of a shadow economy primarily due to their employment on lower wages.
- **Security Concerns:** It also raises security concerns as many unverified refugees may be extremists, terrorists or **criminal elements** trafficking in drugs.
- **Challenges to Regional Integration:** In case of Europe the rising populism and nationalism in European countries in the wake of refugee crisis sapped the coordinating and integrating capacity of European Union. The European Union, which has been touted as the most successful example of regional integration and was projected as the power house of future came under heavy strain.
- It can become a **social/political issue**, where racism can be used to exploit feelings or as an excuse for current woes of local population. Where there is a perception that immigrants and refugees appear to get more benefits than local poor people, **tensions and hostilities** can also rise. Generally, there is also **Harassment** by police and officials of states where they have migrated to.
- Concerns about illegal immigration can spill over to **ill-feelings towards the majority of immigrants** who are law-abiding and contributing to the economy;
- Developing countries may suffer **brain drain** as the limited resources they spend in educating their students amount to very little if that talent is enticed to another country. (The UK for example is often accused of actively hiring medical staff from developing countries.)

Refugee

A refugee is someone who has been forced to flee his or her country because of persecution, war, or violence.

Internally displaced person

An internally displaced person (IDP) is a person who has been forced to flee his or her home for the same reason as a refugee but remains in his or her own country and has not crossed an international border. Unlike refugees, IDPs are not protected by international law or eligible to receive many types of aid. Examples include South Sudan and Yemen.

Asylum seeker

When people flee their own country and seek sanctuary in another country, they apply for asylum - the right to be recognized as a refugee and receive legal protection and material assistance.

Global Immigration Status

- Worldwide, there is an estimated 191 million immigrants. The last 50 years has seen an almost doubling of immigration;
- 115 million immigrants live in developed countries; 20% (approximately 38 million) live in the US alone, making up 13% of its population; 33% of all immigrants live in Europe; 75% live in just 28 countries;
- Women constitute approximately half of all migrants at around 95 million;

Other International Protocols: International protocols

- Convention on the Rights of the Child (1989)
- Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

Major Initiatives for refugees

- **UN Refugee Convention (1951)** grants certain rights to people fleeing persecution because of race, religion, nationality, affiliation to a particular social group, or political opinion and who, on account of that fear “is unwilling to return to their country of origin. The rights they are entitled to follow the principles of non-discrimination, non-penalisation, and non-refoulement.
- There are various agencies of UN that deal with various aspects of migration, like-
 - **United Nations High Commissioner for Refugees (UNHCR)**-facilitates the protection and provision of humanitarian assistance to refugees worldwide. Along with the **International Organization for Migration (IOM)**, it is the lead agency for camp coordination and management. And it shares the lead with respect to emergency shelter with the International Federation of **Red Cross and Red Crescent Societies**.
 - The **United Nations Relief and Works Agency (UNRWA)** for Palestine Refugees in the Near East (UNRWA), established in 1949, is the main provider of basic services — education, health, relief and social services — to registered Palestine refugees in the Middle East.
 - UN peacekeepers are also deployed to protect the camps in which refugees must live.
 - The **Inter-Agency Standing Committee (IASC)**, through its “cluster approach”, brings together all major humanitarian agencies, both within and outside the UN system, for coordinated action.
- **The Dublin agreement:** It is an agreement by EU entered into force on the 1st January 2014.
 - It prescribes the criteria and the mechanisms of determination of the member State of EU which has the obligation to **evaluate the asylum request presented by people who arrive in Europe**.
 - According to the agreement the **asylum request has to be presented in the European country the person arrives in** and thus makes that country assume the greater share of the asylum burden.
- Recently EU leaders have also struck a deal for tackling refugee crisis through Tightening rules on ‘secondary’ migration, **building ‘controlled centers’ across the EU**, Establishing **Regional Disembarkation Platforms** in countries outside the E.U., **Strengthening the EU’s borders** and undertaking **EU asylum policy reform**.
- **Nansen Initiative (2012):** It’s a state-led consultative process to build consensus on a protection agenda addressing the needs of people displaced across borders in the context of disasters and the effects of climate change i.e. the “**Climate refugees**”.

About Global Compact for Migration

- It is framed in consistent with **target 10.7 of the SDG** in which Member States committed to cooperate internationally to facilitate safe, orderly and regular migration.
- This Global Compact sets out a common understanding, shared responsibilities and unity of purpose regarding migration, making it work for all.
 - Common understanding that current and potential migrants must have full information about the rights and awareness of the risks of irregular migration
 - Shared responsibility because no country can address the challenges and opportunities of migration on its own
 - Unity of purpose as success of compact rests on mutual trust, determination and solidarity of States to fulfill the objectives
- The major objectives of the compact include:
 - Minimize the adverse drivers and structural factors that compel people to leave their country of origin.
 - Enhance availability and flexibility of pathways for regular migration and reducing vulnerability in migration.
 - Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work.
 - Manage borders in an integrated, secure and coordinated manner.
 - Use migration detention only as a measure of last resort and work towards alternatives.
 - Empower migrants and societies to realize full inclusion and social cohesion.
 - Establish mechanisms for the portability of social security entitlements and earned benefits.

Importance of the agreement

- It is **not legally binding**. It does not dictate nor impose and it fully respects the sovereignty of States.
- It demonstrates the potential of multilateralism - our ability to come together on issues that demand global collaboration — in complicated and contentious issues
- It **acknowledges climate change as a cause of migration** and aims to develop approaches to address this challenge.
- It will protect members of a vulnerable population who are often demonized and attacked while risking their lives during migration.

- **New York declaration on migrants and refugees (2016):** It is a UN declaration which contains a wide range of commitments by Member States to strengthen and enhance mechanisms to protect people on the move. It has three concrete plans for:
 - Paving the way for the adoption of two new global compacts in 2018: **a global compact on refugees** and a **global compact for safe, orderly and regular migration** and has further suggested concrete plans.
 - **Develop guidelines on the treatment of migrants** in vulnerable situations which will be particularly important for the increasing number of unaccompanied children on the move.
 - Achieve a more **equitable sharing of the burden and responsibility** for hosting and supporting the world's refugees by adopting a global compact on refugees in 2018.
- **UN's Global Compact on Migration-** United Nations member states (except the U.S. and Hungary) have recently agreed on a Global Compact for Migration to better manage international migration. It is the first, inter-governmentally negotiated agreement and is framed consistent with target 10.7 of the 2030 Agenda for Sustainable Development in which member States committed to cooperate internationally to facilitate safe, orderly and regular migration.

Suggestions to tackle Migration Crisis

- **An international summit** on the global refugee crisis focused on increasing international responsibility and burden-sharing;
- **Global ratification of the Refugee Convention:** Although 145 countries have ratified the Refugee Convention, there are regions of the world in which very few countries have ratified the treaty, including most of the Middle East, South Asia and South East Asia. Countries need to sign and ratify the 1951 Refugee Convention and its 1967 Protocol without reservations or geographical limitations and enact domestic law to implement its provisions.
- **Develop robust domestic refugee systems:** states must have fair domestic procedures to assess refugee claims and must guarantee fundamental rights and access to services, such as education and healthcare, to refugees.
- **An absolute commitment to saving lives first:** states must prioritise saving people in distress over implementing immigration policies. In situations where people are in danger of death, including – but not limited to – people attempting sea crossings, states should invest in search and rescue operations and immediately come to the rescue of people in distress.
- **Combat trafficking:** states must take effective action to investigate and prosecute trafficking gangs. States should offer protection and assistance to victims of trafficking and ensure they have access to refugee status determination procedures and/or resettlement opportunities
- **Resettle refugees:** Resettlement should be undertaken with spirit of global solidarity with countries of first asylum and resettlement countries should ensure efficient and gender-sensitive refugee selection and security screening processes, prioritizing resettlement for refugees who are not safe in the country of first asylum, including those with particular health needs.
- **Combat xenophobia:** Governments must refrain from engaging in xenophobia themselves, for example by implying or directly claiming asylum-seekers and migrants are to blame for economic and social problems. Governments must also have effective policies to address xenophobic violence;
- **Provide inclusive humanitarian and development assistance:** Fully meet funding appeals by international humanitarian agencies, in addition to other bilateral support, to allow refugees in countries of first asylum to live in safety and dignity.
- **Establish a global refugee fund:** Such a fund should fulfil all UN humanitarian appeals for refugee crises. This fund should also provide meaningful financial support to countries hosting large numbers of refugees to help them provide services to refugees and their host communities. This should be additional to existing development aid.
- **Ending the violent conflicts:** Countries must invest heavily in the peace process and work vigorously towards ending the violent conflicts that are the principal causes of the crisis.

UNICEF's specific actions to protect refugee and migrant children

- Protecting child refugees and migrants, particularly unaccompanied children from exploitation and violence.
- Ending the detention of children seeking refugee status or migrating by introducing a range of practical alternatives.
- Keeping families together as the best way to protect children and give children legal status.
- Keeping all refugee and migrant children learning and giving them access to health and other quality services.

2.8. UN PEACEKEEPING

Why in News?

The United Nations celebrated the 70th anniversary of UN Peacekeeping in 2018.

About UN Peacekeeping

- UN Peacekeeping is a technique designed to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by the peacemakers. It is a unique and dynamic instrument to help countries torn by conflict transition to lasting peace.
- UN Peacekeeping was born at a time when Cold War rivalries frequently paralyzed the Security Council. **The first UN peacekeeping mission was established in May 1948**, when the UN Security Council authorized the deployment of UN military observers to the Middle East to form the **United Nations Truce Supervision Organization (UNTSO)** to monitor the Armistice Agreement between Israel and its Arab neighbours.
- Over the past 70 years, more than 1 million men and women have served under the UN flag in more than 70 UN peacekeeping operations. More than 100,000 military, police and civilian personnel from 125 countries currently serve in 14 peacekeeping operations.
- In the early years, UN Peacekeeping's goals were primarily limited to maintaining ceasefires and stabilizing situations on the ground so that efforts could be made at the political level to resolve the conflict by peaceful means. Those missions consisted of military observers and lightly armed troops with monitoring, reporting and confidence-building roles in support of ceasefires and limited peace agreements.
- Today's multidimensional peacekeeping operations involve civilian, military and police personnel all working together and are called upon to maintain peace and security, and also to facilitate the political processes, protect civilians, disarm combatants, support elections, protect and promote human rights and restore the rule of law.

Three basic principles of UN peacekeeping operations:

These principles, act as a tool for maintaining international peace and security, are inter-related and mutually reinforcing:

- Consent of the parties:** UN peacekeeping operations are deployed with the consent of the main parties to the conflict which requires a commitment by the parties to a political process and their acceptance of a peacekeeping operation provides the UN with the necessary freedom of action, both political and physical, to carry out its mandated tasks.
- Impartiality:** United Nations peacekeepers should be impartial in their dealings with the parties to the conflict, but not neutral in the execution of their mandate.
- Non-use of force except in self-defence and defence of the mandate:** UN peacekeeping operations are not an enforcement tool. However, they may use force at the tactical level, with the authorization of the Security Council, if acting in self-defence and defence of the mandate.

Role of India

- India has lost the highest number of its peacekeepers in various UN peacekeeping operations in the last 70 years, with 163 military, police and civilian personnel from the country laying down their lives in the line of duty.
- India is currently the third largest contributor of military and police personnel to UN peacekeeping, with 6,693 now deployed in Abyei, Cyprus, Congo, Haiti, Lebanon, the Middle East, South Sudan and Western Sahara.

Successes of UN Peacekeeping Operations	Major Failures of UN Peacekeeping Operations
<ul style="list-style-type: none"> Women peacekeepers today play an increasingly prominent role and are crucial towards improving the performance. They serve as police officers, troops, pilots, military observers, and other uniformed and civilian posts, including in command positions. 	<ul style="list-style-type: none"> An internal study by UN found that UN peacekeeping missions routinely avoid using force to protect civilians under attack, intervening in only 20% of cases despite being authorized to do so by the UNSC.
<ul style="list-style-type: none"> Sierra Leone (1999 to 2005): A successfully completed mission by the peacekeepers of implementing a peace agreement in the country after the devastating civil war. 	<ul style="list-style-type: none"> Srebrenica (1995): Towards the end of Bosnia's 1992-1995 war, Bosnian Serb forces executed 8000 Muslims, making it the worst massacre post Second World War European

	history despite the presence of peacekeeping troupes.
<ul style="list-style-type: none"> • Burundi (2006): UN peacekeeping operations helped it recover from decades of ethnic war. 	<ul style="list-style-type: none"> • Rwanda genocide (1994): UN ignored evidence that the genocide was planned and refused to act once it had started.
<ul style="list-style-type: none"> • Other successful peacekeeping operations where it helped end conflicts and foster reconciliation in dozens of countries, including Cambodia, El Salvador, Guatemala, Mozambique, Namibia and Tajikistan. These impressive records of peacekeeping achievements led it to win Nobel Peace prize in 1988. 	<ul style="list-style-type: none"> • Somalia (1995): UN withdrew all peacekeeping troupes in Somalia after killing of many US soldiers, led many UN officials to describe it as a greatest failure of our lifetimes.

Reforms needed in UN peacekeeping operations:

- **Politics and cooperation must drive the design and implementation of peace operations.**
- **The full spectrum of United Nations peace operations must be used more flexibly to respond to changing needs on the ground:** The sharp distinctions between peacekeeping operations and special political missions should give way to a continuum of responses and smoother transitions between different phases of missions. The United Nations should embrace the term “**peace operations**” to denote the full spectrum of responses required and invest in strengthening the underlying analysis, strategy and planning that leads to more successful designs of missions. These must be drawn upon to deliver quick situation-specific responses in a sequenced and prioritized manner.
- **A stronger, more inclusive peace and security partnership is needed for the future:** A stronger global-regional peace and security partnership is needed to respond to the more challenging crises.
- **The United Nations Secretariat must become more field-focused and United Nations peace operations must be more people-centered:** awakening of United Nations Headquarters to the distinct and important needs of field missions, and a renewed resolve on the part of United Nations peace operations personnel to engage with, serve and protect the people they have been mandated to assist.
- **Conflict prevention and mediation must be brought to the fore:** At the global level, the UN must mobilize a new international commitment to preventing conflict and mobilizing partnerships to support political solutions. It must find ways to draw upon the knowledge and resources of others beyond the United Nations system through civil society, including community, religious, youth and women groups, and the global business community.
- **Setting clear direction and forging common purpose:** Achievable mandates can be crafted through meaningful and effective consultations between the Security Council, Secretariat, regional actors and, when uniformed forces are required, with troop- and police-contributing countries.
- **Improving the speed, capability and performance of uniformed personnel:** The UN and its partners must overcome significant constraints to rapid deployment in response to crises.
- **Engaging with host countries and local communities:** By shifting from merely consulting with local people to actively including them in their work, missions will be able to monitor and respond to how local people experience the impact of peace operations.
- **Addressing abuse and enhancing accountability:** Troop-contributing countries must vigorously investigate and prosecute national personnel indulging in sexual exploitation and abuse. The UN should ensure that individual victims of sexual exploitation and abuse are compensated for the harm they suffer from UN personnel.

Conclusion

The UN Secretary-General recently launched an **Action for Peacekeeping (A4P)** to renew mutual political commitment to peacekeeping operations. Through this the Secretary-General called on Member States, the Security Council, host countries, troop and police contributing countries, regional partners and financial contributors to renew their collective engagement with UN peacekeeping and mutually commit to reach for excellence.

3. ECONOMY

3.1. FINANCIAL INCLUSION IN INDIA

Why in News?

Recently, NABARD All India Rural Financial Inclusion Survey (NAFIS) 2016-17 was released.

Importance of Financial Inclusion

- **GDP:** Financial inclusion and its direct correlation to poverty. Varied studies have proved that exclusion from the banking system results in a loss of 1% to the country's gross domestic product (GDP).
- **Formalisation:** It would create a formal system of credit availability for small businesses or microenterprises, thus helping owners invest in assets and grow their businesses.
- **Improve Access to Insurance** resulting in a cushion against unplanned expenses in the form of emergencies such as illness, natural disaster, crop loss or loss of employment.
- **Benefit for Banks:** Financial inclusion broadens the resource base of the financial system by developing a culture of savings among large segment of rural population and plays its own role in the process of economic development.
- **Benefits to government:** Financial Inclusion enable **Direct Cash Transfer** into the beneficiary account, resulting into minimizing transaction costs, plugging leakage in the distribution network, identification of ghost beneficiary, reaching to intended beneficiary and timely delivery of services.
- **Removing Moneylender:** It mitigates the exploitation of vulnerable sections by the usurious money lenders by facilitating easy access to formal credit.
- It Empowers people with the skills and knowledge to make the right financial decisions
- **Check on Illicit Money:** Reduction in cash economy as more money is brought into the banking ecosystem.
- **Encourage Entrepreneurship:** Availability of adequate and transparent credit from formal banking channels will foster the entrepreneurial spirit of the masses to increase output and prosperity in the countryside.
- **Achieving Inclusive Growth** by enabling the poorest and most vulnerable in society to step out of poverty and reduces the inequality in society.

Financial inclusion may be defined as the process of ensuring access to financial services (such as saving account, low cost credit, financial advisory services, and insurance facilities) to weaker sections and low-income groups at an affordable cost.

Objectives of Financial Inclusion

- To provide access to various mainstream financial services such as savings bank account, credit, insurance, payments and remittance and financial and credit advisory services.
- To provide the benefit of vast formal financial market and protect the excluded from exploitation of informal credit market so that they can be brought into the mainstream.

Challenges

- **Demand Side Constraint:**
 - Lack of awareness, poverty and illiteracy are among factors that lead to low demand for financial services, and consequently, to financial exclusion.
 - Unfriendly and Unempathetic attitude of the banks to the customers also plays an important role in undermining the demand for financial services.
- **Supply-side constraints**
 - **Low level of penetration** of "brick and mortar" bank branches especially in rural areas moreover financial products are often not structured, distributed, or bundled to meet the needs of women.
 - The **basic infrastructures** required like Internet with adequate speed, devices (smart phones and computers), electricity etc. which forms backbone for financial inclusion are not adequately available


FINANCIAL INCLUSION REPORT CARD

Annual Income for Rural Households: **Rs. 96,708**

Households that Save

 Average Savings: **Rs. 9,104**
One in two

Indebtedness of households

 Average Outstanding Debt: **Rs. 91,407**
Nearly One in two

Insurance Coverage of Households

 One in four

Pension Cover of Households

 One in five

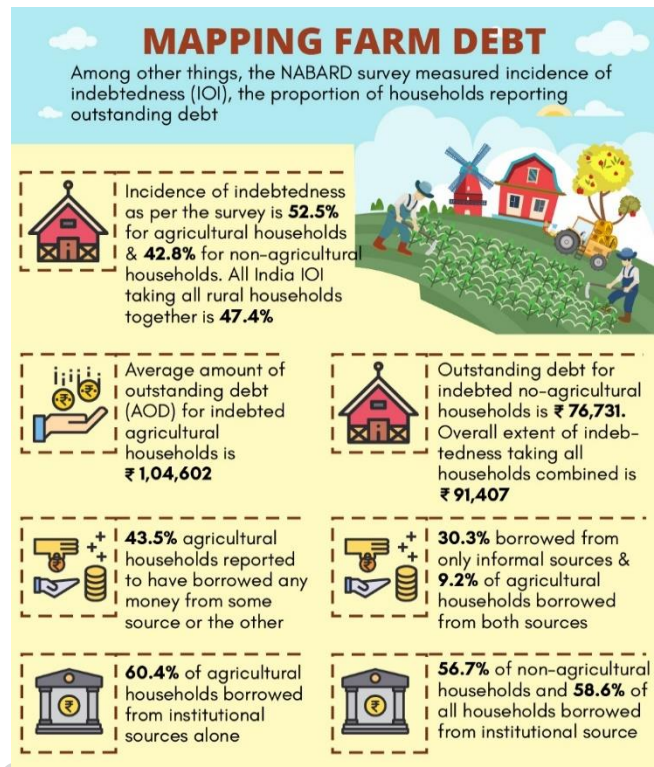
Households that Invest

 Average Investments: **Rs. 62,734**
One in ten

- **Social Cost:** Lack of communication, language barriers and low literacy levels also raise the cost and inhibit bankers from taking initiatives.
- Procedural hurdles involved in formal banking services, provides disincentive to people for movement toward credit from informal sources even though it results in compromised standards of living, higher costs on account of dependence on unethical and unregulated providers, greater incidence of crime, and increased unemployment.

Extent of Financial Inclusion in India

- **Improving Overall Inclusion:** According to **CRISIL Inclusix report 2017**, Financial inclusion has significantly increased in India, with the all-India score rising to **58.0 in fiscal 2016**, compared with 50.1 in fiscal 2013, propelled by two major factors:
 - Significant increase in the number of deposit accounts, largely because of the Jan-Dhan initiative.
 - Sharp increase in the number of credit accounts across regions.
- **Increasing Rural Financial Inclusion:** According to **NAFIS**, 88.1 % of rural households and 55 % of agricultural households reported having a bank account, with average savings of Rs 17,488 per annum per household.
 - Average Indian farming household, which accounted for 48% of rural households, earned **8,931/month (1,07, 172/year)** in the agriculture year 2015-16. While **non-agricultural households** reported average annual income of Rs 87,228 majorly contributed by wages (54%), followed by salaries (32%) and non-farm sector activities (12%). Agricultural households earned 23% more than non-agricultural households.
- **Improving Women Inclusion:** According to the **World Bank's Global Findex Survey (2017)**, India has reduced its gender gap in account ownership to 6.4% from 19.8% in 2014. In 2017, 77% of Indian women own a bank account. However, **broader financial inclusion** of women into formal finance is lacking:
 - **Savings:** Out of total women bank account holders, less than a fifth (16.7%) save formally at banks compared to 26% of global average.
 - **Borrowings:** Women trail behind even more in access to formal credit markets, Only 5% took out a loan while the global average is 9% on the other hand 30% continue to borrow informally (family and friends).



Need for Women's Financial Inclusion

- **Poverty reduction measure-** Various studies have shown that women are more likely than men to live in the poorest households in 41 out of 75 countries. Lack of access to financial services reduces women's ability to climb out of poverty; increases their risk of falling into poverty, etc.
- **Need for Credit:** While women represent a larger share of the self-employed in developing countries and thus are in greater need of access to formal financial services, they are less likely to secure bank credit according to research by the World Bank.
- **Gender Equality:** It creates gender equality by empowering them and giving them greater control over their financial lives. This, in turn, often results in higher spending on necessities such as health and education.
- **Social Empowerment:** This investment in the health, nutrition and education for herself as well as her family leads to investments that drive inter-generational change with a ripple effect in her community.
- **Overall National Development:** Women's economic empowerment should to be a priority on the region's development agenda as it is a powerful catalyst for progress. When women generate their own income, experience shows that they invest in their families and communities.

Challenges specific to women's financial inclusion

- **Safety concerns,** socio-cultural restrictions prevent their empowerment, bargaining and decision-taking strength.
- **Lack of collateral** and low level of disposable income makes many of them high-risk borrowers.

- **Others:** Indian women are less financially included than men by other metrics as well like owning debit cards, account usage for remittances, credit-card ownership among others.

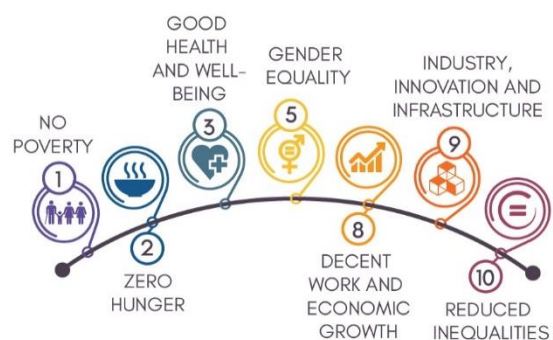
RBI Committee (Deepak Mohanty) recommendations

- Banks have to make special efforts to step up account opening for females, and the Government may consider a deposit scheme for the girl child – Sukanya Shiksha - as a welfare measure.
- **For stability of the credit system:** A unique biometric identifier such as Aadhaar should be linked to each individual credit account and the information shared with credit information companies.
- **Government to people (G2P):** there is a need for better use of the mobile banking facility for G2P payments, and this would push government in its financial inclusion drive.
- **Last-mile service delivery:** A low-cost solution should be developed by utilization of the mobile banking facility for maximum possible G2P payments.
- **Banks' business model** to integrate Business Correspondents (BCs) with appropriate monitoring by designated link branches and greater mix of fixed location BC outlets to win the confidence of the common person.
- **Financial Literacy Centre (FLC)** network to be strengthened. Banks to identify lead literacy officers to be trained by the Reserve Bank in its College of Agricultural Banking (CAB) who in turn could train the people manning the FLCs.
- Establishing a system of **professional credit** intermediaries/advisors for MSMEs to help both the sector banks in credit assessment.
- **Specialised interest-free windows:** An interest-free banking structure, the bank accepting deposits will not engage in lending as a purely financial activity but undertakes operations on the basis of profit and loss sharing by engaging in equity and/or trade financing.

Way forward

- **Language:** large section of population is not conversant in Hindi and English, banking sector are therefore required to adopt procedural formalities in regional languages.
- **Addressing social issues:** Community focused education especially focus in resolving the social issue which restrict the women financial role in household, must be promoted.
- For addressing the **demand-side constraints**
 - **Workforce participation** needs to be improved through skill development and promoting entrepreneurship (Skill India mission, Startup and Standup India scheme)
 - **Changing social attitude** towards women in order to increase their agency in every field; address security concerns; and ensure property rights through strengthening enforcement of legal mechanisms.
 - **Improving Financial literacy** with adequate focus on financial and digital literacy through various non-governmental organisations and other government interventions (**Pradhan mantri digital saksharta abhiyan and Pradhan mantri vittiya saksharta abhiyan**)
- For addressing the **supply-side constraints**
 - **More number of bank branches** need to be opened especially in rural areas, accessibility can also be increased through well **trained banking correspondents**. Financial products should also be tailor made to meet specific demands of women.
 - **Improving access of digital space** through providing better internet speed (**Bharatnet Programme**) and devices such as smartphones at a subsidised rate can substantially improve financial inclusion.
 - ✓ Bundled solutions of savings, credit, and insurance could be designed to be more **relevant to women's financial lives**.
- **Achieving Sustainable Development Goals:** Greater access to financial services would assist in eliminating poverty, creating jobs, improving gender equality or good health (**CGPA 2016**).

FINANCIAL INCLUSION in the Sustainable Development Goals



Government Initiatives for financial Inclusion

- In 1904, co-operative movement and in 1969 Bank nationalisation programme (14 major commercial banks were nationalised).
- Swabhimaan, programme for financial inclusion, to bring the deprived sections of society into the banking network.
- RBI formulated two financial inclusion plans (FIPs).
 - **First FIP:** was rolled out for 2010-2013 targeting 74,414 unbanked villages with population more than 2,000 and achieved 99.7% of the target.
 - **Second FIP:** was for 2013-2016 targeting 491,825 unbanked villages with population less than 2,000 and achieved 96%.
- Differentiated banking licences for small banks and payments banks (recommended by Nachiket Mor Committee), approvals for 10 small finance banks were issued.
- Pradhan Mantri Jan-Dhan Yojana launched in August 2014 has made remarkable progress with over 30 crore account and deposit of over 80000 crore in accounts, opened since the launch.
- Demonetisation: The government has made a major policy thrust toward **digital payments** since demonetization. The widespread rollout of Aadhaar enabled customers to use digital BC payment points in addition to ATMs and service terminals has equally benefitted women.
- **Indian Postal Payment Bank:** It aims to bridge the **last-mile gap in banking services**, by deploying around 300,000 postmen, gramin dak sewaks with cell phones and biometric devices to offer doorstep banking, mainly in rural areas.

3.2. WAGE INEQUALITY IN INDIA

Why in news?

International Labour Organization has warned about the Wage Inequality in India in its recent report titled “**India Wage Report: Wage policies for decent work and inclusive growth**”.

Highlights of the report

- **Real wages though doubled** to rupees 247 from 1993-1994 to 2011-2012, but its **growth rate is slow** compared to average labor productivity i.e. GDP per worker.
- **Labour share** as proportion of national income has declined 38.5% in 1981 to 35.4% in 2013.
- In 2009-10, **third of all wage workers were paid less than national minimum wage** that includes 41% of all casual workers and 15% of salaried workers.
- There is huge gender gap and **wage gap** still persists in **rural vis-a-vis urban** as well as **regular vis-a-vis casual labour**.

Consequences of wage inequality

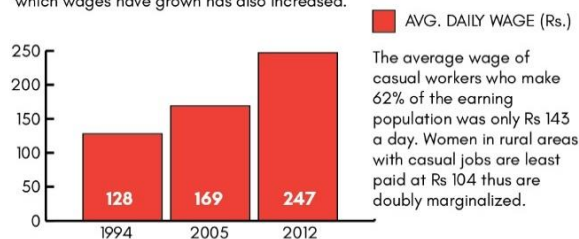
- Informality and segmentation in labour and resultant **resource distribution inequality** leads to education, health and socio-economic discrimination, aggravating poverty and increase in crime.
- Economic disparity **undermines civic cooperation** and increases social disparity.
- Give rises to **crony capitalism**, undermining democratic governance structure leading to injustice.

WAGE GAPS REMAIN

Though daily wages have nearly doubled in absolute terms from 1993 - 2012 in India, there are significant gaps in Urban - Rural and Male - Female wages. A look at the imbalance

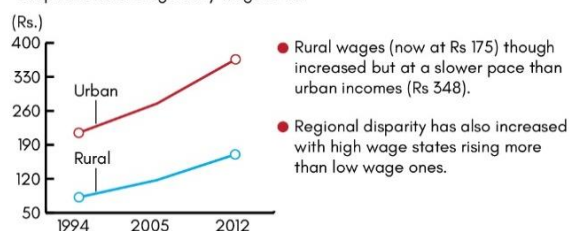
Better Daily Wages

The average daily wage has shown a 92% increase from 1994. The rate at which wages have grown has also increased.



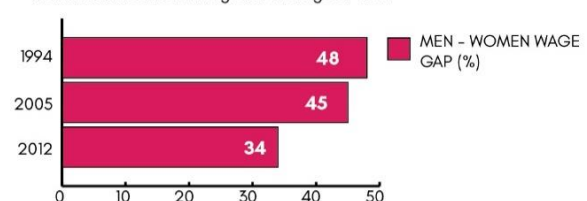
Urban - Rural Divide

In 2011 - 12, an urban worker still earned more than twice of a rural worker. Graph shows average daily wage in Rs.



Gender Gap

While on the decline, the difference between daily wages of men and women is still above the global average of 23%



Way forward

- **Uniformity in wages:** There is regional disparity in wages as labour is a state subject. Thus, Statutory national wage law such as Wage Code Bill, 2017 should be enacted for Universalization of minimum wages.
- **Stronger implementation of minimum wage laws** which includes stringent penal provisions, mandatory display of notifications at workplaces and greater publicity, a national toll free hotline to handle complaints, and the use of bank transfers or other measures to improve documentation of wage payments.
- Minimum wage law should **extend its legal coverage** to all workers in all sectors, industries and areas of India.
- **Democratic, inclusive and participative labour unions** to increase the collective bargaining power of labourers.
- There should be **collaboration between government agencies, academic institutions & expert organisations** and well-defined responsibilities should be outlined for employers, trade unions and governments.
- Lack of timely data is a hindrance and this latest report also was dependent on 2011-12 data from the Employment and Unemployment Survey (EUS) of the NSSO. Thus, **comprehensive data collection** should be undertaken with state specific technology driven data for making more realistic interventions.
- **Labour intensive manufacturing** should be pursued with equal opportunities for women.

3.3. RYTHU BANDHU SCHEME

Why in news?

Recently **Telangana** government launched a scheme named **Rythu Bandhu** (Friend of farmers) scheme to support farmers.

About Rythu Bandhu Scheme

- It is first of a kind investment support scheme for farmers which involves cheque payments to farmers based on their landholdings. The government gives every beneficiary farmer **Rs. 4,000 per acre as “investment support”** before every crop season.
- The objective is to help the farmer meet a major part of his expenses **on seed, fertiliser, pesticide, and field preparation.**
- The scheme covers 1.42 crore acres in the 31 districts of the state, and **every farmer owning land** is eligible.

About Universal basic Income (UBI)

It is an unconditional cash transfer to every citizen of the country periodically.

Argument in favour of UBI

- **Poverty and vulnerability reduction:** UBI will result in equitable distribution of wealth
- **Choice:** Citizens have a choice of using welfare spending as they see best. Also, Increased income will increase the bargaining power of individuals, as they will no longer be forced to accept any working conditions.
- **Better targeting:** As all individuals are targeted, exclusion error is zero.
- **Insurance against shocks:** This income floor will provide a safety net against health, income and other shocks.
- **Improvement in financial inclusion** as Payment – transfers will increase the demand for financial services, thereby, leading to investment in the expansion of service network of banks.
- **Psychological benefits:** A guaranteed income will reduce the pressures of finding a basic living on a daily basis.
- **Administrative efficiency:** UBI in place of a plethora of separate government schemes will reduce the administrative burden on the state.

Arguments Against UBI

- **Conspicuous spending:** Households may spend this additional income on wasteful activities or on temptation goods like alcohol, tobacco.
- **Moral hazard:** A minimum guaranteed income might make people lazy and opt out of the labour market.
- **Gender disparity induced by cash:** Men are likely to exercise control over spending of the UBI which may not always be the case with other in-kind transfers.
- **Fiscal cost given political economy of exit:** Given the large population size, the fiscal burden on government would be high. Also, once introduced, it may become difficult for the government to wind up a UBI in case of failure.
- **Political economy of universality – ideas for self-exclusion:** Opposition may arise from the provision of the transfer to rich individuals as it might seem to trump the idea of equity and state welfare for the poor.

Benefits of scheme

- The scheme will **avert the need for going to moneylenders** for money before every crop season and help rid of debts over the 4-5 years.
- The government will **issue cheques rather than make Direct Benefit Transfer (DBT)** which eliminates the possibility of banks adjusting DBT money against farmers' previous dues.
- It can be the template **for social and agricultural policy**. It is seen as a **trial for universal basic income** in the country.

Challenges/ Drawbacks of scheme

- **Lack of proper land records** resulted in many farmers left out of the scheme. Several cheques have been returned due to discrepancies in names or survey numbers.
- The scheme **does not exclude rich farmers and wealthy landlords**. The scheme does have a provision under which cheques can be returned to the local authorities. But that provision is only voluntary.
- The scheme **leaves out tenant cultivators** which constitutes an estimated 40% of Telangana's farming population and mostly coming from the poorest and most disadvantaged backgrounds.

3.3.1. UNIVERSAL BASIC INCOME V/S TARGETED TRANSFER SCHEMES

Targeted Schemes

- The evidence from Indonesia and Peru shows that existing targeting methods in developing countries, while imperfect, appear to deliver substantial improvements in welfare compared to universal programs, because they can transfer much more on a per-beneficiary basis to the poor as compared with universal programs.
- The primary downside of these programs is exclusion error – because **targeting is imperfect**, there will be a substantial number of poor households who are excluded.

Improving the method of targeting

- **Community-Based Targeting Process:** fixed number of program slots are allocated to a given community, and through a participatory meeting they decide who among them is most in need. It leads to more transparency, and better inclusion. To better institutionalize it, local bodies should be strengthened, and people should be made aware of using social auditing tools.
- **Use of technology:** cash transfers at an accelerated pace with the use of Jan-Dhan, Aadhaar and mobile would lead to better targeting and operational efficiency. This will help reduce costs and spare resources for capital spending to augment growth.
- **Conditional Transfers:** programs with explicit conditions that beneficiaries must meet in order to receive assistance. For example, giving cash transfers to poor households who also meet basic maternal and child health and education conditions. A number of randomized trials of these programs showed that these programs led to substantial improvements on the conditioned indicators.

Conclusion

The gains or leakages from welfare schemes ultimately depend on the precision of the targeting mechanism. Regardless of whether India moves towards a quasi-universal Universal Basic Income or continues with targeted programs, better targeting can certainly sharpen the impact of government expenditures on welfare programmes.

3.4. AFFORDABLE HOUSING IN INDIA

According to the GoI, **Affordable housing (AH)** refers to any housing that meets some form of affordability criterion, which could be income level of the family, size of the dwelling unit or affordability in terms of EMI size or ratio of house price to annual income.

Significance

- The cities of India are under immense pressure and struggling to accommodate the ever-growing migrant population.
- Exponential urbanization and increase in slum settlements, lack of basic services, limited access to quality healthcare and education are leading to decrease in the quality of life of the migrants.

- The Ministry of Housing estimated a housing shortage of 18.78 mn houses during the 12th plan period, with 99% in the economically weaker section (EWS) and lower income groups (LIG).
- The country's total urban housing shortage is projected to be about 30 mn by 2022. This ever increasing gap between demand and supply in the affordable housing is forcing people to live in slums and informal settlements.
- A thrust on Affordable Housing will not only lead to better quality of life, but also significantly provide a boost to the GDP of the country.

Min. area of habitation	Provision of basic amenities	Cost of house
EWS Min. 300-500 sq ft (super built up area)	<ul style="list-style-type: none"> ◦ Sanitation, adequate water supply and power 	<ul style="list-style-type: none"> ◦ EMI < 30-40% of gross monthly income of buyer ◦ Reasonable maintenance cost
LIG 500-600 sq ft	<ul style="list-style-type: none"> ◦ Provision of community spaces, amenities such as parks, schools and healthcare facilities within project area or neighborhood depending upon the site and location of the housing project 	
MIG 600-1,200 sq ft (super built up area)		

Critical Issues & Challenges

- **Improper selection of land parcels for AH projects:** High prices and lack of availability of land within city limits is discouraging developer driven projects. Also, lack of employment opportunities in the vicinity discourages people from staying in these units.
- **Lengthy statutory clearance & approval processes:** It takes over 2 years to obtain all the 20-30 required approvals through multiple authorities which increase the gestation period and project cost.
- **Shortcomings in development norms, planning* & project design:** such as Incongruence between the affordable housing policies of Central and State governments creating hurdles in availing the benefits, insufficient action in providing social and external connectivity infrastructure by the concerned authority etc.



Provisions in the Union Budget 2017-18

The Union Budget 2017-18 announced a number of measures to boost affordable housing:

- **Granting infrastructure status** to affordable housing.
- **Increasing the time** for project completion to affordable housing promoters from earlier three years to five years.
- Providing a year's time to developers to pay tax on notional rental income on completed but unsold units.
- **Reducing the tenure for long-term capital gains** for affordable housing from three to two years.
- **Revision of the qualifying criteria** for affordable housing from saleable area to the carpet area.
- **Re-financing facility** by National Housing Bank (NHB) for individual loans for the affordable housing segment.

- **Challenges in Beneficiary selection:** Lack of a beneficiary database to facilitate AH developers to identify their target customers.
- **Capacity constraints** such as Inadequate capacity of implementing agencies and lack of mainstreaming of low cost technologies to achieve economies of scale.
- **Lack of participation of large organised real estate players** due to low profit margins and high sensitivities to changes in input cost, project delays etc.
- **High cost of construction finance** due to lack of suitable credit enhancing financial products for developers as well as lack of a suitable mechanism or funds for maintenance.

Government of India Initiatives & Interventions

- **Pradhan Mantri Awas Yojana (PMAY- 2015):** To address the shortcomings of the erstwhile programs and to evolve an all-encompassing scheme.
- **External Commercial Borrowing (ECB)** has been allowed for affordable housing projects from 2012 to enable lower interest cost for developers.
- **Opening up of Foreign Direct Investment (FDI)** for development of townships, housing, built-up infrastructure and construction-development.

- **The Credit Risk Guarantee Fund** with a corpus of Rs 1200 Cr in collaboration with NHB was set up (2012) to facilitate credit availability to low income customers without any collateral.
- **Tax free bonds** are issued by HUDCO and NHB to ensure lower cost of borrowing by them and in turn reduce their onward lending costs.
- **Real Estate Regulatory Authority (RERA):** It will infuse fresh buyer interest in the sector via facilitating joint development agreements with revenue share, increased land transactions with distressed asset owners selling land parcels to larger developers, timely delivery of projects, etc.
- **Efforts in increasing the ease of doing business** especially in obtaining construction permits in urban areas has been stepped up.
- **6 Public Private Partnership options** developed for development of Affordable housing on Government land.

Central Government schemes to boost Affordable Housing

- National Urban Housing And Habitat Policy, 2007:
- Jawaharlal Nehru National Urban Renewal Mission (JNNURM-2005)
- Basic Services for the Urban Poor (BSUP)
- Integrated Housing and Slum Development Programme (IHSDP)
- Interest Subsidy Scheme for Housing The Urban Poor (ISHUP)

Way Forward

- **Balancing safety and costs:** Policy makers, developers must pay heed to factors such as skill level of labour, budget and deadlines, mitigation measures for foreseen risks and natural hazards, environmentally friendly solutions including the use of local material vs production of alternative sustainable material, etc. while arriving at the cost implications of the planned projects
- **Standardized business models for the different realms of buyers:** Establish clarity on the layers of target customers within the society for whom the homes are being designed and developed.
- **Financing**
 - Remeasuring affordability region-wise, and bringing down the financial threshold via incremental financing, rental solutions, etc. must be looked into
 - Effective financing through micro mortgages by utilising the reach of Self-Help Groups (SHGs) would ensure housing finance is available to large sections of LIG and EWS populations
 - Tapping into resource pools through the option of convergence with ongoing Central and State Government schemes.
- **Strong Value Proposition:** Producing affordable homes should involve factoring liveability parameters such as Location (access to job, schools, healthcare, etc.), connectivity and basic infrastructure such as water supply, electricity and sanitation facilities.
- The **right building material and technique** of construction should be chosen for the sector
- Long term sustainability mechanisms must be in place such as Setting up of Resident Welfare Association, periodic audit etc.

3.5. MGNREGA AND LABOUR CRISIS**Why in News?**

Recently, RBI's annual report 2017-18 found that Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is causing a labour crisis in agriculture.

Findings of report

- **In poorer states, more people preferred MGNREGS over traditional labour:** The shift to MGNREGS from traditional employment is more in case of casual labour households and is more evident in Odisha (75 per cent), Uttar Pradesh and West Bengal. The major reasons include Payment parity among gender and rise in wages over traditional employment.
- **Decline in agricultural labour:** Between 1993-94 and 2011-12 the share of agriculture in rural employment declined from 78% to 64% and the pace of decline in the last five years was much faster. The absolute decline in labour force has tightened the rural labor market leading to a shortage of labor for farm operations.

About MGNREGA

- The Government of India formulated the MGNREGA in 2005 with the objective of producing a well designed wage employment program to address poverty more effectively.
- It was aimed at enhancing the livelihood security of the poor by providing at least 100 days of guaranteed employment in a financial year to every household whose adult members were willing to do unskilled manual work.

- **MGNREGA wage rates per person-day have been showing a rising trend over the years:** Agricultural wages have increased across the country and MGNREGA has been an important driving force behind this.
- **Offered better bargaining power to agricultural laborers:** The tightening of labor markets has offered better bargaining power to agricultural laborers, better treatment at the place of work, and ability to negotiate the duration of agricultural working days. It also caused a growing shift towards piece rate or contract work in agriculture, facilitating a change in the number of working days.
- **Gender Parity:** The rate of increase in the agricultural wage for females has been much higher than that for males, and the historically high male-female differentials in agricultural wages have declined substantially. According to Economic Survey 2018, approximately 4.6 crore households were given employment under MGNREGA, of which 54 percent were taken up by women.
- **Facilitated agricultural mechanization:** While SC, ST and other small-marginal farmers who are also participants in the MGNREGA were not affected much, or in many cases gained considerably, the better off farmers were able to bear the rising costs partly through mechanization.
- **Drastic reduction in distress migration:** One of the salutary effects of MGNREGA on poor rural households is the drastic reduction in distress migration.
- **Age distribution among labour:** Majority (75%) of the MGNREGS workers belonged to the age group of 30-50 years. The aged population (50-70 years) constituted 17 per cent and the young population (20-30 years) formed mere 8 per cent of the sample population.

Drawbacks

- **Employment provided under the scheme has been showing a tendency towards deceleration in recent years:** There is no state which could provide 100 days of employment even to 50% of the participating households in 2011-12.
- **Differences in implementation of the scheme across states:** Two states i.e., Tamil Nadu and West Bengal, accounted for nearly one-fourth of employment provided through MGNREGS, which was more than their share in total rural households. Maharashtra and Bihar, which have a higher share in total rural households, generated comparatively lower employment through MGNREGS.

Way Forward

- **Negotiated MGNREGA calendar that avoids implementing works during the agricultural peak season:** For instance, in West Bengal, work schedule was adjusted to the seasonality of traditional employment to some extent.
- **Making the scheme more farmer-friendly** by extending its coverage to some of the agricultural operations which may address the problems of excluded small and marginal farmers.
- **Technology driven options** need to be adopted to mitigate the problem of labor scarcity.
- **Other measures** like easy access to cheaper institutional credit for farm mechanization, promotion of farmer producer companies, policy support, an inclusive farm mechanization program especially for women and youth, institutional changes to ensure security, safety and social protection to migrant labor are required.

3.6. DIGITIZING LAND RECORDS IN INDIA

Why in news

Recently, **Commerce and Industry Ministry** has proposed an extensive action plan for digitization of land records to promote ease of doing business at district level.

Introduction

- Land as an asset is unique and with growing population, its demand keeps increasing, while its supply is limited.
- Access to land (or land rights) has a wide-ranging impact on livelihoods, industrial, economic, and social growth. It has been

Highlight of Ministry Action Plan

- All concerned offices and departments at district level to primarily focus on putting all the relevant information on websites and promoting paperless transactions and digitization of documents.
- Designing and implementing a system that allows online application submission, payment, tracking and monitoring without the need for a physical touch point would help improve ease of doing business.
- Designing and implementation of a system to allow for e-filing and e-summons for revenue disputes in revenue courts; and ensuring timelines are followed as mandated by the state government through a notification.

noted that people with extensive rights to land are better off than the landless, due to better access to markets and other economic opportunities that come with land rights.

- However, land titles in India are unclear due to various reasons such as legacy issues of the zamindari system, gaps in the legal framework, and poor administration of land records. This has led to several legal disputes related to land ownership, and affected the agriculture and real estate sectors.

Challenges Faced due to Improper Land records

- **High litigation:** A World Bank study from 2007 states that land-related disputes account for two-thirds of all pending court cases in the country. A NITI Aayog paper also suggests that land disputes on average take about 20 years to be resolved.
- **Agricultural credit:** Small and marginal farmers, who account for more than half of the total land holdings, and may not hold formal land titles therefore inhibiting supply of formal capital and credit to agriculture sector.
- **Impact on Input Cost:** Incorrect land records could lead to a reduction in the insurance claims of farmers.
- **Delay in infrastructure Development:** Several of the new infrastructure projects are witnessing delays because of non-availability of encumbrance free land, non-updation of land records, resistance to joint measurement survey of land records, demands for higher compensation by land owners, and filing of large number of arbitration cases by land owners.
- **Urbanisation and the housing shortage:** Poor land record increases the risk of legal dispute in future and restrict the further investment in new housing project. This delay is expected to create housing shortage in urban areas by 2 crore till 2022.
- **Rampant Benami Transactions:** Unclear titles and non-updated land records enable carrying out property transactions in a non-transparent way. The **Standing Committee on Finance (2015)** examining the **Benami Transactions Prohibition (Amendment) Bill, 2015** noted that generation of black money through benami transactions could be preempted and eliminated by digitisation of land records and their regular updation.

Reasons for unclear land title in India

The system of land records was inherited from the zamindari system, the legal framework in India does not provide for guaranteed ownership, and the manner in which information pertaining to land records is collected and maintained further exacerbates the gaps in these records.

- **Presumptive Nature of Land ownership** in India due to lack of government verification of land records. This implies that even bonafide property transactions may not always guarantee ownership as an earlier

Advantages of Proper land records

- **Clear land titles will ease constraints**—from making it easier for the poor to borrow from the formal financial sector to easing commercial land acquisition for infrastructure projects instead of the misuse of eminent domain.
- **Online documentation of land records** can be linked with court registries of the corresponding district or the state, through which a buyer can get immediate information of any pending litigations with regard to a property.
- **Ease of Doing Business:** Cumbersome and inefficient process as information on land records, which is currently spread across multiple departments.

Steps taken by Government

- **Computerisation of Land Records scheme (1988-89):** To computerise all land records. However, it made little progress.
- **Land Titling Bill, 2011**
 - It seeks to improve the system of maintenance of land records by **establishing the system of conclusive property titles**.
 - It seeks to establish a **Land Titling Authority** at the State level to prepare a record of all immovable properties in its jurisdiction.
- **National Land Records Modernization Programme (NLRMP), 2008:** To modernize management of land records, minimize scope of land/property disputes, enhance transparency in the land records maintenance system, and facilitate moving eventually towards guaranteed conclusive titles to immovable properties in the country.
 - Under this initiative, land records are supposed to be computerised in all districts of the country by 2017 using a Public-Private-Partnership model
 - Scheme has now been renamed as the **Digital India Land Records Modernization Programme (DILRMP)** and is a part of the Digital India initiative. It's a central Sector Scheme.
- **The Registration (Amendment) Bill, 2013:** It's currently pending in Parliament, made registration compulsory irrespective of the term of the lease of the property.
- **Bhoomi Project in Karnataka:** Under it, state government began to digitize land records
- **Rajasthan Urban Land (Certification of Titles) Act, 2016:** It ensures that the state government is a guarantor for land titles in Rajasthan, and will provide compensation in case of issues of defective title.

transfer of the title could be challenged.

Registration of property is not mandatory for all transactions and cost of registering property is high:

India used to have among the highest rates of stamp duty in the world which discourage registration of property. Standing Committee on Commerce on Ease of Doing Business (2015) had recommended that stamp duty should be reduced to 2%.

- **Maintenance of land records:** Land records are poorly maintained and they do not reflect the on ground position due to which discrepancies are found in land records. FSRC (2009) had recommended providing remote and easy access to registration procedures and to land records
- **Lack of Standardised Data on Land Record** due to involvement of Multiple department, which deals with land registration and lack of coordination between the various nodal agencies handling land records. The FSRC (2009) had recommended standardisation of forms and computerisation of land offices would help reduce corruption, loss of records, and delay in transactions.
- **Slow pace of modernisation of records:** From 2008 till September 2017, only 64% of the funds released were utilized in digitization of land records.
- **High rate of Corruption:** Experts estimate that each year, USD 700 million in bribes are being exchanged at registrar offices across the country.

Conclusive title system is based on four basic principles:

- A single window system for land records which will provide for the maintenance and updating of textual records, maps, survey and settlement operations and registration of immovable property.
- The cadastral records reflect all the significant and factual details of the property titles.
- The record of title is a true depiction of the ownership status, mutation is automatic following registration, and the reference to past records is not necessary.
- Title insurance, which means that the government guarantees the title for its correctness, and will compensate the title holder against losses arising due to defects in the title.

Way Forward

- Committee on Financial Sector Reforms (FSRC) in 2009 had recommended following measure for improving land records in country:
 - **Moving from a presumptive to a conclusive titling system.** Conclusive titles are state guaranteed titles, where the state guarantees the title for its correctness and provides for compensation in case of any disputes.
 - Providing **remote and easy access to registration procedures** and to land records.
 - **Registration fees should be minimal** to not discourage people from registering property transfers.
- Use of new technologies such as **blockchain**, as being undertaken by **Andhra Pradesh Govt** to prevent property fraud. **Potential of a Blockchain Land Registry in India:**
 - **Cost-effectiveness:** It would increase efficiency through distributed processing and thus reduce long-term costs, such as a reduction in manpower of the concerned department.
 - **Efficiency:** The use of smartphones as one-stop-shop for all property-related transactions will significantly reduce the inefficiency of the current system and drastically cut down the number of intermediaries that deluge the current title regime. The tamper-proof nature of the blockchain also helps curb corruption as patwaris will not be able to go back and change land records in exchange for a bribe.
 - **Transparency:** Registration on the blockchain would mean that the information in the registry is completely available to the public. The CAG can be brought onto the platform as a stakeholder so that its office can view transactions and information uploads as they happen.
 - **Easing administrative burden:** Land/property-related disputes currently make up 70 % of the total case backlog in India. A robust land title system will lead to a decrease in the number of land-related disputes in the country and, in turn, lessen the backlog in the country's courts.

3.7. MUNICIPAL BONDS

Why in News?

Indore Municipal Corporation recently listed its bonds aggregating Rs. 100 Crore and received an oversubscription of 1.26 times. This is the third such listing after urban local bodies (ULBs) of Hyderabad and Pune in the last one year.

About Municipal Bonds

- Municipal Bonds are marketable debt instruments issued by ULBs either directly or through any intermediate vehicle (Corporate Municipal entity/statutory body/special purpose distinct entity) with an objective to on-lend towards projects implemented by the ULB.
- The funds raised may be utilized towards implementation of capital projects, refinancing of existing loans, meeting working capital requirements etc., depending on powers vested with the ULBs under respective municipal legislation.
- Bangalore Municipal Corporation was the **first ULB** to issue Municipal Bond in India in 1997.

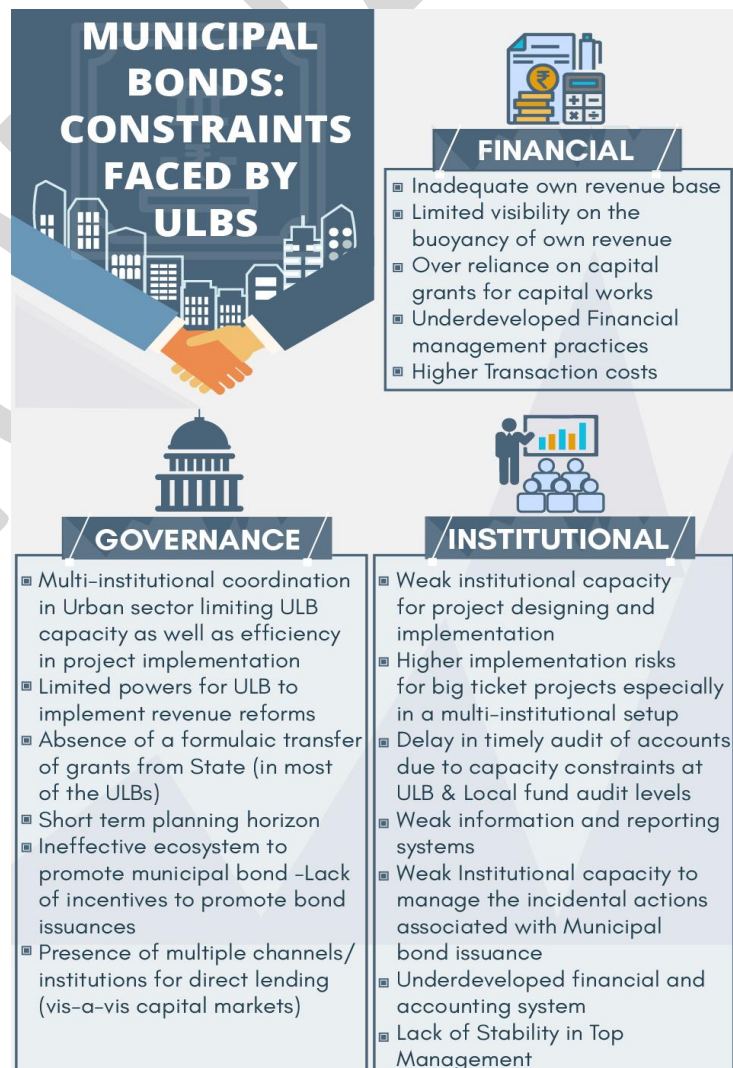
SEBI Guidelines on municipal bonds, 2015

As per the SEBI Regulations, 2015, a municipality or a Corporate Municipal Entity (CME) should meet certain conditions:

- The ULB should not have negative net worth in any of three immediately preceding financial years.
- Non-default: The municipality should not have defaulted in repayment of debt securities or loans obtained from banks or financial institutions during the last 365 days.
- Non wilful defaulter: The corporate municipal entity, its promoter, group company or director(s), should not have been named in the list of the wilful defaulters published by the RBI.
- Municipal bonds should have mandatory ratings above investment grade for public issue. The bonds should have a three-year maturity period and financial institutions including banks should be appointed as monetary agencies.
- Municipalities need to contribute at least 20% of the project cost.
- SEBI allowed urban local bodies to raise money through the issue of revenue bonds as well. Municipal bonds where the funds raised are kept for one project are termed **revenue bonds**. Servicing of these bonds can be made from revenue accrued from the project.

Significance of Municipal bonds

- **Can Solve financial woes of Indian cities:** These can be the solutions to the financial issues of Indian cities which, according to **Isher Judge Ahluwalia Committee** in 2011, require Rs. 40 Trillion at constant prices over next 20 years.
- **Leverage future cash flows to finance capital expenditure:** As per CARE rating estimates, large municipalities in India could manage to raise Rs 1000 crore to Rs 1500 crore every year by issuing municipal bonds.
- **Attract new long-term investors and resources into urban projects:** this includes insurance funds, mutual funds and external funds. It also provides greater flexibility in terms of revenue and repayment options.
- **As a force multiplier for improving internal processes:** requires ULBs to implement a stringent reporting and disclosure standard which ushers in greater transparency and accountability towards citizens.
- **Boost quality of life in cities:** The money raised from municipal bonds can boost quality of life in cities, enhancing job prospects in the locality and may also prove a good investment option for investors.



Prerequisite for effective issuance as per 'Guidance on use of Municipal Bonds' issued by Ministry of Finance in 2017

- **Financial Discipline and information disclosure:** accounting discipline, quality of financial reporting and periodicity of information dissemination and disclosures by ULBs are key demands for long term investors.
- **Ring Fenced Projects:** this along with approved DPRs help build investor confidence.
- **Shelf of Project for sustainable financing:** ULBs are required to view municipal bonds as an ongoing alternative financing channel rather than as a one off initiative. Multi-year plans along with a prioritized shelf of projects to be financed by future bond issuance should be prepared.
- **Escrowed Revenues:** to address risk perception of investors escrowing can be done to earmark specific revenue streams of ULBs for debt servicing so as to improve visibility and certainty of cash flows to investors which would then improve credit quality and issue rating of bonds.

Way forward

- As bonds have to be repaid through cash flows, the urban governments should strengthen their own revenue base from other sources as well, such as property tax reforms and user charges.
- Money raised from the bonds should not be diverted for other purposes as done earlier by several State governments in their projects.
- India would need policies to reduce the risks in municipal bonds, following model can be adopted for this:
 - Japan provided a sovereign guarantee to Japan Financial Corporation for Municipal Finance.
 - The Development Bank of South Africa uses its balance sheet to support municipal bond issues.
 - Denmark uses pooled finance/ joint bond issue mechanism to protect bond holders in case one city in the pool defaults. (Some cities in Tamil Nadu and Kerala experimented with this)

3.8. PROJECT SASHAKT

Why in news?

Recently the government announced a comprehensive plan **Project Sashakt** for the resolution of stressed assets in banking sector.

Present status of Non-Performing Assets

- Gross non-performing assets (NPAs) with the banking rose to ever time high **11.6%** in March 2018.
- Around **85% of these bad loans** were with the PSBs. The GNPA for PSBs stands at 15.7%. PSBs condition is particularly bad as compared to private banks because they have to lend under various government objectives and under the compulsion of social banking.
- The Reserve Bank of India has already warned that the gross NPA ratio of scheduled commercial banks could rise to **12.2% by March 2019**.

About Project Sashakt

- It aims to **strengthen the credit capacity, credit culture and credit portfolio** of public sector banks.
- It is a **five-pronged strategy** towards resolution of stressed assets, as recommended by **Sunil Mehta Committee**.
 - **Small and Medium Enterprise (SME) resolution approach**
 - ✓ It is applicable for **loan exposure up to Rs.50 crore**.
 - ✓ For this, a resolution plan based on simple metrics and Standard Operating Process (SOP) will be arrived at **within 90 days** of detection of stress by individual banks.
 - ✓ **Internal SME steering panel(s)** should be established by banks for formulating and validating these schemes, including provision of additional funds.
 - **Bank-led resolution approach**
 - ✓ It is for loans **between Rs.50 crore and Rs.500 crore** resolution, led by a consortium of lenders, needs to be completed within 180 days, failing which the asset would be referred to the National Company Law Tribunal (NCLT) for insolvency proceedings.

- ✓ Under this, banks would sign **inter-creditor agreement**, according to which lenders with exposure to stressed accounts will **appoint a lead bank** as its agent to formulate a resolution plan.
- ✓ The resolution plan has to be approved by voting by lenders holding **at least 66 per cent** of the debt.
- ✓ The independent steering committee appointed by the Indian Banks Association (IBA) has to validate the **process within 30 days**.
- **AMC/AIF led resolution approach**
 - ✓ Under this, loans **above Rs.500 crore** would be resolved through an **independent asset management company (AMC)** which would be funded by **alternative investment fund (AIF)**.
 - ✓ AIF would raise funds from foreign and institutional investors. Banks may also invest if they wish. Besides, AIFs can also **bid for assets in NCLT**.
 - ✓ The price discovery of these NPAs will be through open auction by the lead bank in which asset reconstruction companies (ARCs), AMCs and other investors can participate.
- **NCLT/IBC approach:** It also envisages invocation of IBC if other options fail. The resolution route is also applicable to larger assets already before the National Company Law Tribunal (NCLT) and any other asset whose resolution is still pending.
- **Asset-trading platform** to be created for trading of both performing and NPAs.

Benefits

- It will ensure **the operational turnaround** of the banks and stressed companies and help retain and recover the asset value.
- The plan **doesn't involve government interference** as it would entirely be led by banks. Also, it **does not require any law to be enacted**. All provisions **comply with existing regulation of banking sector**. Hence it will **speed up process of resolution**.
- It is seen as an effort to **create a market for assets** which is commendable.
- The **inter creditor agreement** will prevent the earlier delays in decisions making among lender banks and will work and implement the resolution plan swiftly.
- The resolution process will help bring in **credible long-term external capital** and limit the burden on the domestic banking sector.
- It also ensures robust governance and credit architecture to **prevent a similar build-up of non-performing loans in the future**.

Challenges

- The strategy appears to be **incremental** as none of the approach attempts early resolution of NPAs in banks.
- There is **nothing new in the resolution plan**. **All the approaches like setting up focused verticals for management of stressed assets, SME Steering Committee are in operation in most of the banks in one form or the other**. Besides, 26 ARCs and a couple of resolution advisory service companies are already in operation for NPA resolution.
- The bank-led resolution approach has failed in the past. Also, here the key challenge would be to arrive at a consensus, as the exposure is held by multiple banks/lenders.
- ARCs are low-capital institutions. They have **to mobilize resources for large scale NPA resolution**. But **only a few investors** have come in so far.
- ARCs are smaller institutions compared to banks and depend on people's investment. If that money is to be used for buying stressed asset they will be answerable to public.
- The issue of **price at which the banks should transfer the assets to ARCs** has always been contentious. There often is a **mismatch between the price quoted by bank and the ARCs**.

3.9. GLOBAL DIGITAL TAX RULES

Why in News?

At a meeting of G20 finance ministers and central bankers held at Argentina in July 2018 the European Finance leaders called for progress on global rules to tax digital economy.

About the Global Digital Taxation issue

- **Digitalisation** allows more traditional business models (such as e-commerce) to sell to consumers without the need for physical presence in the customer jurisdiction. It also paves the way for new business models, based upon user participation, to generate income without making any traditional sales to the user base in question e.g. social media businesses that generate revenue through advertising sales.
- Currently international laws provide for the companies to be taxed in the jurisdiction in which they have a physical presence instead of end user based taxation. However, digital businesses generate revenues from markets without a significant physical presence in a country but do not pay taxes there.
- These weaknesses create opportunities for Base Erosion and Profit Shifting (BEPS) which require a need to ensure that profits are taxed where economic activities take place and value is created.
- **UN Committee of Experts on International Cooperation in Tax Matters** in their October 2017 report **Tax challenges of digitalization** also emphasized for a stronger action. Committee's position was based on the fact that Developing countries are often the main source of tax revenue loss in the digital economy, as they provide a substantial consumer and user base, but are less likely to host digital economy businesses.
- An OECD report identifies **three common features of highly digitalized businesses**: cross-jurisdictional scale without mass; a heavy reliance on intangible assets, especially intellectual property (IP); and the importance of data, user participation, and their synergies with IP.

Case of recent digital tax disputes

In Ireland, European Commission found that Apple paid 0.005% to Irish tax authorities in 2014, far below the corporation tax rate of 12.5%, which led to the tax dispute between the two.

Significance of the move

- Digital companies operating across borders would have to pay taxes where their users are located rather than just where they have a physical presence.
- European Commission in March 2018 proposed new rules to ensure that digital business activities are taxed in a fair and growth friendly manner in the EU. Under the proposed rules, the multinational digital companies with significant digital revenues in Europe will have to pay a 3% tax on their turnover on various online services.
- Many jurisdictions have begun to introduce **unilateral rules** to tax digital economy, for instance:
 - In 2016, **France** extended its tax on the distribution of audio-visual content to include online video-on-demand services that are provided for free but monetized through advertisements shown to viewers.
 - **Italy** has adopted a levy on digital transactions that is expected to become effective from 2019, aiming to ensure level playing field between digital and traditional businesses and capture activities presently uncaptured by corporate tax rules.
 - Tax authorities in **Saudi Arabia** and **Kuwait** have introduced the concept of a 'virtual service Permanent Establishment', which is deemed to exist even with no physical presence in the countries.
 - Similar interim measures have been adopted by other nations like Australia, Israel, Turkey, New Zealand, Hungary, etc.
- The OECD and G20 nations constituted the BEPS project that typically targets tax strategies aimed at artificially shifting profits to low or no tax jurisdictions. **Action Plan 1** of this project deals with the tax aspects of the digital economy.
- International bodies such as the OECD are working on longer-term ideas about how to revamp tax on digital earnings and will build a global consensus on the issue by 2020.

India's Position

- In India, the digital economy is pegged at about \$450 Billion and is expected to grow to over \$1 Trillion in the next 3-4 years. The expansive digital world would include e-commerce, app stores, crypto currencies, Internet of Things (IoT), Big Data, and cloud computing among others.
- In Budget 2015-16, a **6% equalization levy** was introduced to bring to tax payments made for online advertisement services.
- The 2018-19 Budget proposed to suitably amend the Income Tax Act to tax digital firms. However, as the existing Double Taxation Avoidance Agreements (DTAAs) are not covered under the proposed changes, it will require India to renegotiate tax treaties.

- According to the amendments proposed in the budget, the IT Act will provide “significant economic presence” which includes a download of data or software in India or engaging interaction with a prescribed number of users in India through digital means.
- India pitched for a global mechanism technically called **Multilateral Instrument (MLI)** which would be a permanent measure to tax digital companies that earn revenues from a large user base in the country. This would automatically amend bilateral tax treaties to include the taxation provisions for digital business.

About Multilateral Convention to Implement Tax Treaty related Measures to prevent Base Erosion and Profit Shifting (MLI)

- It offers concrete solutions for governments to close the gaps in existing international tax rules by transposing results from the OECD/G20 BEPS Project into bilateral tax treaties worldwide.
- It also implements agreed minimum standards to counter treaty abuse and to improve dispute resolution mechanisms while providing flexibility to accommodate specific tax treaty policies.

Concerns

- **Policy challenges:** Digitalization raises a large number of public policy challenges and is also changing the nature of policy making itself.
- **Concerns raised by some EU members themselves:** As these measures may affect some of their companies, the international partners may respond with retaliatory measures. For instance, Germany is concerned that a shift towards taxing companies where services are consumed rather than physical presence of the company could end up hitting its lucrative car manufacturers in long term.
- **Low tax EU members** such as Ireland and Luxemburg fear of losing multinational companies situated in their low tax jurisdictions.
- **May seem discriminatory:** US consider such measures to single out its digital companies as major digital companies are based in USA.
- **EU's interim digital tax plans target a company's revenue rather than profit:** This goes against international consensus on corporate taxation.
- The inconsistent unilateral rules adopted by several nations might end up **increasing tax burden of digital firms.**

Way Forward

The world over, policymakers are facing challenges over the issue of taxing digital economy transactions, while many countries have introduced provisions to tax some of these transactions, there is a need for a separate tax code which could bring greater transparency to transactions around the digital economy. This could include:

- A mechanism specially constituted to address digital economy transactional issues in a time-bound manner will also address many of the taxpayer's grievances.
- Support for the growth of industry with additional tax incentives for taxpayers using the digital economy space for transactions as well as for innovators.
- The code should be reviewed frequently by industry experts and include newer types as they evolve.

3.10. FALLING RUPEE

Why in news?

Recently, the Indian rupee weakened past the 71 mark for the first time ever.

More on news

- The rupee has registered a loss of about 10% of its value against the dollar since the beginning of the year making it the worst-performing currency in Asia.
- Other emerging market currencies, most notably the Turkish lira, the Argentine peso and the South African rand, have suffered much larger losses owing to a serious loss of confidence among investors.

Reasons of falling rupee

- **Increasing demand for the dollar across the globe:** The tightening of liquidity in the West, with the U.S. Federal Reserve raising interest rates, has played a major role in the strengthening of the dollar since

February this year. Investors who earlier put their money in emerging markets have recently preferred American assets, which now yield higher returns.

- **Higher domestic inflation in emerging economies when compared to the West:** Thus, it is natural for these currencies to slide in value over time against the dollar and other major Western currencies.
- **Trade war** between China and America, leading to import restrictions with high tariffs is causing dollar to appreciate. Huge dollar purchases by oil importing companies have weighed heavily on rupee.
- **Oil prices: Iran sanctions** have been driving oil prices higher despite OPEC move to raise output. The benchmark Brent crude surpassed the significant \$75-mark a barrel. This is bad for India as it is third largest importer of oil, hence **current account deficit** has been coming under pressure.
- **More imports than exports:** India's import bill has been significantly rising without increase in net exports. India's current account deficit is rising and is expected to go up to 2.5-3% of the gross domestic product (GDP) in the current financial year. Differently put, India is importing a lot more than it is exporting. Higher CAD in an environment of tightening financial conditions may continue to put pressure on the rupee

Impact of falling rupee

- **On imports:** the country's imports become more expensive as it takes more rupees to pay for the same quantum of imports
- **On competitiveness:** As fewer dollars are required for a buyer to pay for the same quantity of exports, India may gain its competitiveness which has been gravely hurt by an exchange rate policy that has prioritised a muscular rupee. It would also promote Make in India
- **On inflation:** More expensive imports are likely to drive inflation upward, especially in India where input products constitute a large part of our imports. It also impacts the oil import bill which plays its own part in pushing inflation up. Rise in inflation would hurt investors sentiment as well.
- **On GDP growth:** On the one hand, costlier inputs and the subsequent increase in the prices of finished goods may have a positive impact on GDP while on the other hand, consequent decrease in demand due to higher prices could nullify this.
- **Widening of deficits:** As per analysts, every \$10 per barrel increase in oil prices could worsen current account and fiscal balances by 0.4% and 0.1% of GDP respectively.
- **On tourism:** trips abroad turning more expensive. On the flip side, the domestic tourism could grow as more tourists visit India since their currency now buys more here.
- **On employment:** In the medium term, export-oriented industries like Pharma sector, IT, gems and jewellery etc. may also create more jobs.

Steps that can be taken by government

- **Long term solution**
 - Reduce heavy dependence on imports as well as on oil.
 - **Boost export industries** by measures such as ensuring that exporters have easier access to tax refunds; a war-footing attack on red tape at the borders; and a clear commitment to opening up to new market-enhancing trade deals.
 - **Attract FDI instead of FII**, through simplification of procedures, laws and dispute redressal. The rules for foreign borrowing should be liberalised by Indian firms to ensure higher inflows.
 - **Maintain limit on deficit:** Although India's fiscal position has improved in recent years, compared to peers, the combined deficit is still on the higher side. The government should not allow the deficit to slip at this stage as it will increase macroeconomic stability risks.
- **Short term solution**
 - **Increase in interest rates** by central bank to control money outflow. However, cost of borrowing increases due to this which may cause fall in investment in the country.
 - **Using foreign reserves to reduce volatility:** As of June 22, the RBI had foreign exchange reserves of \$407.81 billion, which it can sell in the open market. It is important to note, though, that reserves are only useful in reducing volatility and are not an antidote for poor economic management. If financial markets start believing that the country has problems at the fundamental level, then defending the currency can become extremely difficult.

3.11. EASE OF DOING BUSINESS

Why in News?

Recently, Parliament passed Specific Relief Amendment Bill, 2018 to improve India's ranking in Ease of Doing Business Ranking.

Background

- **Issues Faced in Doing Business**
 - **Starting a business:** The regulations and procedures for starting a business are time-consuming due to which a large number of start-ups are moving out of India and setting base in countries like Singapore where such procedures are easier.
 - **Acquiring land, registering property:** There have been delays in acquiring land and getting necessary permissions to use it, due to various reasons including legacy of the zamindari system, gaps in the legal framework and poor administration of land records.
 - **Construction permits:** According to the Standing Committee of Commerce, it took 33 procedures and over 192 days to obtain a construction permit in India in India, while 10 procedures and 26 days in Singapore.
 - **Taxation:** The Standing Committee had noted that the tax administration in India was complex, and arbitration proceedings were time-consuming.
 - **Power Shortage:** According to NITI Aayog, Power is a severe obstacle in starting an enterprise in states due to power shortage, which impact their efficiency, productivity and potentiality of job creation.
 - **Chakravyuha Challenge Ease to enter, barriers to exit:** India seems to have a disproportionately large share of inefficient firms with very **low productivity and with little exit**.
 - **Discrimination among small and large firms:** According to NITI Aayog, regulations place disproportionately large compliance burden on large firms in comparison with small firms, which discourages smaller firms from growing larger.

What is Specific Relief Act, 1963?

- Specific Relief is term for performing a contract when monetary compensation for failing to complete contractual obligations is not enough.
- The law prescribes that in an event where the actual damage for not performing the contract cannot be measured or monetary compensation is not adequate, one party can ask the court to direct the other party to fulfil the requirements of the contract (specific performance).
- This **specific performance** is a limited right, which may be given by the court at its **discretion**.
- This extends to infrastructure contracts, like construction of housing societies or sale and purchase of land.
- The Act sets out **two main remedies** to a party whose contract has not been performed:
 - the party may ask the court to compel performance of the contract (specific performance).
 - the party may seek monetary compensation instead of performance.

Ease of Doing Business

- World Bank Ease of doing business reflect the regulatory environment in a country to set up and operate a business.
- The rankings are based on a country's performance on 10 parameters such as enforcing contracts and starting a business.

Parameters	Rank as Doing Business Report, 2018	Rank as Doing Business Report, 2017
Starting a business	156	155
Getting credit	29	44
Trading Across Borders	146	143
Dealing with construction permits	181	185
Protecting Minority Investors	4	13
Getting Electricity	29	26
Enforcing Contracts	164	172
Paying Taxes	119	172
Resolving Insolvency	183	136
Registering property	154	138

Anand Desai Panel recommendation

- Relief of specific performance should be made as the general rule of remedy for breach of contract and monetary compensation to be made as an alternate remedy.
- For the purpose of streamlining the interpretation of the Courts in matters of public works, Centre should provide guidelines to the courts and tribunals to limit the Court's discretionary powers while granting performance and injunctive reliefs.
- In cases of contracts, excluding government contracts, the Act should be modified to address the right of third parties as well.
- Inclusion of provisions addressing unconscionable contracts, unfair contracts, reciprocity in contracts etc. and implied terms in a contract in the Act.

- **Enforcing Contract:** Standing Committee noted that it took close to **four years** in India for enforcing contract while less than six months in Singapore. This may be due to various reasons including complex litigation procedures, confusion related to jurisdiction of courts and high existing pendency of cases. Breaches of contract have impeded domestic and foreign investors from the infrastructure sector.

- **Anand desai Committee (2016)**, was formed to suggest changes in **1963 act**, as tremendous economic development has brought in enormous commercial activities in India, which have prompted extensive reforms in the related laws to facilitate enforcement of contracts, settlement of disputes in speedy manner.

IN LETTER & SPIRIT

Govt reading a stronger contract law

FOCUS ON ENFORCEABILITY

SPECIFIC RELIEF: Act to be strengthened

EMPHASIS ON: enforcement of the contract

The current law more tilted towards providing compensation in case of breach

CHANGES TO

make specific performance the rule and damages the exception

Changes also to curb **discretionary powers** of courts

Time-Bound resolution of disputes

A **Cabinet note** to be moved soon

HOW WILL IT HELP

Encourage investments, particularly in infrastructure

This will ensure **projects are completed**

Provide more **Stable & predictable business environment**

Improve India's **ease of doing business** ranking further

Highlight of the Bill

- **Specific Performance:** It takes away the discretionary power of courts in ordering specific performance of contract, by compulsorily enforcing contract by the Court.
- **Substituted performance:** The Bill gives an affected party (i.e. a party whose contract has not been performed by the other party) the option to arrange for performance of the contract by a third party or by his own agency (substituted performance).
- **Injunctions:** Under the Act, courts can grant **preventive relief (injunctions) to parties**. Bill seeks to prevent courts from granting injunctions in contracts related to infrastructure projects, if such an injunction would hinder or delay the completion of the project.
- **Designating Special Courts:** Certain civil courts may be designated as Special Courts by the state government, to deal with cases related to infrastructure projects and **disposed of within 12 months**.
- **Experts:** The Bill inserts a new provision for engaging technical experts in suits where expert opinion may be needed.
- **Infrastructure Projects:** Department of Economic Affairs is the nodal agency for specifying various categories of projects. Activities such as transportation, energy, water & sanitation, communication and social & commercial infrastructure, will also be treated under special categorization of 'infrastructure projects'.

Recent steps taken to improve ease of doing business in India:

Besides implementation of the Goods and Services Tax and the Insolvency and Bankruptcy Code some of the major reforms undertaken by the government are:

- The government has **announced investor-centric hub-and-spoke based online single window model** for providing clearances and filing compliances.
- The government launched another online portal **Shram Suidha** for firms to file a common return on its portal to comply with as many as eight labour laws at one go.
- The government has also targeted to reduce the number of days required to set up a business in India to four.
- The government has also done away with the requirement of the affidavit from the applicants of the defence industry. A maximum timeline of 12 weeks has been finalised by the Ministry of Home Affairs for grant of security clearance on industrial licence applications.
- The insurance reform bill has been passed in Parliament which allows more Foreign Direct Investment in the sector.
- The government allowed 39 exemptions for private companies licensed to set up businesses under international financial services centres (IFSC) such as allowing them to make investments through more than two investment companies. The government also waived transaction taxes and stamp duty for IFSCs.
- The government has set up National Investment and Infrastructure Fund (NIIF) with the aim to attract investments from both domestic and international sources for infrastructure development in commercially viable projects. The corpus of the NIIF is proposed to be Rs 40,000 crore (\$6 billion) wherein the government will invest 49%.
- In a bid to reduce red-tapism, the government abolished the Foreign Investment Promotion Board (FIPB) which used to scrutinise foreign investment proposals. The proposals are now cleared by departments concerned.

Significance

- It will create a more stable and predictable business environment and boosting investment.
- It would **widen the ambit of enforceability** beyond just compensation.
- It would **boost infrastructure** in the country as well as have a positive effect on the ease of doing business aspect.
- It will grant a party the **right to seek damages** from the other side in case of a breach of a business contract and to reduce discretion of courts in such matters.
- It would help country to break into the **top 50 in Ease of Doing Business ranking** and boosting India's attractiveness as an investment destination.

Way Forward

- **Greater Ease of Doing Business is Essential to Faster Growth:** Fast growing states systematically exhibit fewer delays in the grant of permits and clearances in various areas and also greater flexibility in the implementation of labour and environmental laws.
- **Better Information dissemination** so that enterprises are aware of ways to ease the compliance burden of regulation, such as access to single clearance windows.
- **Enhance Flexibility of Labour Laws:** Reforming labour laws and achieving greater flexibility in their implementation can greatly help enhance the ease of doing business
- **Accelerate Power Sector Reforms:** Facilitating power sector reforms will help ensure that power-intensive enterprises have access to steady and uninterrupted power without undue delays or regulatory burdens.
- **Improving Access to Finance:** Enhancing the access to low-cost capital to businesses will be an important vehicle to improve business environment, especially in poorer states.
- **Standing Committee on Commerce in 2015,** made recommendations to improve India's Ease of Doing Business rankings:
 - **Easing Regulatory Compliance** by Issuing **unique business ID** containing all information about the company, as the sole reference for regulatory processes.
 - **Hassle free permit** by introducing an **online single window** to approve construction based on the risk, structural requirements and intended use of the building.
 - State governments can demarcate areas where land use can conveniently be changed for industrialisation, without affecting fertile land.
 - **Registering property:** It can be paced by digitising land records and by promoting conclusive land titling by integrating space technology and ID proofs like Aadhaar, which may facilitate smooth transfer of property. This would also reduce the amount of capital that is locked up due to disputes over land titles.
 - **Simplification of the existing tax structure** by implementing a stable, fair and predictable tax regime in the country.
 - **Setting up National Trade Portal** to reduce delays caused by involvement of multiple agencies in obtaining relevant documents for cross border trade.
 - **Time bound Environment clearances** by Ministry to reduce delay in execution of project.

3.12. IMPACT OF CHINESE GOODS ON INDIAN INDUSTRY

Why in news?

The Parliamentary Standing Committee on Commerce tabled a report titled "Impact of Chinese goods on Indian industry" in Rajya Sabha.

Highlights of the Report

- Numerous anti-dumping investigations have been initiated against China; also **majority (i.e. 102/144) of the enforced anti-dumping duties** are against Chinese products.

Hard Numbers: India-China Trade Quantum

- China is India's largest goods trading partner and the bilateral trade reached \$89.6bn in 2017-18, from \$38bn in 2007-08.
- China's share in India's imports stands at 16.6% in FY1718.
- Trade deficit with China at \$63bn constitutes more than 40% of India's total trade deficit.
- Between FY0708 and FY1718, Indian exports to China increased by \$2.5bn but the imports, however, increased by \$50bn.
- China has increased prices of bulk pharma drugs by 1200% over the last two years, impacting prices of finished products by Indian pharma industry.
- No bilateral trade agreement between the two, to accord preferential treatment to the Chinese products.

- All the industries affected by the dumping are not able to reach Directorate General of Anti-Dumping and Allied Duties (DGAD) on account of high cost involved in moving the applications.
- Delayed action in the part of DGAD causes permanent damage to the industry in question, leaving little or no scope for remedial measures.
- No impact assessment of anti-dumping/counter-veiling duties by the government leading to non-review of such duties, renders the anti-malpractices framework ineffective.
- One estimate suggests that due to the dumping of Chinese solar panels, nearly two lakh jobs are lost as nearly half of our domestic industry capacity remains idle.
- Chinese products are certified/ registered quite easily and faster by India's Bureau of Indian Standards. To the contrary, Indian products suffer delays and high fee for getting certified/ registered with Chinese authorities before exporting into China.

How Chinese goods find their way to Indian markets?

- **Dumping** of cheap Chinese products.
- **Under-invoicing** of Chinese goods: causes revenue loss to the Government as well as puts the domestic manufacturers at a disadvantage in terms of price of like items.
- **Re-routing** of products via countries that have FTAs with India.
- **Flouting of Rules of Origin norms** e.g. setting shops in Least Developed Countries(LDC) arrangements under Duty Free Tariff Preference (DFTP) scheme.
- Mis-declaration and mis-classification of prohibited goods.
- **Smuggling of proscribed items:** In April to December 2017-18, as many as 1,127 cases of smuggling have been registered by India, recovering more than Rs 5.4 billion worth of Chinese goods.
- **Circumvention of duties** due to lax implementation of Indian regulations.

Reasons for deluge of Chinese imports to India

Chinese imports flood the Indian markets due to high demand owing to large size of the Indian market and also competitive prices of these products. Elaborative reasons behind this phenomenon include:

- **Industry-friendly lending rates, lower logistics and energy costs as compared to India:** On account of costlier energy, finance and logistics, Indian goods are costlier by about 9% in the global market. Chinese industry gets loans at 6%, compared to 11-14% in India. Logistics costs are 1% of the business in China, compared to 3% in India.
- Chinese exports largely constitute manufactured products related to **expanding sectors** such as telecom and power (while Indian exports to China are primary products largely).
- **Support by the Chinese government** e.g. export rebate, state-owned enterprises, tax discounts within the provinces.
- **Currency manipulation** for export competitiveness.
- Non-transparent trade policy, unfair trade practices such as exports subsidies that are against the WTO regulations.
- **Robust and integrated global value chain** along with leveraging of economies of scale.
- Infrastructure required to address the demands of quality checks is inadequate.
- Delays in firming up the Quality Control Orders (QCOs) helps the Chinese industry monopolise its low quality goods in the market e.g. toys, low-quality LEDs etc.

Implications for the Indian Economy

- Labour-intensive industries such as textiles, solar, firecrackers etc., in India are worse affected by Chinese imports.
- Many MSMEs in the stainless steel industry have shut down.
- Direct and indirect tax collections take a hit due to smuggling, under-invoicing etc. This will fall further as domestic manufacturers shrink or dissolve in future.
- Aims and targets of the Make In India programme are undermined.
- Banking sector, already reeling under the NPAs, faces further stress.
- Low-quality products from China adversely impact the environment.
- Manufacturers are turning into traders, having negative impact on the employment.
- Overt dependence on imports of key products such as the bulk drugs can have cascading effects on supply of many products, employment etc., in addition to self-reliance, national interests and security in critical situation

Recommendations of the Report

- Governmental should provide financial assistance to recognized industry forums to improve the access of MSMEs/SSIs to trade remedial measures.
- Creation of a **DGAD platform** for continuous dialogue with the Indian industry on WTO non-compliant subsidies.
- Shortening of time period for investigations and notifications.
- **Stringent implementation of anti-dumping framework**, to check smuggling, misclassification and other trade malpractices.
- Augmentation and strengthening of the **Directorate of Revenue Intelligence (DRI) workforce**.
- Working out a **formal arrangement with China**, to avail price and other relevant information on imports suspected of under invoicing – for Indian Customs administration.
- Better enforcement of FTAs and Rules of Origin norms by a **joint verification/ certification mechanism** with the partner countries.
- Study of the likely impact of the tariff concessions under ongoing RCEP negotiations on our domestic industry, to ensure zero cost to Indian industrial health.
- Easing of the restrictive and discriminatory clauses being faced by the Indian Industry in public tenders and implementation of **Public Procurement (Preference to Make in India), Order 2017** in spirit. State governments should also be sensitized in this regard.
- Steeping up the **surveillance of Land Ports** especially in the Indo-Nepal Border and North East border.
- Support to the **Bureau of Indian Standards (BIS)** in terms of availability of technical manpower and infrastructure Identification and inclusion of more products under technical regulations specifying compliance.
- Representation of BIS on SWIFT to further add to the effectiveness of the latter.
- Sensitization of enforcement agencies like Customs authorities, State Governments etc. to work in co-ordination with the Regulators.
- Necessary and immediate **review of the existing inverted duty structure**.
- Production subsidy or incentives should entail government tariff protection, to match the Chinese assistance so that our domestic production gets a real boost.
- Constitution of steering committee to oversee the **revival of the API industry**, including reviving PSUs like IDPL and Hindustan Antibiotics, especially at the time when many APIs units in China are closing due to strict environment norms there.
- To protect the solar industry, ADD may be levied in a **differential manner** to facilitate level pegging for domestic industry.
- Solar power industry must explore the avenues of protection under CVD since Chinese solar industry enjoys WTO non-complaint subsidies of the Chinese Government.

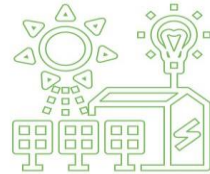
ON THE BRINK

PHARMACEUTICAL INDUSTRY

- **China** is the main supplier of raw materials for Active Pharmaceutical Ingredients (APIs) and Key Standing Materials (KSMs).
- About **75%** of the APIs used in the formulations of NLEM (National List of Essential Medicines) are sourced from China.
- Indian import of **bulk drugs** is not reciprocated by exports of Indian generic pharma products to China, due to restrictive market access.



SOLAR INDUSTRY



In the **National Solar Mission**, whose primary objective envisages energy security through development of indigenous solar manufacturing capacity, Chinese imports account for nearly **90%** of the market share directly or indirectly through their off-shore companies across **South East Asia**.

- Between **2006** and **2011**, before dumping of imports from China, India was one of the major exporters of solar products to countries like Germany, France and Italy.

TEXTILES INDUSTRY

- Cheap Chinese imports of manmade fabrics (polyester & blends) have resulted in **35%** closure of power looms in Surat and Bhiwandi.
- Application of trade defence measures are difficult on apparel products due to difficulty in determining 'Normal Value' of the garments because of the branding and design contents.
- GST structure has caused unintended benefits to **China**



BICYCLE INDUSTRY



- **Chinese bicycles** are mostly undervalued or unfairly priced, giving them competitive edge over Indian manufacturers.
- Poor enforcement mechanism is the major cause of sufferings of **Indian industry**.

FIRECRACKER INDUSTRY

- Spurt of Chinese fireworks in the Indian market had led to adverse impact on the fireworks industry, which mostly falls in the **MSME** category.
- Despite the ban on firework imports, cheap illegal firecrackers from **China** are glutting the Indian markets and the intended protection to the domestic firecracker industry has not materialised.



TOY INDUSTRY



- Low quality, low priced **Chinese toys** are either mass produced or these are rejects from other countries and they are diverted to Indian sub-continent/ **Africa**.
- Toy imports are made of toxic material – these should be subject to **QCOs** at the earliest.

- Import of finished toy products from China must be banned as it has affected 50% of the domestic toy industry and traditional skills are getting lost with artisans migrating to other vocations.
- Stringent penal actions to create effective deterrence against unscrupulous elements.
- Creation of public opinion in the country to discourage buying of sub-standard imported product, with engagement of the industry, thus popularising 'Swadeshi apnao' (buy made-in-India products).

Steps being taken

Since India and China are the members of the WTO, no restrictions can be imposed on the WTO-compliant trade. While the action to be taken on the basis of the Report is yet to be determined, certain measures have already been taken to protect the domestic industry and to curb the flood of Chinese imports that include:

- Safeguard duty has been imposed on the solar cell imports from China and Malaysia for two years, till July 2020.
- DGAD has recently opened an assistance counter for the help of the MSME Sector.
- Recent creation of an integrated single umbrella National Authority, namely, **Directorate General of Trade Remedies (DGTR)** will be effective in providing comprehensive and swift trade defence mechanism in India.
- Measures have been taken to increase the efficacy of Risk Management System (RMS) – to tighten the inspection infrastructure at the entry points.
- Introduction of the GST will help in business efficiency, better record-keeping infrastructure, easier audits and controls and creation of uniform market across the country.
- India needs to stay firm on its non-MES status stand to China at the WTO to ensure protection to its domestic industry.

Countervailing duty (CVD)

Additional import duty that is imposed to neutralize the negative effects of subsidies

Safeguard duty

Tariff imposed to restrict imports of a product temporarily (take "safeguard" actions) if its domestic industry is injured or threatened with injury caused by a surge in imports

Anti-dumping duty (ADD)

Protectionist tariff that a domestic government imposes on foreign imports that are priced lower than their value in their home market

Inverted Duty Structure

- It implies a situation where import duty on finished goods is low compared to the import duty on raw materials that are used in the production of such finished goods.
- This makes domestically produced goods more expensive than their imports from other countries.

SWIFT – Single Window Interface for Facilitating Trade

- Single Window provides a single platform for relevant agencies like Wildlife, Drug Control, Animal Quarantine, Plant Quarantine, FSSAI and Textile Committee for necessary clearance or certification before the goods are released inland from the ports
- Optimal use of SWIFT can ensure effective quality control of all the imports of products under QCO/technical regulations.

Market Economy Status of the WTO

- MES is accorded by the WTO to the countries where economic decisions and the pricing of goods and services are guided solely by open competition, with little or no government intervention or central planning
- China's bid for this status is opposed by the US, the EU, India and other parties
- If granted this status, imposition of anti-dumping duties and other trade defences gets difficult to impose against such a nation.

3.13. DRAFT E-COMMERCE POLICY

Why in news?

Recently, the government has released the draft e-commerce policy prepared by Task force **headed by commerce secretary**.

Need of e-commerce policy

Following factors necessitates better and clear policy response and coordination among various wings of the government:

- **Rapid growth in e-commerce:** India's e-commerce sector, currently estimated to be worth around \$25 billion, is expected to grow to **\$200 billion by 2020**. According to an estimate by the finance ministry, the size of the digital economy in India will be \$1 trillion by 2022 and it will account for **close to 50% of the entire economy by 2030**.

- **Increasing investment:** The potential of the market has drawn in giants such as Amazon, Walmart, Alibaba, SoftBank and Uber to invest millions of dollars to become dominant players in this space. After covering the metros and large cities, the bigger e-commerce firms are poised to go for next phase of **expansion in tier-II and tier-III towns**, where the expansion of 3G and 4G networks have put consumers online.
- **Better standing on international table:** A national e-commerce policy will also enable better negotiations on multilateral issues with the World Trade Organization.

Key proposals under draft

- **Establish Central Consumer Protection Authority (CCPA):** It will act as the nodal agency for intra-government coordination on e-commerce policies and hearing complaints from both the public as well as e-commerce companies.
- **Mandatory registration:** It provides for mandatory registration of all e-commerce operators whether domestic or foreign.
- **Uniform legislation:** It also proposes a single legislation to address all aspects of digital economy.
- **FDI policy for e-commerce:** It proposes 49% FDI under the inventory model for firms to sell locally-produced goods on their online platforms. The control of such firms will remain with Indians. At present, 100% FDI is allowed in online stores that follow the marketplace model; no FDI is permitted in firms following the inventory model.
 - A separate wing will be set up in the Enforcement Directorate to handle grievances related to foreign investment in e-commerce.
 - There should be **differential voting rights** for Indian founders with minority stakes giving founders more control.
- **Data Localization:** It strongly recommends data localization i.e. data that will be considered as critical should necessarily be located in India. For this, various suggestions are given:
 - **Infrastructure status** to data centres/server farms as well as easy access of physical infrastructure for setting up the centres.
 - A **two-year sunset period** for the industry to adjust before localization rules becomes mandatory.
 - **Only personal data or community data** collected by “internet of things” devices in “public space” will need to be stored in India.
- **For MSME related**
 - Allow MSME to follow **inventory-based models** for selling locally produced goods through an online platform.
 - **Exemption from GST:** Currently, MSMEs with revenue of less than Rs.20 lakh a year are not subject to GST if they sale offline whereas they have to pay GST if they sell goods on online platforms.
 - Such companies may also be allowed up to **49% foreign investment**.
- **For merger and acquisition**
 - **Mandatory examination by Competition Commission of India (CCI)** of competition-distorting mergers and acquisitions below the existing threshold. This assumes significance in the light of the recent acquisition of Flipkart by US retail major Walmart.
 - **Sunset clause for deep discounting:** A maximum duration should be set for “differential pricing strategies”. CCI and the department of industrial policy and promotion (DIPP) will oversee this proposal.
- **Tax related proposals**
 - **Centralized registration instead of local registration** of e commerce companies for GST purposes.
 - Modifying relevant GST provisions in order to create a **level-playing field between online and offline** delivery of goods and services.
 - Use principle of ‘**significant economic presence**’ as the basis for determining ‘**Permanent Establishment**’ for tax assessment.
- **Regulating price distortions**
 - Prohibits e-commerce players from “**directly or indirectly influencing**” sale prices.

What is a marketplace and inventory-based model?

- Marketplace based model of e-commerce means providing an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between the buyer and seller.
- Inventory based model of e-commerce means an e-commerce activity where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly.

- Prohibition of bulk purchases of branded goods like mobile phones, fashion items which lead to price distortions.

Benefits

- The draft e-commerce policy is **comprehensive and encompasses all aspects of the e-commerce business**, data privacy and taxation, a host of technical aspects such as technology transfer, server localization, and connectivity issues.
- The regulator will ensure **consumer protection** from online frauds and compliance with foreign investment caps in e-commerce.
- Data localization move will help private sector companies comply with the norm **to store a copy of a user's personal data in the country** as laid down by the Srikrishna committee on data localization.
- It will also provide boost to MSME sector through various provisions mentioned in policy which will lead to revenue as well as employment generation.
- The **2-year sunset clause** for data localization will provide some time to the domestic industry to prepare for the data storage procedures before actually imposing the legislation.
- It will be able creating a **level playing field** for foreign and domestic players in the Indian market.

Challenges/issues

- The logic of protecting domestic industry against foreign giants with deep pockets is **against the principle of liberalization**.
- Data sharing and localization will create **issue of intellectual property rights** of companies and will have significant impact on the way they do business.
- **Issues of discount**
 - Restriction on discounting by e-commerce players to protect offline players are **over stated** given in Indian groceries and food market which makes up half of India's retail spend, online players account for less than one per cent of the market.
 - Setting a price floor can also **impede local players** from offering attractive deals
 - Curb on discounting has already been tried in the past and might not be easily implementable.
 - Introducing unnecessary regulations could result into **slowing down** of yet another sector.
 - With online discounts gone, the consumer will lose out.
 - It will put **restrictions on retail strategies** of ecommerce majors.
- Certain states have protested against **the Centre's intrusion by framing laws for retail**, which remains a state subject.
- **Coordination between various ministries** like Ministry of commerce and Ministry of Electronic and IT is an issue because of contradictory views on the matter.

Way forward

- State government must be taken aboard for policy formulation and implementation.
- The regulation of e-commerce transactions should be left to the Competition Commission of India rather than making vague regulations which are open to abuse.
- The policy must be **facilitating 'ease of doing business'** with minimum regulation and should offer a **level-playing field to foreign and domestic players**.

3.14. NATIONAL ALUMINIUM POLICY

Why in news?

Recently, Niti Aayog suggested that India needs a dedicated national policy for aluminium to boost overall production and double per capita consumption of the metal.

Aluminium industry

- Aluminium is **the second most used metal in the world** after steel with an annual consumption of 88 MMT.
- It is also **the fastest growing metal** which has grown by nearly 20 times in the last sixty years (compared to 6 to 7 times for other metals).
- The Aluminium industry comprises two basic segments: **upstream and downstream**.
 - The upstream sector produces primary Aluminium from raw materials via bauxite mining.

- The downstream sector comprises of processing of Aluminium into semi-finished Aluminium goods such as rods, bars, castings, forging, etc.
- India is the **4th largest Alumina Producer, 3rd largest Aluminum Producer and 5th largest consumer of Aluminum.**
- Its **consumption in India at 2.5 kg/capita** is much **less compared to the global average of 11kg per capita.**
- It **contributes 2% of manufacturing GDP** (steel 12%, cement 9%) and this is expected to move up with consumption growth. This growth is critical for India's industrial vision of achieving 25% of GDP from manufacturing by 2022.
- It has **5th largest bauxite reserves** in the world. **Orissa (largest producer)**, Gujarat, Jharkhand, Maharashtra, Chhattisgarh, Tamil Nadu and Madhya Pradesh are the prominent bauxite producing states in India.

Importance of Aluminium Industry

- Aluminium is considered a strategic sector by various industrialized economies due to:
 - **high linkage effect**- forward linkages with key sectors like aviation, defense, auto, electricity, construction, packaging, machinery, marine etc. and backward linkages with mining, chemical industry, power, machinery
 - high market potential
 - high technological intensity
 - high value addition
- Aluminium is also one of the critical metals for world's commitment towards 2015 Paris commitment of low carbon footprint.
 - According to US Department of Energy, auto industry estimates that 6-8% fuel savings can happen for every 10% weight reduction by substituting aluminium with other heavy materials.
 - Aluminium is also a durable metal with its life span in building and construction ranging between 40-50 years.
 - Aluminium can also be endlessly recycled with only 5% of energy & emissions needed to produce a new aluminium product.
 - Aluminium availability is critical to achieve low carbon footprint using wind, solar and energy storage batteries as per a World Bank study 2017.
- Aluminium is also a **strategic metal for national defense and security.** It is widely used in making various ammunition components, parts for missiles and missile batteries, tanks, armoured vehicles etc.
- The industry also has a high direct and an indirect employment multiplier creating close to 800,000 jobs. Plants are generally based in the hinterlands of the country and aid in generating peripheral employment and development of the region.

Uses of aluminium

- **Being lighter (3 times lighter than steel), it aids in fuel efficiency** making it an efficient choice for automotive, defense and aviation.
- The **construction industry** relies on a variety of aluminum alloys in the manufacture of products due to its **durability and non-corrosive properties.**
- Its **ability to conduct heat and electricity** also makes aluminum a popular choice in the **electrical and electronics industries.**
- Coupled with infinitely recyclable properties, aluminum is a convenient option for **packaging industry such as beverage cans and foils.**

Issues with Aluminium industry in India:

- **Energy:** Amongst the largest producers of aluminum like Canada, Russia, Middle East, Norway and China, India has the **highest cost of production.** This can be **attributed to high power cost in India.**
 - Power is a critical input for Aluminium industry accounting for almost 30-40% of their cost of production. Coal subsidies in various Aluminium producing countries gives an edge to them over Indian companies.
- **Mining:** Bauxite mining is facing various issues such as:

SWOT Analysis	
Strength	Weakness
<ul style="list-style-type: none"> ● Abundant resources of aluminum ore. ● Low cost and efficient labour force. ● Strong Managerial capability. ● Strongly globalised industry and emerging global competitiveness. ● Modern new plants & modernized old plants. 	<ul style="list-style-type: none"> ● High cost of energy. ● Higher duties and taxes. ● Labour laws. ● Dependence on imports for aluminum manufacturing equipments & technology.
Threat	Opportunity
<ul style="list-style-type: none"> ● Market fluctuations and China's export possibilities. ● Global economic slowdown. ● Governance issues. ● Environmental concerns. 	<ul style="list-style-type: none"> ● Rapid Urbanization. ● Increasing demand for consumer durables. ● Untapped rural demand. ● Increasing interest of foreign aluminum producers in India. ● Globalization

- Delays in grant of environmental Clearances, Forest Clearances, other statutory clearances causing significant development risk.
- Land acquisition issues in mineral rich areas.
- Procedural issues between Centre, State and bidders in matters of bloc allocation.
- Lack of a robust geological database of bauxite reserves
- **Infrastructure issues:**
 - Absence of railway connectivity and transport infrastructure in several remote mineral rich areas.
 - Increased cost of transportation of Alumina and Bauxite.
 - Costly infrastructure for disposal of Fly-Ash and Red Mud is also an issue.
- **Scrap Recycling:** Aluminum recycling process is less capital intensive and requires only 5% of energy to produce aluminum compared to primary route.
 - India is the **2nd largest importer of scrap behind China**. Despite significant presence of primary metal, India's consumption of scrap is 100% import dependent (in contrast China's scrap import ratio is 21%). This reflects the poor domestic scrap recycling infrastructure India has.
 - Recycled aluminum sector is highly fragmented with around 10 medium sized players and over 150 to 200 small players due to low entry barriers & capital costs.
- **Trade Policy and FTA's:** The aluminium sector has not benefitted from signing of FTAs with ASEAN, Japan and Korea, etc. For example, Aluminium imports into India from ASEAN region have surged significantly. The reason has been an increase in imports especially from Malaysia. This is because the tariff elimination schedule in India- ASEAN FTA is skewed heavily in favour of Malaysia.

Recommendations for a New Aluminium Policy

- **Classifying aluminium as a core industry** (coal, crude, oil, natural gas, refinery products, fertilizers, steel, cement and electricity) can give it a major boost.
- **Reforms in coal and bauxite mining:** must be ensured that once allotted, industry should not face administrative and legal hassles during the operation of coal and bauxite mines. All the mandatory clearances should be given beforehand.
- A **single window clearance** could also be put in place for faster clearances.
- **Metal Scrap Recycling:** A National Material Recycling Policy which is being drafted by NITI Ayog should be effectively implemented to achieve a target of 85% recycling rate by the year 2025 and enhance job creation opportunities.
- **Energy policy for energy-intensive sectors:** A separate energy policy needs to be framed for the energy intensive sectors like aluminium as they are being penalised by paying high carbon tax through various cesses and duties.
- **Export policy for downstream industry:** Downstream producers of Aluminium should to be encouraged for high end production and exports of value-added products of aluminium
- **Trade policy and mega Free Trade Agreements:** India trade policy and mega FTAs should be negotiated keeping in mind India's experience w.r.t previous FTAs which haven't yielded the desired result.
- **Infrastructural and Database Issues:** Aluminium being a continuous process industry will require priority access to infrastructure. Rake availability in railways should increase significantly.
- India needs a comprehensive **geological database** which can be mined for exploration of raw materials.
- **An ecosystem for fly-ash** should be created around these Aluminium production plants.

3.15. UNCONVENTIONAL HYDROCARBONS

Why in news?

Recently, Union Cabinet chaired by Prime Minister approved the policy to permit exploration and exploitation of unconventional hydrocarbons such as **Shale oil/ gas, Coal Bed Methane (CBM)**, etc under the existing Production Sharing Contracts (PSCs), CBM contract and Nomination fields.

Background:

- Existing contractual regime of PSCs (pre Hydrocarbon Exploration and Licensing Policy or HELP) did not allow contractors to explore and exploit CBM or other unconventional Hydrocarbons in already allotted/ licensed/ leased areas while CBM contractors were not allowed to exploit any other hydrocarbon except CBM.

- Acreages held at present by various contractors in PSCs (72,027 Sq Km) and CBM blocks (5269 Sq Km) and National Oil Companies (NOCs) in nomination regime constitute a significant part of India's sedimentary basin.
- India currently has around 100 – 200 Trillion Cubic Feet (TCF) of shale gas reserves in five sedimentary basins and there is a strong possibility of shale reserves in basins such as Cambay, Krishna- Godavari (KG), Cauvery, etc where mature organic rich shale exist. CBM reserves are found in Coal bearing areas in 12 states including Andhra Pradesh, Chhattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Assam, Odisha, Rajasthan, Tamil Nadu, Telangana and West Bengal.

Benefits of the move:

- It will encourage the existing contractors in the licensed/ leased area to realize the full potential of Contract Areas and unlock the prospective unconventional hydrocarbons in their existing acreages.
- **New investment in Exploration and Production (E&P) activities:** it will increase the chances of finding new hydrocarbon discoveries and their increased domestic production will help meet energy needs of the economy and hence moving towards energy security as envisaged in Hydrocarbons Vision 2025 (box).
- Exploration and exploitation of additional Hydrocarbon resources will give new impetus to economic activities, additional employment generation and will benefit various sections of society.
- It will lead to induction of new, innovative and cutting edge technology and forging new technological collaborations to exploit unconventional hydrocarbons.
- There will be a complete shift from '**One Hydrocarbon Resource Type**' to '**Uniform Licensing Policy**' which is presently applicable in Hydrocarbon Exploration and Licensing Policy (HELP) and Discovered Small Field (DSF) Policy.

Other steps taken towards enhancing the production of unconventional hydrocarbons:

- **Oil ministry recently included shale under the definition of petroleum:** Earlier, under the **Petroleum and Natural Gas Rules, 1959**, Petroleum included naturally occurring hydrocarbons, whether in the form of natural gas or in a liquid, viscous or solid form, or a mixture of these, but did not include coal, lignite, and helium occurring in association with petroleum or coal or shale.

Hydrocarbons Vision – 2025

The Hydrocarbons Vision-2025, presented in the year 2000, laid down the framework which would guide the policies relating to the hydrocarbons sector for the next 25 years. It includes:

- To assure energy security by achieving self-reliance through increased indigenous production and investment in equity oil abroad.
- To enhance quality of life by progressively improving product standards to ensure a cleaner and greener India.
- To develop hydrocarbon sector as a globally competitive industry which could be benchmarked against the best in the world through technology upgradation and capacity building in all facets of the industry.
- To have a free market and promote healthy competition among players and improve the customer service.
- To ensure oil security for the country keeping in view strategic and defence considerations.

Some important **specific initiatives taken to enhance the domestic natural gas production**, expand the gas pipelines and secondary infrastructure and develop the gas consuming markets include:

- **100% Foreign Direct Investment (FDI)** in many segments of the hydrocarbon sector.
- Adoption of a **Discovered Small Fields (DSF) policy** and **Hydrocarbon and Exploration Licensing Policy (HELP)**
- Linkage of gas prices to the market/important hub prices under the **New Domestic Natural Gas Price Guidelines of 2014**.
- **Marketing and pricing freedom for new gas production** from Deepwater, Ultra Deepwater and High Pressure-High Temperature areas, subject to certain conditions. Also, Marketing and pricing freedom for gas produced from Coal Bed Methane (CBM) fields to incentivize CBM operations in the country.
- Development of 2,650 km-long Jagdishpur-Haldia & Bokaro-Dhamra natural gas pipeline to ensure supply of natural gas to eastern India.
- Reduction of basic customs duty on LNG from 5% to 2.5% in the 2017 budget to boost LNG demand in industrial and commercial sectors, especially power, petrochemical, fertilizer and CGD, and also help in reviving stranded capacity of power and fertilizers plants.
- **Gas pooling mechanism** for fertilizer sector to encourage utilisation of fertilizer units in the country.
- Priority for allocation of domestic gas accorded to Piped Natural Gas (PNG)/Compressed Natural Gas (CNG) segments to meet 100% of their demand and faster roll out of PNG connections and CNG stations to promote the use of natural gas in the transport sector, households and small industries.

- **Hydrocarbon Exploration and Licensing Policy (HELP)** was introduced in 2016 which has the four main facets:
 - uniform license for exploration and production of all forms of hydrocarbon,
 - an open acreage policy,
 - easy to administer revenue sharing model and
 - marketing and pricing freedom for the crude oil and natural gas produced.
- In 2015, the Cabinet had approved the **Marginal Field Policy (MFP)/ DSF policy** with the objective to bring marginal fields, that could not be monetized for years due to various reasons such as isolated locations, small size, prohibitive development costs, technological constraints, unfavourable fiscal regime, to the production at the earliest so as to augment the domestic production of oil and gas.
- **Open Acreage Licensing Policy (OALP):** Setting up of **National Data Repository**. OALP enables upstream companies to bid for any oil and gas block without waiting for the announcement of bidding.
- **Shift towards a gas based economy:** The Government wants to make India a gas-based economy 'by boosting domestic production and buying cheap LNG'. India has set a target to raise the share of gas in its primary energy mix to 15% by 2022. GoI has adopted a systematic approach to focus on all aspects of the gas sector:
 - Development of gas sources either through domestic gas exploration & production (E&P) activities or through building up facilities to import natural gas in the form of LNG
 - Development of adequate gas pipeline infrastructure including nationwide gas grid and Secondary distribution network
 - Development of gas consuming markets including fertilizer, power, transport and industries, etc.

3.16. UNIFIED METROPOLITAN TRANSPORT AUTHORITY (UMTA)

Why in News?

Recently, there have been calls for setting up Unified Metropolitan Transport Authorities (UMTA) in various metro cities of India.

Need for an UMTA:

- **Structural inadequacies in planning urban transport:** The complexity arising from the multiplicity of laws at the Central and State Government levels related to urban transport gets aggravated by the multiplicity of authorities/departments that are involved often hinders the development of integrated and sustainable urban transport solutions. For instance, currently, the Tamil Nadu government has 10 different agencies, which are involved in traffic and transportation management in Chennai Metropolitan area and governed by various ministries and department.
- **Lack of integrated planning for mobility needs** For example, agencies such as the municipal corporation, development authority, industrial development corporation,

Govt. Planning Unified Freight Transport Authority:

The Government is planning to setup a **Unified Freight Transport Authority** for seamless movement of freight across the country's rail, road and water networks.

Need for a Unified Freight Transport Authority:

- **Complex regulations and administrative procedures:** Currently Rail, Water and Road transport in India are managed by different agencies which have resulted in overly complex regulations and administrative procedures as well as missing modal links and an inefficient modal mix. As of 2008, the mix was 50% of total freight flow via roads, 36% by rail, 7.5% by pipelines, 6% by coastal shipping, 0.2% by inland waterways and 0.01% by airways.
- **High logistics cost:** In India, logistics sector comprises 14% of gross domestic product (GDP), much higher than in the US or Europe, where it is 8-9%. High logistics costs hurt Indian competitiveness, for instance, Government's clearance hurdles hold up shipments for up to three days before they make it through the Jawaharlal Nehru Port Trust (JNPT) as against a few minutes being taken at any port in Singapore.
- A blueprint prepared by NITI Aayog titled '**National Strategy for Transforming Mobility**' suggests four paradigm shifts for speedy movement of freight. These include:
 - Need for a uniform authority across sectors and modes
 - Greater Private participation in the rail sector
 - Impetus to multi-modal freight aggregators
 - Construction of large multi-modal logistic hubs at Indian Ports
- **Can boost India's competitiveness by reducing transport time and costs:** As pointed out by Economic Survey 2017, the interstate trade flows in India stand at a healthy 54% of GDP. The Authority can further boost this.

private developers, etc, all plan road infrastructure but for their respective jurisdiction, without understanding the impact of these project at a city level.

- **New metro rail policy of 2017** makes mandatory for setting up UMTA to prepare Comprehensive Mobility Plans for cities for ensuring complete multi-modal integration for optimal utilization of capacities. It will also be easy to implement the single ticketing system for easy and hassle-free commute within the city.
- **National Urban Transport Policy 2006** recognized that for urban areas to be able to support the required level of economic activity, easy and sustainable movement of goods and people must be provided. However, till September 2017, only 14 cities have set up UMTA so far.
- **Ease the ever-growing pressure of burgeoning urban population on services:** Indian cities are already facing a plethora of problems like severe congestion, deteriorating air quality and increasing road rage and road accidents. With an increasing urban population that is projected to more than double to 590 million by 2030, the traffic situation is set to worsen further.
- **Help achieve SDG targets:** the move will have positive impact on Sustainable Development Goals including poverty reduction, gender equality, climate action, food security and reducing inequalities.
- **Leverage inland Waterways:** The authority would complement the NITI Aayog's proposed National Policy on Transformative Mobility that aims to reduce the underutilization of existing rail infrastructure, develop inland waterways, utilize coastal areas, and develop unused air strips, among other targets.

Roles and responsibilities of UMTA:

- **Inputs in policy formulation:** UMTA would provide inputs to the Central and State Governments in developing policies and strategies for removing bottlenecks and modernizing the city's transport system.
- **Ensuring project implementation:** UMTA would be responsible for ensuring effective implementation of plans and projects related to urban transport in the Urban Mobility Area.
- **Overseeing operation and management:** Operation, maintenance and management of transport infrastructure and operations involving public transport services are generally carried out, either by public agencies or private companies.
- **Regulation:** Regulatory functions with respect to urban transport include registration and licensing of public, private and freight transport vehicles, fare fixation, issuance of permits, designation of public transport routes and service levels, inspection of vehicles' construction or condition, enforcement of traffic laws and management of traffic. It would ensure enhanced safety as well as equitable and environmentally friendly access and services to the transport system users;
- **Funding:** UMTA would be made responsible to manage Urban Transportation Fund, bringing in transparency and accountability.
- **Research studies and awareness:** UMTA shall be made responsible for conducting research specific to the Urban Mobility Area, including up-grade and extension of urban transport.

Way Forward:

- India needs to have a **single unified transport ministry** with a clear mandate to deliver a multi-modal transport system that contributes to the country's larger developmental goals including economic growth, employment generation, expansion of opportunities, environmental sustainability and energy security.
- It should give adequate focus to hitherto neglected aspects, such as walking and cycling, road safety, street infrastructure, etc.
- UMTA should oversee operations, broad rules and regulations of various public and private transportation service providers in the city.

3.17. DIGITAL PAYMENT

Why in news?

NITI Aayog recently pointed out that the digital payments market in India is set to become a trillion-dollar industry in the next five years, led by growth in mobile payments which are slated to rise to \$190 billion by 2023 from \$10 billion in 2017-18.

About Digital Payment in India

- **The Payment and Settlement Act, 2007 defines Digital Payments/electronic funds transfer** as any transfer of funds which is initiated by a person by way of instruction, authorization or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers; automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet and, card payment.
- The payment system can be bifurcated into **two main segments**:
 - The first segment consists of instruments which are covered under **Systemically Important Financial Market Infrastructure (SIFMIs)** and the second segment consist of **Retail Payments**.
 - **Financial Market Infrastructure (FMI)** is defined as a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions. Under this segment there are four instruments of payments: Real Time Gross Settlement, Collateralized Borrowing and Lending Obligation, Forex Clearing and Government Securities.
 - Under the **Retail Payments segment** which has a large user base, there are three broad categories of instruments. They are Paper Clearing, Retail Electronic Clearing and Card Payments which includes Cheque Truncation System, National Electronic Funds Transfer, Unified Payments Interface, Immediate Payment Service etc.
- India's payment system - particularly, its digital payments system - has been evolving robustly over the past many years, spurred by developments in information and communication technology.
- Digital payment is a primary tool to move to a 'less cash' economy since the cash to GDP ratio in India is one of the highest in the world at about 12%.
- The **user base for digital transactions in India is currently close to 90 million** and could triple to **300 million by 2020** as new users from rural and semi-urban areas enter the market.
- The year-on-year growth of digital payments in 2017-18 was 44.6% which was nearly double the growth in volume for the period 2011-2016.
- Transactions relating to IMPS, PPI and Debit card had exhibited growth rates in triple digits in the year 2016-17.

Benefits

- Digital payment is **faster, easier, more convenient** than cash transactions.
- It **enables increased levels of financial participation** and inclusion.
- It **promotes more transparency and accountability** and decreases the size of the grey or informal economy.
- It **stores digital record of transactions** which customers can track.
- It helps to keep black money under control and also **increases tax compliance**.
- It **reduces cost of transactions**. No additional cost of printing cash is involved with digital payments. A 0.4% reduction in cost of cash can also boost savings by 4 trillion by 2025.
- Economic growth is increased by increasing the level of spending in the economy due to digital payment.
- It hinders the terror financing network and circulation of counterfeit notes.

Challenges

- **Unbanked population**: about 19 percent of the Indian population is still **outside the banking net** which is a major hurdle to digital payments.
- **Low internet penetration**: Internet penetration in urban India was 64.84% in December 2017 and rural internet penetration was just 20.26%.
- **Low levels of digital literacy**: Approx. 40% population is living below poverty line, illiteracy rate is more than 25-30% and digital literacy is almost no-existent among more than 90% of India's population.
- **Lack of resources**: Small Service providers don't have enough **resources** to invest in electronic payment infrastructure. (e.g. Point-of-sale terminals).
- **Cyber threats**: Cyberattacks can cause personal and commercial data to be lost or compromised causing financial institutions financial loss. Based on estimates, cyberattacks cost the global economy 1% of annual GDP.

- **Regulatory hurdles:** The majority of the mobile payment service providers are non-compliant with the strict provisions for dealing with sensitive personal data including financial data as mandated by IT Act, 2000 and rules under it. Also, IT Act is not comprehensive. India lacks laws to protect consumers if they lose money.
- **Cash dependent economy:** 92% of the Indian economy is made up of informal workers, who contribute around 50% of the GDP; 80-90% of these workers are paid in cash. Mediums like smartphones and internet connectivity are still unaffordable to a sizeable population thus denying them access to digital forms of transaction.

Initiatives taken to promote digital payments:

- **The National Payments Corporation of India (NPCI)** was established in 2008 to spearheading the development of the retail payments system.
- Various important milestones attained in the development of the payments system include the introduction of MICR clearing in the early 1980s, Electronic Clearing Service and Electronic Funds Transfer in the 1990s, issuance of credit and debit cards by banks in the 1990s, the National Financial Switch in 2003 that brought about interconnectivity of ATMs across the country, the RTGS and NEFT in 2004, the Cheque Truncation System (CTS) in 2008, the second factor authentication for the 'card not present' transaction in 2009 and the new RTGS with enhanced features in 2013.
- These measures have been complemented by significant initiatives by the NPCI including the launching of grid-wise operations of CTS, RuPay (a domestic card payment network), Aadhaar Payments Bridge System and Aadhaar Enabled Payment System, National Unified USSD Platform (NUUP), UPI and the BHIM application.
- For promotion of the BHIM app, the Government had approved schemes namely 'Referral Bonus scheme for individuals' and 'Cashback scheme for merchants' for a period of 6 months
- Settlement at half-hourly intervals was introduced in the National Electronic Funds Transfer (NEFT) system.
- **Rationalisation of Merchant Discount Rate** was undertaken to provide a boost to digital payments.
- The digital infrastructure called the "**JAM**" trinity by interlinking of Jan Dhan, Aadhaar and mobile numbers was a major landmark.
- Furthermore, **non-bank entities have been introduced in the issuance of pre-paid instruments (PPI)**, including mobile and digital wallets.
- Reserve Bank of India has also decided that all system providers shall ensure that the entire **data relating to payment systems operated by them are stored in a system only in India** to ensure better monitoring.
- **DigiShala:** Free Doordarshan DTH educational channel for creating awareness regarding various forms of electronic payment.
- **Vittiya Saksharta Abhiyan** of Ministry of Human Resource Development aims to actively engage the youth/ students of Higher Education Institutions to encourage and motivate all payers and payees to use a digitally enabled cashless economic system for transfer of funds.
- A Committee on Digital Payments was constituted in 2016 under **Ratan Watal** to recommend measures for promotion of Digital Payments Ecosystem in the country.

Conclusion

For smooth implementation of cash less system in India, a wide variety of measures are needed by the Government. It will have to bring

Recommendations of Ratan Watal Committee

- It recommends for **creation an independent payments regulator** within the framework of the Reserve Bank of India (RBI) or give independent status for the RBI's Board for Regulation and Supervision of Payment and Settlement Systems (BPSS) to be called the Payments Regulatory Board (PRB).
- It had also suggested **interoperability between banks and non-bank digital payment gateways/entities** as well as within non-banks.
- Other major suggestions have been creation of a fund for promotion of digital transactions, withdrawal of all charges on digital-based transactions by the government, with special emphasis on low-value transactions (that are mainly financed by cash).
- It had also asked RBI to upgrade the existing real-time gross settlement system (RTGS) and National Electronic Funds Transfer (NEFT) systems so that they operate on a 24/7 basis.
- It also called for mandating government departments and agencies to provide options to consumers to pay digitally as well as incentivize consumers to make payments (including payment of fines and penalties) to the government electronically by giving a discount or cashback.

transparency and efficiency in e-payment system, strategies licensing payment banks, promoting mobile wallets and withdrawing service charge on digital payments, etc.

- **Reducing the digital divide** and increasing the awareness in the rural public.
- **Ease the complexities and enable end-of-day settlement process for the merchants** (As small retailers and merchants need rotation of cashflow in quick turnaround time for their business operations).
- **Reduce the transaction charges** over the digital payments and discourage cash transactions.
- **ICT infrastructure** plays a vital role in successful adaptation of digital payments and hence there is intrinsic need to improve and offer requisite infrastructure for digital payments.
- Emphasis on integrated system of digital payments that can reduce the existing challenges and support in quality outcome (For instance, ensuring more stringent laws for security breach, IT ACT for digital payment transactions etc.)

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4. SECURITY

4.1. MAOIST ORGANIZATIONS IN TOWNS AND CITIES

Why in News?

Recent arrests of five people with alleged Maoist links for their role in Bhima – Koregaon incident has once again brought the debate on the concept of “Urban Naxalism”.

Background

- **1967:** Naxalite movement started by Charu Majumdar, Kanu Sanyal and Jangal Santhal in Naxalbari area of West Bengal.
- **2004: CPI (Maoist)** was formed with the merger of CPI (Marxist-Leninist) People’s War Group (PWG) and the Maoist Communist Centre of India. It professed a violent ideological line to overthrow the democratically elected Parliamentary form of Government in India through a three pronged strategy that include:
 - **Using its People’s Liberation Guerilla Army (PLGA)**, Maoists aim to capture territories in the country side and gradually encircle the urban centre.
 - **Use of Mass Organizations, also known as ‘Front Organizations’ mainly in urban areas** to mobilize certain targeted sections of the urban population, recruit professional revolutionaries, raise funds for insurgency, create urban shelters for underground cadres.
 - These organizations are generally manned by ideologues that include academicians and activists, mostly operating under the garb of Human Rights NGOs that are organically linked to CPI (Maoist) party structure but maintain separate identities in an attempt to avoid legal liability.
 - Such organizations are also adept at using the legal processes of the Indian State to undermine and emasculate enforcement action by the security forces and also attempt to malign the State institutions through a concerted and systematic propaganda and disinformation campaigns to further their cause. These ideologues have kept the Maoist movement alive and are in many ways more dangerous than the cadres of the PLGA.
- **Operational Structure of CPI (Maoist):** The Polit Bureau (PB), the think tank of the Maoist organization keeps in touch with the over-ground frontal organizations (operating in urban areas), operators and sympathizers and formulates long-term policy and strategy.
- **To form a Rainbow Coalition of various insurgent groups:** so as to launch a united front attack against the existing state machinery.
- **Banned under Unlawful Activities (Prevention) Act, 1967:** CPI (Maoist) party and all its formation and front organizations have been listed as Terrorist organizations under the Unlawful Activities (Prevention) Act, 1967.

About Urban Naxalism

- **In 2004, a CPI (Maoist) document titled ‘Urban Perspective: Our Work in Urban Areas’ elaborated on Urban naxalism strategy:** with a major focus on gaining leadership and expertise from urban areas, it emphasized on mobilizing industrial workers and urban poor, establishing front organizations, building ‘tactical united fronts’ of likeminded organizations including the students, middle class employees, intellectuals, women, dalits and religious minorities and engaging in military tasks such as providing personnel, technologies, material and infrastructure along with infiltration of police.
- **Active front organizations in many Indian cities:** Intelligence report reveals that front organizations supporting 'Urban Naxalism' are active in a number of cities including Delhi, Mumbai, Kolkata, Chandigarh, Ranchi, Hyderabad, Visakhapatnam, Madurai, Thiruvananthapuram, Nagpur and Pune.

Significance of Urban presence for Naxals

- **Logistics Support:** The utility of having a presence in urban centres and operate there was

Arrest of a person professing the ideology of a Maoist:

- Kerala High Court in 2015 had held that being a Maoist and having a political ideology of the Maoist is no crime unless the police form a reasonable opinion that his activities are unlawful.
- Only if the individual or organisation abhors and resorts to physical violence, the law agency can prevent or take action against the individual or organisation.

best illustrated when police seized empty rocket shells and rocket launchers in 2006, in Mahabubnagar district, Andhra Pradesh. This elaborates the network that Maoists had built to manufacture rocket parts and transport them to different parts of the country.

- **Tapping industrial workers:** penetrating the working class movement in important industries such as communication, oil and natural gas, coal, transport, power, defence production, etc is envisaged. The detection of Maoist activities in towns such as Surat, in Gujarat, earlier in 2006, and later on several other industrial belts, clearly reaffirms this.
- **Attracting students and youth:** The Urban Movement has attracted students towards the Maoist fold in various parts of the country. Security agencies believe that the front organizations have started vigorous movement in the education sector, to rope in students from several reputed colleges for their cause.
- **Urbanisation itself has some faultlines and the Maoists could well exploit these to their advantage:** Besides, the Maoists enjoy some degree of sympathy and support among the urban intellectuals and middle class, including students and teachers in schools, colleges and universities.
- **Rest and recuperations:** On many occasions important top-level leaders of the CPI (Maoist) have been arrested from cities and towns hiding under the garb of civil society.

Way Forward

- Ministry of Home Affairs suggests that the strategy to tackle Left-Wing Extremist (LWE) challenges must include plans to tackle 'Urban Naxalism'. State must initiate legal action against the Maoist front organizations.
- A separate budget should be provided to counter the growing Naxal footprint in cities.
- Initiating legal proceedings against the ideologues including academicians and activists often resulted in negative publicity for enforcement agencies due to effectiveness of the Maoist propaganda machinery. There is a need to address the issue through systematic, protracted and persistent efforts.

4.2. DATA PROTECTION

Why in news?

Recently, B. N. Srikrishna committee submitted its report on a Data Protection Framework and a draft bill on data protection.

About Data Protection

- Data protection is the process of protecting data and involves the relationship between the collection and dissemination of data and technology.
- It aims to strike a balance between individual privacy rights while still allowing data to be used for myriad purposes.
- It is required as the volume of data on internet is expanding exponentially and the spread of new technologies like **artificial intelligence internet of things big data** poses a threat of abuse and misuse of data.
- Any data protection framework should secure data in its entire life cycle – Data Collection, Data Processing, Data Use, Data Sharing, Data Destruction.
- Several countries have dedicated law for data protection like Japan's Act on Protection of Personal Information. Recently European Union has adopted **General Data Protection Regulation 2018**.

Challenges/ constraints in data protection

- Most of the **data storage companies are based abroad**. They also export data to other jurisdiction making it difficult to apply Indian laws.
- India does not have capability for **data localization** i.e. to store data within country.
- There **hundreds of private players** are involved in data dynamics which makes it difficult to apply uniform data protection framework.
- Generally, the application using **pre-ticked boxes on consent** while asking users regarding the acceptance to the terms and conditions.
- It is usually **difficult to trace the perpetrator** invading the data privacy.

Data protection and India

- India has around 40 cr internet users and 25cr social media users who spend significant time online. The average cost for data breach in India has gone up to Rs. 11.9 crore, an increase of 7.9% from 2017.
- Supreme Court in K.S. Puttaswamy case has declared **Right to Privacy is a Fundamental right**. Hence protecting individual privacy is constitutional duty of the state.
- India does not have any dedicated legal framework for data protection. Presently some acts cover the data protection in general

- **Sec 43 A of Information technology act 2000** protects user data from misuse but it is applicable to **only corporate entities and not on government agency**. Also the rules are restricted to sensitive personal data only — **medical history, biometric information among other things**.
- Other acts like **consumer protection Act 2015, copyrights act 1957** among others also attempt to protect the personal information.
- Various attempts at data protection include
 - In 2011 **justice A. P. Shah Panel** on data privacy recommended principles for data protection.
 - In 2017, a **data privacy and protection bill** was tabled in parliament.
 - **Recently Telecom regulatory authority of India (TRAI)** has given its guidelines for data security.
 - Constitution of **Justice B. N. Sri Krishna Committee** to prepare **framework for data protection** and a **draft bill**, which submitted its report recently. Based on the framework, the committee has also prepared a **Draft Personal Data Protection Bill 2018**

TRAI guidelines for data security

- The public should be given **the right to choice, consent and to be forgotten** to safeguard their privacy.
- Individual owns the data while data collectors and data processors “mere custodians” of data who are subject to regulations.
- All entities in the digital eco-system, which control or process the data, should be restrained from using metadata to identify the individual users. In fact, standards for anonymisation/de-identification of personal data in digital systems should be formulated.
- Both **collectors and processors should be accountable** for “unintended harm” caused to the user.
- Entities should follow the principle of **data minimization** i.e. to collect the bare minimum data needed to provide the service.
- Existing privacy laws that apply to telecom service providers (TSPs) should also apply to “all entities in the digital ecosystem” such as devices (mobiles and computers), browsers, software operating systems, applications, and over-the-top (OTT) service providers that distribute media streamed over the Internet.

Key features of Data protection framework as provided by Sri Krishna Committee

- **Fiduciary relationship:** The relationship between the individual and the service provider must be viewed as a fiduciary relationship. Therefore, the service provider processing the data is under an obligation to deal fairly with the individual’s personal data, and use it for the authorised purposes only.
- **Definition of personal data:** It defined what constituted personal data as data from which an individual may be identified or identifiable, either directly or indirectly. It sought to distinguish personal data protection from the protection of sensitive personal data (e.g., caste, religion, and sexual orientation of the individual), since its processing could result in greater harm to the individual.
- **Consent-based data processing:** except these four cases:
 - where processing is relevant for the state to discharge its welfare functions
 - to comply with the law or with court orders in India
 - when necessitated by the requirement to act promptly (to save a life, for instance)
 - in employment contracts, in limited situations (such, as where giving the consent requires an unreasonable effort for the employer)
- **Ownership of personal data:** through rights such as right to access, confirm & correct data, right to object data processing and **right to be forgotten**.
- **Regulatory authority:** to inquire into and take action against any violations of the data protection regime. It may also categorise certain fiduciaries as significant data fiduciaries based on their ability to cause greater harm to individuals which will then be required to undertake additional obligations.
- **Amendments to other laws:** Minimum data protection standards should be adhered to for all data processing in the country authorized under various laws such as Information Technology Act, Census Act etc.

Key provisions of Draft Personal Data Protection Bill 2018

- **Objective:** To balance the growth of the digital economy and use of data as a means of communication between persons with a statutory regime that will protect the autonomy of individuals from encroachments by the state and private entities.
- **Rights of the individual:** The Bill sets out certain rights of the individual. These include: right to obtain confirmation from the fiduciary on whether its personal data has been processed, right to seek

correction of inaccurate, incomplete, or out-of-date personal data, and right to have personal data transferred to any other data fiduciary in certain circumstances.

- **Obligations of the data fiduciary:** include implementation of policies with regard to processing of data, maintaining transparency with regard to its practices on processing data, implementing security safeguards (such, as encryption of data), and instituting grievance redressal mechanisms to address complaints of individuals.
- **Data Protection Authority:** to protect interests of individuals, prevent misuse of personal data, and ensure compliance with the Bill.
- **Data localization:** It mandates Data localization of at least one copy in India by data fiduciary.
- **Grounds for processing personal data:** The Bill allows processing of data by fiduciaries if consent is provided except certain circumstances as provided in the framework.
- **Grounds for processing sensitive personal data:** explicit consent of the individual is required for Processing of sensitive personal data except if necessary for any function of Parliament or state legislature, for providing benefits to the individual, or for the compliance of any court judgement.
- **Define Sensitive personal data:** It includes passwords, financial data, genetic data, caste, religious or political beliefs, or any other category of data specified by the Authority.
- **Transfer of data outside India:** Personal data (except sensitive personal data) may be transferred outside India only where the central government has prescribed that transfers to a particular country are permissible, or where the Authority approves the transfer.
- **Exemptions from compliance:** It also gives exemptions for processing of personal data for certain purposes, such as **journalistic activities, law enforcement, security of state.**
- **Offences and Penalties:** The Authority may levy penalties for various offences by the fiduciary including failure to perform its duties, data processing in violation of the Bill, and failure to comply with directions by the Authority. For example, under the Bill, the fiduciary is required to notify the Authority of any personal data breach which is likely to cause harm to the individual failing which can attract a penalty of the higher of Rs 5 crore or 2% of the worldwide turnover of the fiduciary.
- **Amendments to other laws:** The Bill makes consequential amendments to the Information Technology Act, 2000 and RTI Act to permit nondisclosure of personal information where harm to the individual outweighs public good.

Positive impact of the bill

- The law will create the balance between the rights of the individual and the public good that comes from the digital economy.
- So far there is no dedicated framework for data protection across country. The proposed law will help create data security architecture and protection of personal information of citizens.
- The bill will put a check on state surveillance of citizens and help them against being victimized by state.

Issues with the bill

- There is **no clarity on what kind of security standards** should be followed by the data fiduciary.
- There are multiple standards being followed as of now. For example, payment companies which deal with financial data follow PCI-DSS (Payment Card Industry Data Security Standard), health firms follow HIPPA (Health Insurance Portability and Accountability Act) globally etc.
- The regulation may **discourage people from using internet and social media** as reflected in case of (EU's) General Data Protection Regulation (GDPR) which mandates that every EU citizen's data be stored within the EU. The Facebook and Twitter has noted drop in their revenue and visitors' numbers.
- It does not clearly define **the government's accountability** when it processes personal data of users without their consent.
- The bill also **does not define the time frame** for periodic review and frequency of data security audit of companies as well as for reporting of personal data breach at the fiduciary's end.
- **Issues with data localization**
 - There is no evidence that **data localization** leads to better privacy and security of data.
 - The industry will have to incur **the additional costs given the bill proposes** that companies ensure the storage, on a server or data centre located in India, of at least one copy of personal data.
 - Keeping a copy in **India does not really guarantee** against breach of security or privacy. There have been cases of government beneficiaries' data residing on servers in India being published, going against Aadhaar Act.
- The bill asks to **replace sec 8(1) (j) of RTI act 2005** which may pose a threat to denial of information on the vague grounds of **loss of reputation, mental injuries and will render the Act ineffective in securing access to public records** pertaining to public servants.
- The exemption on the ground of security of state may be too broad and may lead to surveillance and systematic access to citizens' data by the state.

- **Recognises privacy as a fundamental right:** It has provisions to protect personal data as an essential facet of information privacy.
- **Monitoring provisions:** Requirements of conducting **Data Protection Impact Assessments**, audits and appointing a **Data Protection Officer** are also included in the bill. There should be a **periodic review** to check if continued storage of data is necessary.

4.3. STRATEGIC PARTNERSHIP MODEL

Why in news?

The Defence Acquisition Council (DAC), chaired by defence minister has approved Implementation guidelines for the Strategic Partnership Model.

What is strategic partnership model?

- The model, whose concept was first suggested by the **Dhirendra Singh Committee**, visualises designating a few private companies as Strategic Partners (SPs) that would not only assume the role of system integrators but also lay a strong defence industrial foundation.
- Strategic Partnership Model aims **to revitalize defence industrial ecosystem and progressively build indigenous capabilities to design, develop and manufacture** complex weapon systems for the future needs of the Armed Forces.
- It aims to promote **Joint ventures between indigenous private sector and global defence majors**.
- The government aims to achieve a **turnover of Rs 1,70,000 crore in military goods and services by 2025**.

Guidelines

- **Incentivise indigenisation:** It lay emphasis on incentivisation of transfer of niche technology and ensure higher indigenous content in military equipments to be produced in India.
- **Incentivise global Majors:** Global majors in collaboration with Indian Partners willing to make India a Regional / Global manufacturing hub will also be incentivized.
- **Empowered Project Committees (EPC):** All procurements under the SP Model would be executed by specially constituted EPCs.
- **Specify norms:** The guidelines also specified norms for carrying out various sector specific manufacturing projects.

Benefits

- It will **boost self-reliance** by encouraging indigenous defence industry and aligning the defence sector with the 'Make in India' initiative leading to reduction in dependence on imports.
- EPC will provide focussed attention and ensure **timely execution** of the projects, thus, ensuring timely delivery of equipment to the Armed Forces.
- It will **enhance competition, increase efficiencies**, facilitate faster and more significant absorption of technology.
- It will ensure **development of a wider skill base and promote innovation**.
- The model would also go a long way in **bridging the long-standing trust gap** between the Indian private sector and Ministry of Defence.

Challenges

- **Lack of institutional capacity:** Due to this, several promising measures in the past, especially those connected with the 'Make' and 'Buy and Make (Indian)' procedures, have failed to yield the desired results.
- **Lack of structural and procedural reforms:** Lack of reforms in the structures and decision-making processes related to procurement and production have inhibited the development of a strong defence industry.
- **IPR issues:** The sensitive issue of Intellectual Property Rights (IPR) is one of the reasons why foreign vendors are generally reluctant to transfer technologies.
- **Issue of viability:** There is also a concern regarding the long-term viability of SPs largely due to the privileged position enjoyed by public sector entities. In the past as well, the MoD has often deviated from fair play in award of contracts and handed over large orders to Defence PSUs and Ordnance Factories on nomination.

Thus, Government needs to develop capacity and provide adequate resources to implement the model along with following the principle of merit in contract awards.

4.4. BORDER AREA DEVELOPMENT PROGRAMME (BADP)

Why in news?

The Centre has increased its outlay under Border Area Development Programme (to Rs. 1,100 crore in 2017-18 from Rs. 990 crore in 2015-16) for the all-round development of villages located along the international border in 17 states.

About BADP

- India's border areas face poor accessibility, inadequate infrastructure, depressed economic growth, rampant poverty and a sense of insecurity among the people. The development of border areas has therefore been envisaged as an important element in border management. Towards this end, the BADP was initiated as early as 1987 as a **Centrally Sponsored Scheme**.
- It has three primary objectives: (a) **to create infrastructure** (b) **provide economic opportunities to the border people**, and (c) **to instil a sense of security among them**.
- BADP covers 111 border districts in 17 States to meet special development needs of border population with focus on people living within 50 kilometres of the International Border.
- Initially, the programme was implemented in the **Western Border States** with an emphasis on the development of infrastructure to facilitate deployment of the Border Security Force.
- Later, the ambit of the programme was widened to include other socio-economic aspects such as education, health, agriculture and other allied sectors.
- The implementation of BADP is on **participatory and decentralized basis** through the Panchayati Raj institutions, Autonomous Councils and local bodies.

Constraints in Implementation of BADP Scheme

- Its first phase is to be implemented in the 0-10 km range from the border areas. When all the development works for this area are completed, the state Government can then start the work in the area beyond 10 km and so on. This is problematic because to reach the phase one areas one must go through utterly **underdeveloped areas** which are to be covered in later phase, which makes the project expensive.
- Further, BADP mandates that no work should be allotted beyond 10 km unless 0-10 km (from border) area is '**saturated**'; except that there are no criteria to judge whether or not the area is saturated.
- In some remote areas, heavy rainfall during the rainy season and snow fall during the winter season creates a great **difficulty in implementation** of the scheme, especially construction work.
- The **money under the scheme** gets spent on infrastructure which other schemes also create. The impact of the specific goals of BADP thus stands diluted.
- There is **no proper formula for the allocation of funds**. This creates a lot of scope for subjectivity and monopoly. A fund allocation ratio should be decided as per the distance from border.

Impact of the Scheme

- The **impact of scheme varied** in different states. For example-
 - 32% of the people of Manipur, 54% of the people of Mizoram and 100% of people in Himachal Pradesh were satisfied in terms of **impact of community development work** of the scheme.
 - 82% of the people of Tripura and 14% of the people of Nagaland settled said they do not **feel secure**. 100% of the people of Gujarat settled said they feel secure.
 - In almost all areas (except Himachal Pradesh) the **women's participation** remained varied and unsatisfactory.
- Also, in terms of **convergence with other schemes**, it is not very successful because none of the clusters seem satisfied with it.
- As observed, the bigger villages having village panchayat get most of their works done while small villages associated with that village panchayat fail to get much attention. Thus, there need to be some formula for the **distribution of funds**. **Political connections** play a major role in sanction of work under BADP.

Recommendations for Better Implementation of BADP

Among various other recommendations of NITI Aayog, few of the important ones are-

- **Inspection and Monitoring of Program-** There should be a uniform format throughout the country for evaluating the financial status of such developmental schemes. At present, each State has its own format/Proforma for this purpose. Also, Blocks should be involved at every stage from framing and sending a proposal to the implementation of tasks under BADP.

- **Employment and Skill Generating Schemes-** The agriculture sector has become saturated and there is an increase in number of both educated and uneducated unemployed youth

who feel that the wages under the scheme are low. There has to be a high degree diversification in the rural economy to bring home non-farming employment opportunities like Small-Scale Industry Promotion.

- **Political Involvement should be Reduced-** Although there is political and popular pressure that influences and informs the selection of the work, yet diversification of the works is advisable on the basis of local needs.
- **Awareness about BADP-** Along with good coordination among various line departments there is an urgent need for awareness building campaigns in all selected districts and blocks regarding various assets covered under BADP.
- **Construction of all-weather Roads-** The problem of inadequacy of funds and a limited flow of funds from the Centre is further exaggerated because these villages are not connected by roads. In cases emergency, the people of these villages find it extremely difficult to access basic amenities.
- **More Funds/Timely Release of Funds-** This remains a major constraint to the timely completion of work under BADP.
- **Power to Panchayats in Planning-** Panchayat Samiti of the Border villages should be involved in the planning and implementation of the programme because they would be in the best position to evaluate the work of the agencies involved at all levels as well as to forward all the information to the BDOs and Nodal Officers in the district.
- **Confidence Building among People-** Due to socio-economic stress, border areas need special treatment when it comes to planning for development, i.e. accelerated and integrated sustainable development. Here, confidence building measures are integral to any developmental strategy hoping to be successful in these areas.

Recent changes in BADP

- For comprehensive and all-round development of border villages, it has been decided to **develop 61 model villages**.
- Each model village will provide all basic facilities like primary health centre, primary education, community centre, connectivity, drainage, drinking water, etc. to enable sustainable living in border areas.
- **BADP Online Management System** has been launched for better planning, monitoring and implementation of various projects under BADP.
- Border States can submit their respective **Annual Action Plans online** and receive approvals from Ministry of Home Affairs in **electronic mode** which will bring in transparency in the sanction process and improve quality of planning and implementation.

5. ENVIRONMENT

5.1. KERALA FLOOD

Why in news?

Recently, Kerala witnessed their worst flood since 1924, killing at least 480 people, displacing 780,000 and causing ₹ 50,000 crore worth of damage in State.

Background

- **India's Vulnerability to Floods:** Out of 40 million hectares of a geographical area, 3290 lakh hectares is prone to floods in country.
- **Impact of Climate Change:** Intensity of extremely wet spells and extremely dry spells during the South Asian monsoon season have been increasing since 1980.
- **Financial Drain:** Floods costs the country Rs. 8,12,500 crore between 1953 and 2011 and according to World Resources Institutes (WRI), by 2030, up to \$154 billion of the country's gross domestic product could be exposed to flood risks each year, as climate change fosters more extreme weather events.
- **Comptroller and Auditor General (CAG) in June 2017** says the States have failed to conduct a scientific assessment of flood-prone areas and of the 349 dams surveyed, only 40 prepared detailed disaster management plans.
 - It also pointed out that **poor dam management** was responsible for India's floods, such as Bihar in 2016 and Surat in 2006. In the 2015 Chennai floods, which claimed 295 lives, violation of dam safety norms was a critical factor.

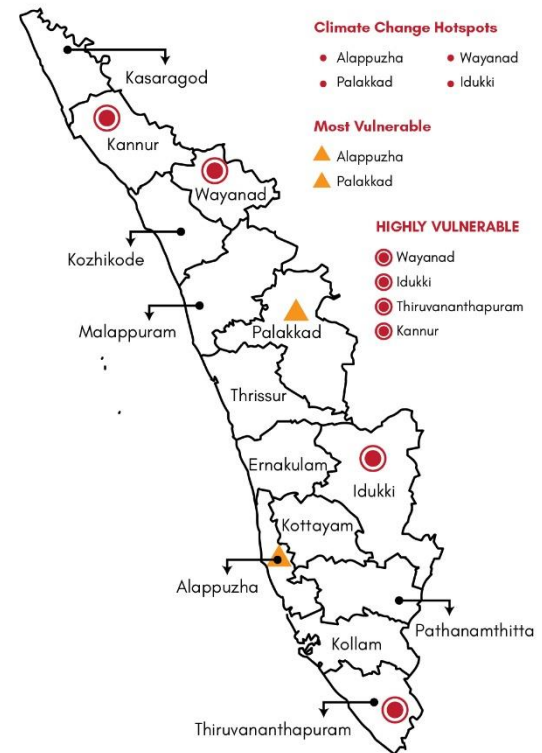
Flood vulnerability in Kerala

- **Rashtriya Barh Aayog (RBA)** had estimated 8.70 lakh hectares area as flood prone out of 38.90 lakh hectares of geographical area in Kerala.
- **Kerala State Action Plan on Climate Change (SAPCC)** in 2014 assessed that state is severely threatened by climate change (see infographic).
- **Central Water Commission (CWC)**, India's only flood forecasting agency, does not have any flood forecasting system in Kerala.
- **Gadgil report on fragile ecosystem of Western Ghats (2011)**, had warned that illegal mining and deforestation had led to massive encroachment of river fronts in the state, and there was an urgent need for corrective action.
 - It also said that, unchecked quarrying and construction in ecologically sensitive areas, can cause disastrous floods due to premature siltation in many reservoirs in the Western Ghats.

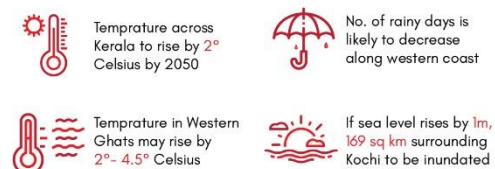
Reasons

- **Incessant rainfall:** Kerala received 2,346.6 mm of rainfall against a normal of 1,649.5 mm since the beginning of June. The "active" phase of the monsoon is when the monsoon trough moves south of its normal position causing heavy and intense showers in the southern peninsula
- **Dam Mismanagement:** There was an instant release of water from dam due to heavy rain, as dam reservoirs were not emptied before the onset of rain, flooding the nearby regions at a much faster rate than expected.

VULNERABLE TO NATURAL HAZARDS



CLIMATE CHANGE SCENARIO



- Kerala government claimed that sudden releases of water from the Mullaperiyar dam (located in Kerala, but operated by Tamil Nadu) was a cause for the floods in the State.
- **Stone quarrying:** A recent study by the **Kerala Forest Research Institute** pointed out that there were 5,924 big, medium and small quarries in the state. Mudslides and landslides were reported in 211 different places across the state which is attributed to increasing stone quarrying activity and large-scale deforestation.
- Other factor which aided in flood are **deforestation drive** for development purpose, **Uncontrolled sand mining** has constrained river flows, while the rapid **spread of high-rise buildings** on unstable hill slopes has weakened the soil. This unplanned development has left the area susceptible to flash floods and landslides.

Impact

- **Impact on Agriculture:** Standing paddy crop and plantations of banana, rubber, cardamom, pepper and arecanut have been devastated as the floods have been concentrated in the plantation districts of Idukki, Kottayam and Wayanad.
- **Loss of Livelihood:** According to Care Ratings, employment of nearly 41.3 lakh has been affected and the wage loss is estimated at around Rs 4,000 crore for August.
- **Loss of Soil Fertility:** Flood cause heavy damages to top soil, which takes time to be restored to its natural state.
- **Cultural loss:** Kerala government has cancelled the celebration of **festival Onam**, the harvest festival of Kerala.
- **Economic Impact:** According to ASSOCHAM, floods in Kerala could potentially have caused damage worth Rs 15,000-20,000 crore, which include infrastructural damages to 134 bridges and 16,000 km of Public Works Department roads.
- **Disease outbreak:** Following severe flooding, 196 **leptospirosis (rat fever) cases** and nine deaths have been confirmed in Kerala.
 - Leptospirosis (also called Weil's disease) is a waterborne bacterial disease, caused by the leptospira bacteria. It rarely spreads from person to person and can be treated with common antibiotics. It's incubation period is between five and 14 days.

NDMA guidelines on Management of Flood

- Shifting the focus to preparedness by implementing FMPs.
- Ensuring regular monitoring of the effectiveness and sustainability of various structures and taking appropriate measures for their restoration and strengthening.
- Continuous modernization of flood forecasting, early warning and decision support systems.
- Ensuring the incorporation of flood resistant features in the design and construction of new structures in the flood prone areas.
- Drawing up time-bound plans for the flood proofing of strategic and public utility structures in flood prone areas.
- Improving the awareness and preparedness of all stakeholders in the flood prone areas.
- Introducing appropriate capacity development interventions for effective FM (including education, training, capacity building, research and development, and documentation.)
- Improving the compliance regime through appropriate.

Dam Management in India

- About 75 percent of the large dams in India are more than 25 years old and about 164 dams are more than 100 years old. A badly maintained, unsafe dam can be a hazard to human life, flora and fauna, even India has had 36 dam failures in the past.

Dam Rehabilitation and Improvement Plan (DRIP)

- It is an externally-aided project. 80% of the total project is provided by the World Bank as loan/credit and remaining 20% is borne by the States / Central Government (for CWC).
- This project started in April 2012, for repair and rehabilitation of initially 225 Dams across seven states namely Jharkhand (DVC), Karnataka, Kerala, Madhya Pradesh, Odisha, Tamil Nadu, and Uttarakhand (UJVNL).

- At present there are 198 Dams under this project which are scheduled for completion in June 2018.
- Objective of DRIP –
- to improve the safety and operational performance of selected existing dams and associated appurtenances in a sustainable manner, and
- to strengthen the dam safety institutional setup of participating States / Implementing Agencies.

Emergency Action Plan

- The Emergency Action Plan (EAP) for the Dams under DRIP has been proposed. EAP is a formal plan that identifies potential emergency conditions at a dam and prescribes the procedures to be followed to minimize loss of life and property damage.
- EAP help in streamlining the efforts and bring about better coordination among different agencies to execute rescue and relief activities.

Dam Safety Bill, 2018

- The objective of this Bill is to help develop uniform, countrywide procedures for ensuring the safety of dams and provides for proper surveillance, inspection, operation and maintenance of all specified dams in the country to ensure their safe functioning.
- It provides for constitution of a **National Committee on Dam Safety** which shall evolve **dam safety policies** and recommend necessary regulations
- It provides for establishment of **National Dam Safety Authority** as a **regulatory body** which shall discharge functions to implement the policy, guidelines and standards for dam safety in the country.
- The Bill provides for constitution of a **State Committee on Dam Safety** by State Government.

About State Committee on Dam Safety

- It will ensure proper surveillance, inspection, operation and maintenance of all specified dams in that State and ensure their safe functioning.
- It lays onus of dam safety on the dam owner and provides for penal provisions for commission and omission of certain acts.
- Every state having specified number of dams will establish **State Dam Safety Organization** which will be manned by officers from the field dam safety preferably from the areas of dam-designs, hydro-mechanical engineering, hydrology, geo-technical investigation, instrumentation and dam-rehabilitation.

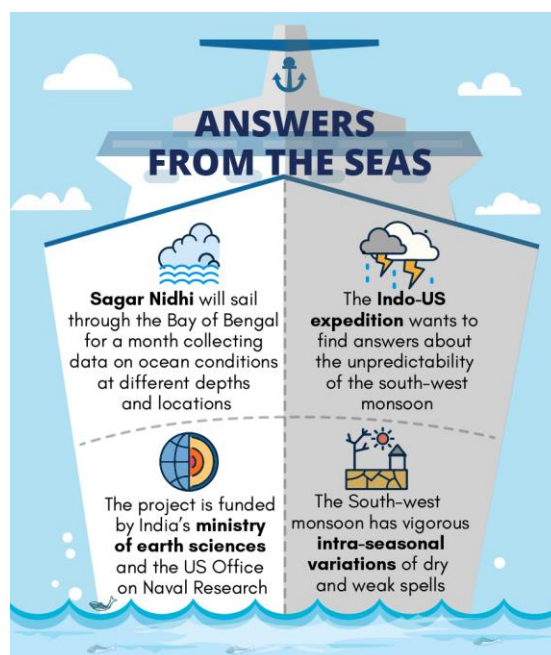
5.2. MONSOON FORECASTING

Why in News?

Recently, Indian Ocean Research Vehicle (IORV) Sagar Nidhi as part of India- US expedition seeking to find answers to vagaries of Bay of Bengal fed South-West Monsoon was set out in Indian Ocean.

Monsoon forecasting in India

- IMD adopted new methodology to forecast monsoon in India. The new methodology, called dynamical forecasting, breaks away from the century-old tradition of using the British-developed statistical system for forecasting.
- The dynamic modelling used by India has been sourced from the US and is being tweaked according to the Indian monsoon.
- Ministry of Earth Sciences (MoES), Government of India had launched 'National Monsoon Mission' (NMM) in 2012 with a vision to develop a state-of-the-art dynamical prediction system for monsoon rainfall on different time scales. Major objectives of the mission are:



- To setup a state-of-the-art dynamical modeling frame work for improving prediction skill of Seasonal and extended range prediction system; and Short and medium range prediction system
- To setup the infrastructure and manpower required to improve the prediction skill at all time scales (long, seasonal, extended, medium and short range) over Indian region
- To build a working partnership between the Academic / Research & Development Organizations and the Operational Agency to improve the monsoon forecast skill

Why it is difficult to forecast monsoon in India?

- **Huge variability of monsoon:** Many factors seem to affect the duration and intensity of monsoon, which include:
 - **El Nino Southern Oscillation (ENSO):** A climatic phenomenon associated with warming up of eastern Pacific Ocean. Other factors temper or boost the impact of El Nino such as the **Indian Ocean Dipole (IOD)** which is the difference in the Sea Surface Temperature between the western Indian Ocean near Arabian Sea and the Eastern part near the Bay of Bengal. A warmer western pole leads to a positive IOD that can act as a neutralizing factor to El Nino and result in normal rainfall. Other factors include - Equatorial Indian Ocean Oscillation (EQUINOO), Madden Julian Oscillation etc. Moreover, they share complex relations between themselves thus further complicating the scenario.
 - **Anthropogenic Emissions affect rain patterns:** Warmer atmosphere has direct correlation with greater variability in the monsoon.
 - **Air Pollution:** complicates the rainfall variability as aerosols such as black carbon interact with sunlight resulting in either scattering or absorbing sunlight. Scattering prevents the light from warming the earth surface while absorbing causes the particles to warm the air around them which ultimately alters the heating pattern of atmosphere and heating up of the land relative to Ocean.
 - **Forest Cover:** in August and September around a quarter of the precipitation in the large basin of eastern India comes from land surface, mainly through the evapotranspiration in the forests. Large scale deforestation around the world can lead to an 18% decrease in the Indian Monsoon.

Dynamic Weather Prediction Model

A dynamic weather prediction model involves 3D mathematical simulation of the atmosphere on computer. Dynamic models are especially useful for predicting rainfall over smaller spatial and temporal scale, which is not possible in the statistical forecasting system. With dynamic models, we will be able to provide monthly forecasts for every state.

Dynamic models have several advantages.

- The dynamic model, also known as the Coupled Forecast System, is based on faster computing to improve short-range forecasts. It provides the flexibility to upgrade forecasts for specific regions and enables collation of data on local as well as global weather patterns to simulate a forecast for a specific duration.
- They can be used along with agriculture and hydrological models. They can be used for many more purposes than rainfall prediction. One can get real-time information on wind, temperature and humidity in digitised format.

Earlier system and its limitations

India earlier used statistical forecasting system. Statistical models require lengthy calculations to track the southwest monsoon. The model uses historical relationships between rainfall and six to eight predictors such as sea-surface temperatures and south-easterly winds over the Indian ocean.

- Failure in prediction: For instance, IMD couldn't predict the oncoming droughts in the years 2002, 2004 and 2009. Also, from 1988 to 2010, the IMD has been able to successfully predict the monsoon only nine times which translates to a success rate of a mere 40 percent.
- It gives forecasts for the country as a whole and five regions, though does not give separate ones for the country's 29 states. Because of India's size, one national forecast is of little help to farmers spread across diverse climatic zones.

Benefits

- Weather forecast systems under the National Monsoon Mission (NMM) will be extended up to the block level across the country by 2019. It would help the farmers, policy makers, administrators and all concerned alike.
- It will be possible to predict droughts. Fallout of droughts like those of 2004 and 2009 could be prevented if we're able to warn farmers in advance.
- Better forecasting could help India raise its farm output by nearly 15 percent, by helping farmers tweak the best time to sow, irrigate or apply fertilizer to crops and if rains fail plan state-wide measures.
- Also, better forecasts resulting in better farm outputs can stabilise the inflation level and thereby provide for effectual transmission of monetary policies in the economy.

- **Other factors:** for instance dust over North Africa and the Arabian Peninsula absorbs sunlight, warms the air and strengthens wind carrying moisture eastwards which later cause heavy rainfall in India. Similarly, **climate change** further complicates the phenomena.
- **Monsoon Depressions:** these are the depressions formed over Bay of Bengal and are known for producing heavy rainfall during monsoons. In recent years, these are reducing due to anomalous moisture convergence over the western Indian ocean due to rapid sea surface warming.
- **Need for better understanding the role of Jet streams:** During monsoon, strong winds known as **low level monsoon jet stream** appear around the southern part of India at an altitude of about 1.5 Km above the ground. Similarly, around 14 Km altitude (very near to stratosphere) there is another jet stream from the East. The speed, along with the North South movement of these two Jet streams controls the distribution of rainfall over the Indian region.

5.3. GANGA DRYING UP IN SUMMERS

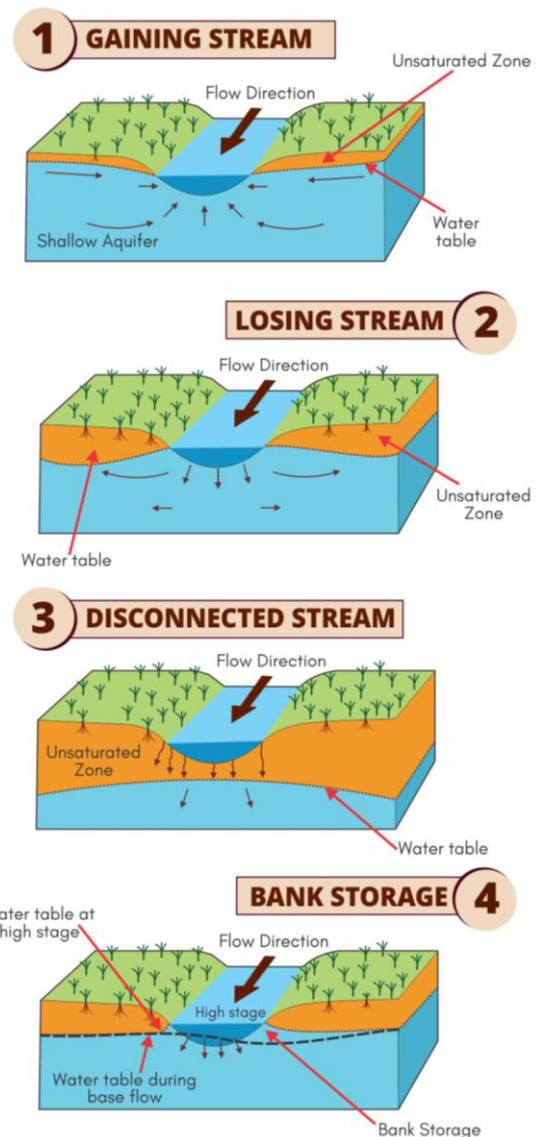
Why in News?

A recent study by IIT Kharagpur found that the Ganga River water levels are declining in several lower reaches in the last few summer seasons, as groundwater storage around the river is depleting.

Findings of the study

- **Unprecedented low water levels:** The summer of 2015 and 2017 witnessed an unprecedented low water level and flow in the middle and lower reaches of the Ganga.
- **Rate of water level change over the years:** Water level in River Ganga depleted at a rate of -0.5 to -38.1 cm/year between the summer of 1999 and 2013. The constant reduction in water flow in downstream states was possibly caused by groundwater depletion in the adjoining aquifers.
- **Significance of the adjoining Gangetic aquifers:** The present day base flow (part of total river flows which represent groundwater seepage into a stream channel from natural storage) to the Ganga from the adjoining aquifers may be a third or more of the total river water volume in pre-monsoon (summer) months. The base flow might have dipped by 50 per cent from the beginning of irrigation-pumping phase in 1970s.
- **Average groundwater contribution to the river can substantially decrease in future:** In the forthcoming summers, for the next 30 years, groundwater contribution to river Ganga will continue decreasing.
- **Climate change and the Himalayan glacial retreat:** would further contribute to degradation of riverine ecosystem.
- **Factors controlling the process of ground water change:** Surface water irrigation for cropping accounts for 27 per cent of the total irrigation in the region. Anthropogenic stress through expansion of cities by the river, denudation of forests, encroachment of floodplains and excess groundwater extraction had affected the river severely.
- Previous studies have shown that embankments constructed to protect the cities from floods elevate the river resulting in more runoff during the rains and lesser percolation to recharge the aquifers.

DYNAMICS OF GROUNDWATER-SURFACE WATER INTERACTION



Effects of declining water levels of Ganga

- Would severely affect domestic water supply, irrigation water requirements, river transport and ecology of the densely populated northern Indian plains because of low water level.
- **Impact of river water depletion on food security in the region:** Over 120 million residents in downstream region got affected and larger population would experience substantial reduction in food production if extraction of groundwater continues at the current unsustainable rate. By 2050, the total carbohydrate-based food would be unavailable for almost 20% of the total inhabitants in the region studied.
- **Possibility of surface water crisis:** it poses a much bigger crisis along with ongoing 'groundwater drought' in the Indian subcontinent.
- **Affects economic activities:** for instance, in 2016, a NTPC plant near Farakka barrage was shut down after flow dipped.
- **Contamination of ground water:** According to the Report of Central Ground Water Board, more than half of India's groundwater is contaminated with a high level of fluoride, nitrate and arsenic among others.
- **Impact on living organism:** May have severe impact on biodiversity including on the population of endangered Gangetic Dolphins.

Causes of Groundwater Depletion

- **Increase in Irrigated Area and Politics of subsidy:** Politics of subsidies has led to volatile extraction of ground water leading to its scarcity. Farmer tends to use water for irrigation without any restriction due to availability of cheap, subsidized electricity, thanks to politics of populism.
- **Indiscriminate water-tapping:** Due to the uninterrupted exploitation of ground water by deep wells and tube wells to meet the shortage of water, the level of ground water is continuously decreasing.
- **Decreasing forests:** Trees absorb up to 18 inches of precipitation before gradually releasing it to natural channels and recharging ground water.
- **Melting glaciers:** According to scientists, glaciers of the Himalayan region have been melting at an average rate of 131.4 sq km per year. When glaciers melt, they initially contribute more water to the rivers they feed. After this there is a decline in water contributed to the seasonal melt cycle, as shrinking glaciers provide a smaller contribution to the overall river flow.
- **Global warming and Climate change** accentuate water stress as it reduces useable groundwater availability for agriculture globally.
- **Wrong Agricultural practices:** In rural India, water scarcity is also the result of untested agricultural practices, such as cultivating more water-consuming crops – paddy, cotton and sugarcane – in areas riddled with water scarcity.

Prevention and Way Forward

- **Limiting of water-extraction and Protecting and enriching water resources:** Illegal exploitation of ground water should be banned.
- **Diverting River Streams and Building reservoirs:** There is a need to deepen old reservoirs along with building new reservoirs, besides increasing the depth of boring of new tubewells.
- **Plantation drives:** extensive afforestation can help restore water tables.
- **Increasing awareness:** among the people regarding sustainable utilization of water resources.
- **Implementing adaptation options related to either food production or water use in agriculture:** water-efficient agricultural practices (modification of existing food irrigation techniques), conversion to water-saving crops, agro-climatic farming practices, reduced groundwater pumping, aquifer rejuvenation and managed recharge must be implemented.
- Results of this study could be used to understand groundwater-linked river water depletion as well as the regional water security in other densely populated regions of the world.

5.4. RE-WATER RESEARCH CENTER

Why in News?

IIT Kharagpur will setup a Re-Water Research Center to replenish and rejuvenate water resources.

What is Re- Water?

Water recycling is reusing treated wastewater for beneficial purposes such as agricultural and landscape irrigation, industrial processes, domestic potable and non-potable reuse, and replenishing ground water. There's no standard 'off the shelf' process for recycling water — each method is specific to local requirements and environments, with different technologies and very diverse natural water catchment characteristics.

Potential of wastewater recycling in India

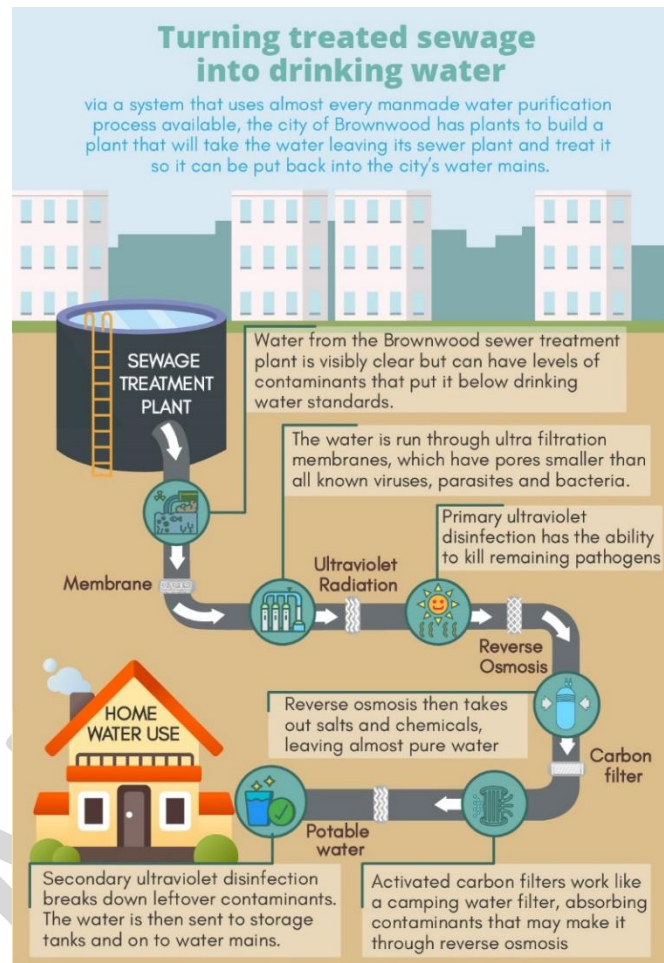
- **Presently only 30% of our waste water is recycled:** It is mainly due to poor design of sewage systems that mostly waste water is dumped directly into rivers and lakes.
- **India is the biggest consumer of freshwater in the world:** According to World Bank, India consumes 750 Billion Cubic meters of fresh water annually making it highest in the world.
- **Huge amount of waste water generation in India:** Urban India alone generates about 38000 MLD of waste water and with current rate of urban population growth by 2030 the wastewater generation would reach 60000 MLD.

Significance of Recycled Water

- **Can provide solution to water crisis:** The NITI Aayog's Composite Water Management Index report, released in June, sheds light on the issue of water crisis in India. The re-cycled water can be used as an additional and valuable source of water for domestic, industrial and agricultural purposes.
- **Reduce inter-state water disputes:** especially during water shortages/ drought periods and associated consequences such as crop loss, social unrest, etc.
- **Recovering nutrients and energy from waste water:** Waste water contains valuable nutrients (NPK) and recovering phosphorous and potassium is important because India imports most of these to meet the domestic demands. The treated waste water used in irrigation can aid crop growth and could reduce the need for synthetic fertilizers by upto 40%.
- **Prevent groundwater depletion** and reduced energy requirement in pumping out groundwater. This would help increase overall farm income.
- **Reduce Green House Gas (GHG) emission:** as the conventional sewage plant release huge amounts of methane.
- **Cost saving for the government:** Decentralized water supply and sewage treatment systems would make cities self-reliant in water requirements, save costs involved in laying sewage lines, lower the budgets required to clean up rivers. Also, sale of recycled wastewater to industries can be a source of revenue for Urban Local Bodies (ULBs).
- **Environmental benefit:** recycled water may be used to create or enhance wetlands and riparian habitats and reduce pollution levels. Along with this, it will also have considerable social and health benefits.

Issues related to recycled water

- **Availability of treatment technologies:** Existing infrastructure and technologies are insufficient for a large-scale water recycling in India.
- **Highly Expensive:** In some cases, high level of treatment and risk management may be too costly to manage and thus, reuse scheme may not be economically viable. It may also require more maintenance than a regular sewer or septic system.



- **Key potential health risks:** Microbial pathogens in wastewater from sewage effluent are the major concern for human health when recycling water. The major groups of pathogens can still be present in partially treated water, which include Bacteria for e.g. E. coli; Viruses like Enteroviruses, Rotavirus, Hepatitis A virus; Protozoa; and Helminths (Tapeworm) that can cause severe health risks if recycled water unmanaged properly.
- **Potential environmental risks:** Some of the common environmental risks associated with recycled water may come from:
 - **Salinity:** can result in reduced plant growth and plant damage and can impact freshwater plants and invertebrates in natural ecosystems if discharged directly with little dilution. Also, can have adverse effects on industrial equipments.
 - **Sodicity:** Excess sodium in recycled water can cause soil dispersion/swelling, reducing water infiltration on heavier textured soils.
 - **Boron and Sodium:** can be toxic to some plants if it accumulates in soils from ongoing irrigation.
 - **Chloride:** can be toxic to plants if sprayed directly on leaves, and if it accumulates in soils from ongoing irrigation, but is usually more important as a component of salinity.
 - **Phosphorus and Nitrogen:** Mostly beneficial to cultivated plants, but can cause eutrophication in land and aquatic ecosystems.
 - **Chlorine residuals:** By-products of disinfection processes, these may be harmful to aquatic or marine ecosystems if discharged directly with little dilution.
 - **Hydraulic loading:** Too much water applied to land can result in excess groundwater recharge, water logging and secondary salinity.
 - **Surfactants:** Some organic and inorganic surface-active agents from detergents can remain in recycled water and can be harmful to some aquatic organisms.
 - **Endocrine Disrupting Chemicals (EDCs)** these are a broad range of chemicals that have the potential to alter normal endocrine function in animals
 - **Pharmaceutical chemicals and their metabolites:** potentially found in recycled water, they have adverse impacts on human health.
- **Suitability of climate for recycling:** The climate may also be unsuitable for recycling. For instance, in colder reaches and winter climate, recycling might not be feasible.
- **Social and behavioural aspects:** Using recycled water, especially as drinking water, requires overcoming negative public perception about treated sewage water, which can be difficult.
- **No guidelines for recycling water:** at national level no guidelines or regulations are framed for recycling of waste water.

Guidelines focusing on recycled water

- There are **WHO guidelines for**
 - the safe use of wastewater, excreta and greywater: The Guidelines reflect a strong focus on disease prevention and public health principles.
 - drinking water quality.
 - safe recreational water environments.
- **FAO Guidelines on water quality for agriculture** has specific section on irrigation water quality and wastewater reuse
- **United Nations Guidelines for Drinking Water Quality**
- **US EPA reuse guidelines for 1992 and 2004.**
- **US Safe drinking water act.**
- **European Commission references on Urban Wastewater and treated wastewater reuse.**

Way Forward

- **Need of adequate support from the Government and private sector:** The Centre for Science and Environment estimates that Rs. 1 crore per million litres is the cost incurred to build a wastewater plant. Without adequate support from the government and private sector, urban and rural India will not be able to afford the building of such plants.
- **The unavailability of land also acts as a common hindrance** in the building of wastewater plants in India, especially in urban areas. Other challenges like continuous power supply, skilled labour force, adhering to environmental guidelines

Examples of water recycling adopted in India and abroad:

Namibia: The Goreangab waste treatment plant of Windhoek in Namibia is recycling wastewater for almost 50 years using biological mechanisms like bacterial treatment. Its capacity during peak hours is more than 41,000 cubic meters a day.

India: A Pilot project in Delhi – ‘Sujala Dhara’ - in collaboration with Delhi Jal Board (DJB) was set up at Keshopur Sewage treatment plant in July 2015 by a NGO – Social Awareness, Newer Alternatives (SANA), the plant can produce 4000 litres of clean water every hour using **bio-filtration nano membrane filtration technology.**

are consistent features in setting up of wastewater treatment plants.

- **Need for coordination among national, state and city level administration:** city governments and water utilities face operational constraints owing to the overlapping remits of institutions mandated to manage water in its different uses. This needs to be addressed through coordinated efforts at national, state and city levels of administration.
- **Support inter-ministerial coordination for guidance on a regulatory framework for water resource management.** Water resources need to be managed at the basin level and across urban and rural domains for more efficient and equitable use. Current models of allocation followed within river basins and states focus on freshwater allocation.
- **There also needs to be proper guideline framework for water recycling in the country.** The guidelines should, along with other priorities, take into consideration the need for safety both in terms of health and environmental. There also needs to be the flexibility to update and strengthen water management requirements as more is learnt.
- **The risks associated with recycled water must be minimized** to acceptable levels before recycled water can be used in any specific situation. The environmental and health risks can be managed through the level of wastewater treatment or by the carefully managed use of recycled water.
- **Continuous monitoring of recycled water quality:** can further mitigate adverse impacts associated with it and better manage the risks.
- **Incentives for wastewater recycling and reuse to cities:** This could include additional funds for states or cities achieving predefined targets on recycling of treated wastewater.
- People in the community need to be made **more aware about the science and technology** behind the process so that there can be better community acceptance of re-cycled water.

5.5. REGULATING HIGH SEAS

Why in News?

Recently, the United Nations began talks on a 2020 treaty on global protections for critical marine biodiversity on the high seas.

About High Seas

- The high seas are defined as the oceans that lie beyond exclusive economic zones (EEZ, usually within 370km or 200 nautical miles) of a country's coastline.
- It covers 45% of the Earth's surface and nearly two third of the global ocean that lies outside any country's jurisdiction. These waters cover 1.5 times the total land area of the planet and are home to some of the rarest and most charismatic species.
- All countries have the right to navigate, over flight, carry out scientific research and fish on the high seas without restrictions.

Background

- In 1982, the negotiations for **UN Convention of the Law of the Sea (UNCLOS)**, which regulated sea-bed mining and cable-laying to some extent, had left out high seas as it was considered protected because of its inaccessibility. Since then, shipping routes have expanded considerably, and technological advancements have made possible seabed mining and deep-water fishing in high seas also.
- There are also some other international groupings including the **International Whaling Commission (IWC)** and **International Seabed Authority (ISA)** that look after specific aspects of the seas, but there is no overarching treaty that would protect biodiversity or limit the exploitation at high seas.

WHAT ARE THE HIGH SEAS?

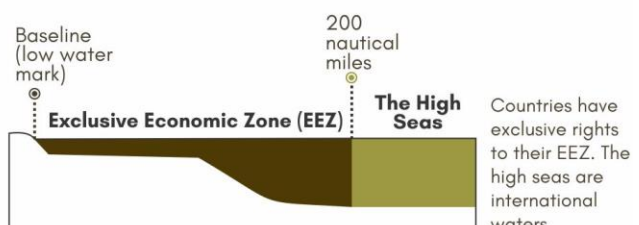


THE HIGH Seas
Exclusive Economic Zones (EEZ)

THE HIGH SEAS ARE

64% of the world's oceans

45% of the earth's Surface



- Thus, though a variety of mechanisms exist to oversee such activities, huge gaps remain in conservation and management of the high seas, demanding for a holistic and binding global treaty.

Threats faced by the high seas

- **Major source of mineral resource that is set to be exploited in years to come:** The high seas may be a major source of mineral resources in years to come. In 2017, a team of British scientists exploring an underwater mountain in the Atlantic Ocean discovered high concentrations of a rare and valuable substance used to build solar panels. Unsustainable exploitation, along with deep sea drilling for oil and gas, might create future challenges for high seas.
- **Deep sea hydrothermal vents are home to a range of extremely rare and exotic species:** Private companies are targeting these species majorly for manufacturing of new pharmaceuticals. Nearly 84% of patents related to marine species are filed by just 30 institutions of mainly developed countries over the past 30 years. Thus, resulting in an inequitable distribution of resources among nations.
- **Exploitation of Fisheries:** There is a huge scale of fishing taking place mainly by the ten rich countries including USA, Japan, Korea and Spain that corner around 70% of the total fish catch in the high seas.
- **Near absence of rule of law and poor monitoring and enforcement mechanism:** Authorities have limited powers to intercept vessels suspected of illegal activities which hamper international cooperation to counter illegal fishing, smuggling of weapons and drugs, human trafficking, piracy and the use of vessels in terrorist operations.
- **Rise in environmental degradation:** Weak governance system is also responsible for unchecked environmental degradation from plastic pollution, emerging high seas industries such as energy production, oil spills, etc.
- **Impacts of marine debris:** On one hand, it results in biodiversity loss as it causes the death by drowning, suffocation and starvation of around 10 lakh seabirds and around 1 Lakh marine mammals (Seals, Whales and Dolphins) every year, on the other hand, it causes hazard to shipping.
- **Impact of Global warming and Climate Change:** Rising sea temperature reduces the ocean's capacity to carry oxygen and increasing levels of carbon dioxide cause ocean acidification and unprecedented changes in chemical and physical conditions affecting marine organisms and ecosystems.

Potential impacts of the new treaty

It is likely to regulate issues at the high seas through following broad components:

- **Setting up of Marine Protected Areas in international waters:** Many countries have already established this in their own jurisdictions. A strong global ocean treaty would create a network of ocean sanctuaries to protect wildlife, ensure food security for billions of people and help in tackling climate change.
- **Carrying out Environmental Impact Assessments:** to guard against potential harm from activities on the high seas.
- **Equitable distribution of marine resources:** Allowing poorer countries to benefit from any discoveries developed from marine genetic resources.

Challenges

- **Some Governments are reluctant to support the treaty:** The US rejected the UNCLOS treaty in 1994 and is reticent about the present proposals as it is opposed to all regulations of marine genetic resources. Similarly, some whale-hunting countries such as Japan, Iceland and Norway are cautious about the idea because they fear it will restrict their fishing operations.
- **Avoiding overlapping from existing organizations:** to protect the high seas without undermining existing organizations such as the International Whaling Commission or International Seabed Authority.

Way Forward

- Subsidies provided by developed nations to their trawlers which promote unsustainable practices at high seas by them must be immediately capped and eliminated within five years. Countries should be fully transparent about all of their fishing subsidies.
- This is a historic opportunity to protect the biodiversity and functions of the high seas through legally binding commitments. Political will and joint efforts by governments, businesses and civil society is crucial for the treaty to succeed.

5.6. GREEN BONDS

Why in news?

Green bonds of huge amounts from India are stuck because of rising interest rates and global uncertainties.

What is Green Bond?

- Green bonds are debt instruments like normal bonds, but the proceeds are used for renewable energy projects, or for services that are ecologically sustainable.
- The bond is voluntary and may be issued by a financial institution, the government or even a company to raise funds for a defined period.
- Asia as a whole issued \$65 billion in green bonds over 2015-17 and China is the dominant issuer of green bonds internationally.



Why Green bonds?

- They can attract environmentally-conscious investors who may not otherwise invest.
- Accessible and powerful instrument for financing a sustainable, low-carbon economy.
- They are generally found to be an economical and convenient financing model by project developers.
- They help project the company as an environmentally-conscious organization, thereby enhancing the brand.

The Indian Green Bond Market

- **BSE** launched the Green Index called **Greenex, carbon-efficient live index**.
- India entered the green bond market in 2015 with the YES Bank issuing the first green bond for financing the renewable and clean energy projects particularly, for wind and solar.
- Gradually, the green bond market has expanded to several public sector undertakings, state-owned commercial banks, state-owned financial institutions, corporates, and the banking sector.
- Green bond issuance is expected to zoom from India as the government is awarding big projects in the renewable energy space to private companies, especially in the solar power sector.
- However, the Indian green bond market hasn't been able to diversify itself much in the nature of assets for funding, which are still focused on the 'pure play' renewable energy projects.

SEBI guidelines on Green Bond

In January 2016, the SEBI published its official green bonds requirements for Indian issuers making India the second country (after China) to provide national level guidelines. As per the guidelines, a debt security shall be considered as 'Green' or 'Green Debt Securities', if the funds raised through issuance of the debt securities are to be utilized for project(s) and /or asset(s) falling under any of the following broad categories:

- Renewable and sustainable energy including wind, solar, bioenergy, other sources of energy which use clean technology, etc.
- Clean transportation including mass/public transportation, etc.
- Sustainable water management including clean and/or drinking water, water recycling, etc. There are different types of definitions and indexes that can be leveraged:
 - Climate change adaptation
 - Energy efficiency including efficient and green buildings, etc.
 - Sustainable waste management including recycling, waste-to-energy, efficient disposal of wastage, etc.
 - Sustainable land use including sustainable forestry and agriculture, afforestation, etc.
 - Biodiversity conservation

Challenges

- **Underdeveloped bond market:** In particular Corporate Bond Market remains underdeveloped despite recent steps taken by RBI and Govt to develop corporate bond market.

- **Defining an investment as “green”:** It is likely that a prescriptive standard set of definitions of “green” will not meet every investor’s needs.
- **Lack of concentrated measures to support this nascent instrument:** Due to the newness and lack of understanding of all its implications, the average domestic investor is wary of investing in these, and perceives them as high-risk investments.
- **Additional cost** required to issue a Green bond, while providing returns similar to a normal bond. These costs may include additional expenditure for defining the green criteria, monitoring and maintaining the proceeds as green, and transparently communicating performance to investors over the lifetime of the bonds.

Way forward

- Need for government support to drive the segment to its full potential by
 - Strengthening the disclosure and transparency aspects with a level of standardization
 - Providing concessions, including tax-exemptions; issuing a sovereign green bond could also be done.
- There is scope for involving national development banks, SIDBI and NABARD, to design projects with elements of aggregation and credit enhancement, to direct funding to the untapped sectors.
- There is a large scope for green bonds to be issued across a wide-range of sectors such as the unconventional investment sectors like forestry and marine conservation, innovative transport.
- Develop business models to provide pricing benefits to green bond issuers by combining funding support from the Green Climate Fund (GCF).
- RBI may consider expanding its priority sector lending guidelines to include some of the sectors that are currently part of SEBI guidelines to make them lucrative to the bond issuers.

5.7. PRIVATE PARTICIPATION IN WILDLIFE CONSERVATION

Why in news?

Karnataka recently drafted **Private Conservancy Rules** in a bid to increase forest area through private land.

More about the news

- Under the rules, anyone who has a minimum of 100 acres of land bordering a national park can convert it to a “Wildlife Private Conservancy”.
- Of this land, 5% can be used to construct buildings for ecotourism; the rest has to be kept for flora and fauna.

Need for private participation in wildlife conservation

- **Funds:** The conservation activities need huge investments, such as in law enforcement, conflict mitigation, habitat consolidation, village relocation and research and monitoring. Current spending on conservation and management of protected areas is far less than what is needed, particularly in the developing world. The private sector may help fill this funding gap.
- **Expertise and efficient management:** Private sector can provide expertise often missing from government agencies. And, also, the bureaucratic management of government can be less flexible than non-governmental employees, this makes them a poor match for the operational side of parks management, and an expensive.
- **Buffer for wildlife protection:** The privately maintained forest areas around the protected area can act as buffer for wildlife protection and they may also act as extended corridors to connect two protected areas which is very important for conservation of large animals like tiger, elephants etc.
- **Generate income and employment:** The various activities associated with wildlife management and the opportunities of ecotourism would generate income and employment, this would be especially beneficial for forest dwelling communities and arrest their distressed migration.
- **Reduce pressure on traditional forest:** Development of stock for commercial lumbering will reduce pressure on the traditional forests. Commercial development of forest can also reduce clearing of forest for agricultural expansion.
- **Other benefits:** It will increase the percentage of forest area (from current 21% towards ideal 33%); Conservation of water bodies and soil in and around wildlife protected areas which is vital to protect the same; increase carbon sequestration capacities among others.

Concerns

- **Fragmentation of wildlife habitat:** The development of supporting infrastructure for tourism like roads , hotels , sport in the garb of developing ecotourism would lead to fragmentation of natural habitat and restrict movement of wildlife.
- **Narrow view of conservation:** Conservation is a complex exercise which must involve the interest of multiple stakeholders associated with it. The main purpose of private sector is profit, thus their participation may result into a top down mechanical way of conservation while ignoring the ground realities.
- **Poaching and illegal trade:** The privately managed buffer areas may act as conduit of poaching and illegal trade in wildlife and other wildlife crimes such as hunting specially because of lack of clear regulations.
- **Exclusion of forest dwelling communities:** The commercial development of forests may further alienate the traditional communities living around them as they would not be able to assert their claim due to politico- bureaucratic and private sector nexus.
- **Development of monoculture:** The development of forest with commercial motive may lead to development of monoculture which will be devoid of ecosystem services.
- **Ethical issues:** There are ethical issues involved in using wildlife for commercial purposes which is equivalent to objectification of a living entity.

Way forward

- Conservation should be a partnership between commerce (tourism), communities (land owners and skill suppliers), and the government (often, a benign overseer). Without a fine balance between these three, any one stakeholder can take a wrong direction which will harm conservation.
- Countries allowing private partnership need to have very clear governance, very clear legislation regarding these partnerships. In nations where the government's authority is weak. For example, in Colombia's Tayrona National Natural Park the company operating tourist concessions has been accused of land grabbing and controversial development within the national park.

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6. SCIENCE AND TECHNOLOGY

6.1. DRONE REGULATIONS IN INDIA

Why in News?

Ministry of Civil Aviation (DGCA) has for the first time released a set of rules regulating the civil use of drones in India which will be effective from 1st December, 2018.

What are drones?

- Drones or unmanned aerial vehicles (UAVs) have been defined as: “Powered, aerial vehicles that do not carry a human operator, use aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload.”
- **Applications of UAVs**
 - **Damage assessment** of property and life in areas affected with natural calamities, surveys, critical infrastructure monitoring.
 - **Security function:** Drones are used by Armed Forces for tactical purposes at border.
 - **Surveillance and Crowd Management:** It is used for effective and smooth conduct of events like Kumbh Mela etc.
 - **Monitoring of wildlife:** UAV are deployed these days for better counting and guarding unreachable region.
 - **Agriculture: SENSAGRI (SENSOR based Smart AGRiculture)** is a drone based crop and soil health monitoring system using hyperspectral remote sensing (HRS) sensors.
 - **Mode of Delivery:** Many e-commerce companies are using it for delivering their product like Amazon.
 - **Other uses:** For surveys, infrastructure monitoring, commercial photography, aerial mapping etc.

Concerns regarding use of drones

- **Potential threat:** Its use poses a **security threat**, and has the potential for **invading privacy**. Owing to the privacy and security concerns Directorate General of Civil Aviation (DGCA) had earlier banned the launch of any UAVs in India.
- The airspace over Indian cities already has a high density of aircraft traffic and unregulated use of drones poses a grave **threat for air collisions and accidents**.
- **Drone traffic management:** will require planned research and practical experimentation. Small drones fly at low altitudes and are more susceptible to changing weather conditions. Strong winds and rains can easily knock them off course, out of their designated operating zones.
- **Drones as weapons:** They are considered a cost-effective weapon system with no risk to operators. Thus, they are being portrayed as weapons of future warfare.
- There is possibility of drones being misused by terrorists, criminals, drug cartels and other antisocial groups.

Current Scenario

- According to a research the Indian drone market will reach USD 885.7 million by 2021, and the global market size will touch USD 21.47 billion.
- The International Civil Aviation Organization (ICAO) has been the primary platform leading the global drone governance efforts. The ICAO has issued several rules in the form of circulars and manuals but has not come up with comprehensive guidelines.
- India has had military drones – or Unmanned Aerial Vehicles (UAV) – for many years and is also developing combat versions. But the use of drones for civilian purposes remain underdeveloped, because regulations regarding the technology were not yet fully established.
- The absence of well-defined regulations had made innovation and attracting investments very difficult in this field, and the new rules are expected to ease manufacture and use of drones in the country.

Key features of the Regulations for Civil Use of Remotely Piloted Aircraft System (RPAS)

- **The Digital Sky Platform** is the first-of-its-kind **national unmanned traffic management (UTM) platform** that implements “**no permission, no takeoff**” (NPNT).
 - The UTM operates as a traffic regulator in the drone airspace and coordinates closely with the defence and civilian air traffic controllers (ATCs) to ensure that drones remain on the approved flight paths.
 - Before every single flight, drone pilots are required to request permission to fly via a mobile app, which will automatically process the request and grant or reject it.

- If a drone pilot tries to fly without receiving permission from the Digital Sky Platform, he or she will simply not be able to take-off.
- Users will be required to do a **one-time registration** of their drones, pilots and owners. All civil RPA, shall require to obtain **Unique Identification Number (UIN)** from DGCA.
- As per the regulation, there are 5 categories of Remotely Piloted Aircraft System (RPAS) categorized by weight, namely
 - Nano (Less than or equal to 250 grams),
 - Micro (250 grams to 2kg),
 - Small (2kg-25kg),
 - Medium (25kg-150kg) and
 - Large (Greater than 150kg).
- Operators of civil drones will **need to get a Unmanned Aircraft Operator Permit (UAOP) from the DGCA** with certain exceptions such as RPA owned and operated by NTRO, ARC and Central Intelligence Agencies.
- The DGCA has to issue the UAOP within seven working days and it shall be valid for five years and not transferrable.
- RPAS shall be flown only by someone **over 18 years of age, having passed 10th exam in English**, and undergone ground/ practical training as approved by DGCA.
- DGCA has also clarified that **no remote pilot can operate more than one RPA at any time.**
- The basic operating procedure will **restrict drone flights to the daytime only** and that too within “Visual Line of Sight (VLOS)”.
- Manned aircraft will be given priority. There can't be any human or animal payloads, or anything hazardous. It cannot in any manner cause danger to people or property.
- An **insurance will be mandatory** to cover third-party damage.
- Minimum manufacturing standards have been prescribed for RPAS.
- **Restrictions placed:**
 - RPAS cannot be flown within 5km of the perimeters of the airports in Mumbai, Delhi, Chennai, Kolkata, Bengaluru and Hyderabad and within 3km from the perimeter of any other airport.
 - It cannot fly within “permanent or temporary Prohibited, Restricted and Danger Areas” and within 25km from international border which includes the Line of Control (LoC), Line of Actual Control (LAC) and Actual Ground Position Line (AGPL).
 - It cannot fly beyond 500 m into sea from the coast line and within 3 km from perimeter of military installations.
 - It also cannot fly within a 5 km radius of the Vijay Chowk in Delhi, within 2 km from perimeter of strategic locations/ vital installations notified by Ministry of Home Affairs and within 3 km from radius of State Secretariat Complexes.
 - It also cannot be operated from a mobile platform such as a moving vehicle, ship or aircraft.
 - Eco-sensitive zones around National Parks and Wildlife Sanctuaries are off-limits without prior permission.

Conclusion

- The Drone Policy is a big step taken by GOI towards regulating drones in India. It shows GOI's commitment to use of artificial intelligence for technological and economic growth.
- However, the involvement of multiple regulatory agencies and compliances/clearances will discourage the players.
- Further, drones cannot be used as of now for delivery of food/ other items, or to carry passengers.
- There are restrictions on drone operations in India by foreign players (except through a license to an Indian entity).
- Government has setup the Drone Task Force under the chairmanship Jayant Sinha which will provide draft recommendations for Drone Regulations 2.0.

6.2. NET NEUTRALITY

Why in News?

The Telecom Commission, the highest decision-making body in the Department of Telecom has recently approved the principles of net neutrality recommended by TRAI last year.

What is Net Neutrality?

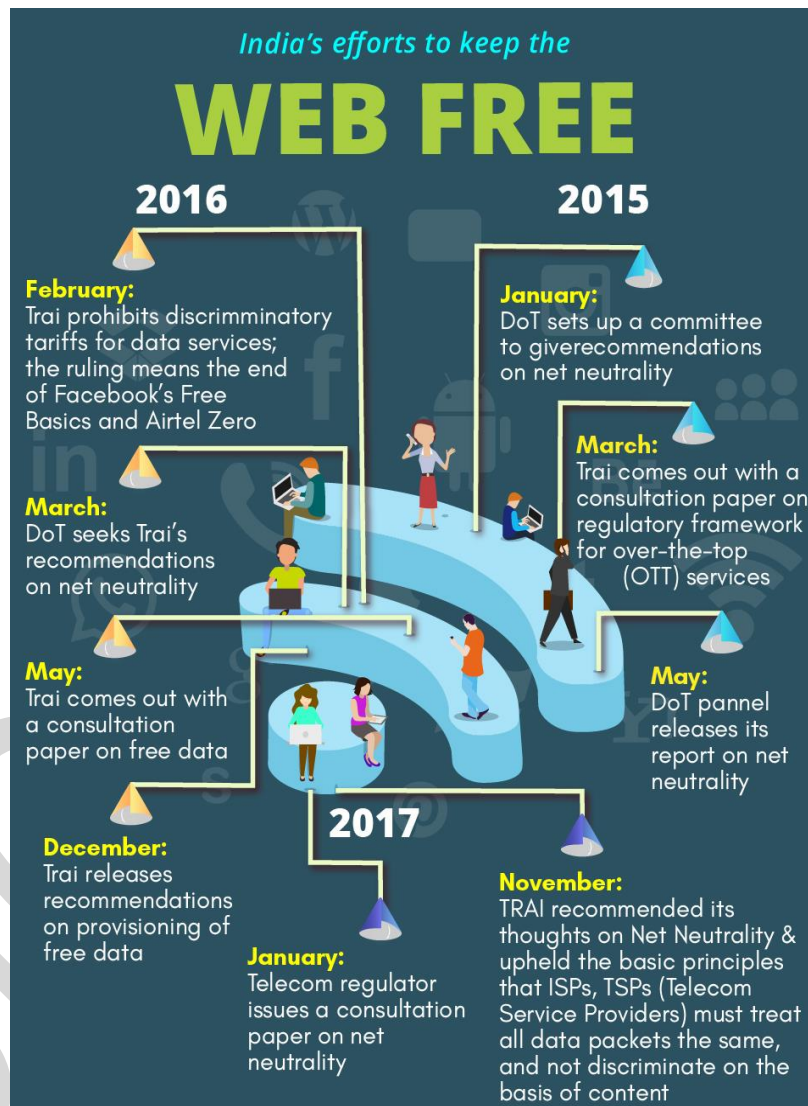
- The basic principles of net neutrality is that nobody owns the internet and it is free and open to all and that Internet Service Providers (ISPs) must treat all internet traffic equally without any regard to the type, origin or destination of the content or the means of its transmission.
- According to TRAI net neutrality principles, any form of discrimination or interference in the treatment of content, including practices like blocking, degrading, slowing down or granting preferential speeds or treatment to any content is prohibited.

Significance

- **Big victory for open internet movement:** specially coming at a time when USA recently repealed net neutrality rules.
- **Implications for future of internet in India:** India is expected to have more than 500 million internet users; hence the acceptance of net neutrality rules will have far reaching implications for the future of internet in India.
- **A Progressive move:** The government's decision is being seen as progressive as mobile operators, ISPs and social media companies cannot engage in, or seek, preferential treatment of content thus it will not allow any operator or ISP to create a monopoly on the internet.
- **Important for Innovation and Ease of doing business:** Net neutrality is crucial for innovation, competition and the end consumers that provide a level playing field to content providers and startups.
- **Exceptions to critical, new and emerging services:** such as autonomous driving, tele-medicine, disaster management, etc. which may require prioritized internet lanes and faster than normal speeds. A committee will look into the possible exceptions for critical services.
- **Provides enforcement and monitoring mechanism:** Government has decided to form a multi-stakeholder body for monitoring and enforcement of Net neutrality.

Way forward

- Internet must remain an open platform unhindered by any entity so that users and customers have a choice to access content of their liking.
- India must align with other like-minded countries to promote an open internet, for instance India recently signed an MoU with European Union to promote net neutrality.



6.3. DIGITAL GENDER GAP

Why in news?

According to a study released by LIRNEAsia, an information and communications technology (ICT) policy think tank, India has the highest gender gap in mobile phone and 3rd highest in access to the Internet.

More findings of the research

- According to the study, only 43 per cent of women in India own mobile phones compared to almost 80 per cent of Indian males. This difference of almost half surpasses all other countries in the survey, including Pakistan, Bangladesh and Rwanda.
- The study also found that India's 57 per cent gender gap in Internet usage was surpassed only by Bangladesh and Rwanda.
- These gender gaps are more accentuated in rural regions.

Benefits of filling digital gender gap

- **Improves workforce participation (currently 31%) and generates entrepreneurship avenues** by providing access to market (like mahila e-haat), online skill development initiatives.
- **Financial inclusion** by easing access to bank loans, insurance, deposits and various other government social security programmes by utilizing technology. Integrating benefits targeted to the poorest women with mobile phones could be a promising way to plug leakages and will make welfare programmes more effective.
- **Increased agency of women** in household decision-making and other areas and help dismantle social norms. National Family Health Survey 2004-05 found that households where women had mobile phones reported lower tolerance for domestic violence and higher women's autonomy in mobility and economic independence.
- **Education:** Digital literacy and connection offer advantages in knowledge-based society, improving future earning potential. Digital learning platforms like swayam portal provides opportunity for learning from home.
- **Health:** improved accessibility to various government interventions with respect to health services, awareness generation for nutritional intakes, and telemedicine services.
- **Improve political awareness** regarding various political processes that would improve their understanding and help in their more political mainstreaming. Through digital medium training could be given to the women representatives in panchayats and ensure their real representation rather than acting as proxy.
- The access to citizen participation tools like RTI, Citizen charter can also be improved for women through digital mediums.

More Data

- The world today has 3.58 billion internet users. Roughly 2 billion (56%) are men and 1.57 billion (44%) are women. Of that shortfall of 430 million users, 42% comes from India.
- India accounts for nearly half the digital gender gap worldwide, even though we account for 12% of the internet total population etc. India's digital gender divide is worse than countries like Saudi Arabia and Iran.
- India have 500 million Internet users, which means more than a third of its 1.3 billion strong population online, and it holds the second spot behind China in a ranking of countries most populating the Internet. But it is still far from addressing the digital gender gap.
- According to the latest Unesco survey also, more than 70% of internet users are men in India.

Challenges

- **Infrastructural issues:** The basic infrastructures like Internet with adequate speed, devices (smart phones and computers), electricity etc. which are needed to access digital services are not available, especially in rural areas.
- There are various **social blockades** like-
 - **Patriarcy:** Many Indian rural homes are governed by patriarchal beliefs which restrict the movement of women in public spaces. As most ICT facilities are available at community internet centres, they are unable to access them. Many also fear that allowing girls to use internet will lead to liaisons with men, bringing shame on family.

- ✓ In some households, technology is not seen as necessary or beneficial for girls and women. Traits like obedience and deference are often valued over curiosity and intelligence in a society which is still patriarchal,
- **Educational level:** A large section of women despite having cell phones can't use them due to a lack of literacy. These women are dependent upon their literate kin to dial a number or even read messages.
- **Behavioural inertia** for adopting new technologies which is further compounded by lack of technical literacy non-availability of content in local languages and lack of confidence.
- **Security concerns:** with increasing cases of online trolling, women are more vulnerable for cyber bullying. There is also perception of lack of data security which threatens privacy and may also lead to economic losses.

Way forward

- **Bridge infrastructural needs:** provide Internet facility with proper speed especially in rural areas (BharatNet is a good initiative in this regard).
 - **Free or subsidized smart phones** should be given to women (Chhattisgarh government has provided free smart phones to rural women).
 - Setup **common service centres** in all the villages and make it mandatory to have 50% women staff.
- **Literacy:** more focus on women literacy specially in remote rural areas. Emphasis should be given to basic English language proficiency and technical literacy. (Pradhan Mantri digital shaksharta abhiyan and Digital India Mission should be integrated with Sarva Siksha Abhiyan with special attention on women.)
 - A digital literacy program **Internet Saathi** (run by Google in association with Tata Trusts) to teach rural women how to access and use the internet is a good initiative it should be scaled up.
- **Attitudinal change of society:** for creating an enabling atmosphere for women to access equal opportunities in all areas which is very necessary for holistic development of society. (Beti bachao Beti padhao and he for she campaigns are welcome steps).
- **Security concerns:** Strengthening legal framework for **data security and tackling cases for cyber bullying:** special provisions should be there for women.

6.4. DEEP SEA EXPLORATION

Why in news?

Recently, various global studies highlighted the multifaceted potentials of deep sea exploration particularly for emerging economies.

About Deep Sea exploration

- The deep sea, usually defined as that area of the ocean **below a depth of 200 m**, covers about **65 percent of the planet's surface**. Its seafloor exhibits an extensive array of **geological features**, from immense abyssal plains to towering mountain chains and deep trenches.
- Studies have highlighted that, only 5% of the total area of ocean has been explored, which is abundant in **polymetallic nodules, deep sea fishing** and other non-living resources. The **International Seabed Authority (ISA)** is the international body through which all States Party to the **United Nations Convention on the Law of the Sea (UNCLOS)** organise and control seabed-mining related activities in the Area.
- India's **Exclusive Economic Zone (EEZ)** spreads over 2.2 million square kilometres, which also **includes the deep sea**, and hasn't been explored or utilised till now.

Government Initiatives

- Government has launched **Polymetallic Nodules programme** for exploration and development of technologies for harnessing of nodules from Central Indian ocean basin.
- **Deep Ocean Mission-** has been launched by the Ministry of Earth Science.
 - The mission focusses on technologies for deep-sea mining, underwater robotics, submersible vehicle and ocean climate change.
 - Additionally, it will build offshore desalination plant, to eliminate the potable water problem for the coastal city.
- Oceanographic Ship, 'SagarKanya', has been operating for several years now in the explorations.
- **National Institute of Ocean Technology:**
 - It was established in 1993 as an autonomous society under the Ministry of Earth Sciences.
 - It provides technical assistance for harvesting of non-living and living resources in the Indian Exclusive Economic Zone (EEZ).
- **International Indian Ocean Expedition-2:** It is a major global scientific program which engages international scientific community in collaborative oceanographic and atmospheric research from coastal environments to the deep sea over the period 2015-2020.

- India is the first country to have received the status of a pioneer investor in 1987 and was allocated an exclusive area in Central Indian Ocean Basin by United Nations (UN) for exploration and utilization of nodules.

Significance of deep seas for India

- **Energy Security:** The Central Indian Ocean has potential to extract 380 million metric tonnes of polymetallic nodules. Even 10% of recovery of such large reserve, can meet energy requirement of India for the next 100 years.
- **Food Security:** In a similar context, deep sea fishing would provide a new and diverse source of fishing opportunity, thus helping in sustenance of community livelihood and food security.
- **Research:** It would help in predicting earthquakes, tsunamis, climate change pattern, study of formation of earth and ecological functions between living organism.
- **Competitiveness:** Over the past decade, China has established a healthy lead over all its competitors and has the most sophisticated program in extracting valuable minerals from the sea-bed. The Deep Ocean Mission will improve India's position in ocean research field.
- **Diplomacy:** Advancement in deep sea exploration will open new dimensions of diplomacy for India, with technologically advanced countries e.g. Japan, Germany and South Korea.
- **Promotes economic activities:** Aside from return on investment to the mining companies, spur in deep-sea mining also increases opportunities for other partners in the value chain, such as equipment manufacturers and metal processing plants. This increase in economic activity may also result in more employment opportunities.
- **Promotes research:** The exploration of potential mining sites has already led to the discovery of new species, while providing considerable new insight on previously unknown biological processes in the deep ocean. It will also spur research in studies not directly related to deep-sea mining.

Challenges in exploring deep seas

- **Technological:** Development of deep subsea technology for mining these resources is a major challenge considering the ultra-high-pressure environment, very soft soils and other factors.
- **Operational hurdles** such as Insufficient, unreliable, or prohibitively expensive power supplies, and highly corrosive nature of sea water, make the exploration operations more difficult.
- **Fund and Resources:** Deep sea exploration involve huge cost in terms of exploration vehicles, computer modelling, robotics, armour suits etc. In the context of deep sea fishing, local community may also be reluctant to adopt this new method due to initial investment lock-up period and subsequently high operational cost.
- **Loss of biodiversity:** Deep sea mining may cause a drastic disturbance and imbalance in the aquatic ecosystem such as degrading water quality which may result in loss of biodiversity.

Way Forward

- The policy action plan of deep sea exploration should be made in consonance with World Bank concept of **Blue Economy** which stresses on sustainable exploration of living and non-living marine resources.
- **Impact Assessment:** Deep sea exportation would have significant impact not only on the oceanic geomorphology but also on the coastal community. Therefore, traditional practices of impact assessment related to polymetallic nodules must cover comprehensive oceanic economy.
- **Underwater Heritage:** Exploration activity should recognise the importance of under water sites as documented by the UNESCO Convention on Protection of Underwater Cultural Heritage.

6.5. GAGANYAAN MISSION

Why in News?

Recently the Prime Minister in his Independence Day speech announced that ISRO will be sending its first human spaceflight mission into the space by 2022.

Background

- In 2004, the manned space mission was first endorsed by the ISRO Policy Planning Committee with the target initially set was in 2015, preparations have been going on since then.



- ISRO has successfully demonstrated some of the technologies required for the mission such as **Space Capsule Recovery Experiment (SRE-2007)**, **Crew module Atmospheric Reentry Experiment (CARE-2014)**, **GSLV Mk-III (2014)**, **Reusable Launch Vehicle- Technology Demonstrator (RLV-TD)**, **Crew Escape System (July 2018)** and **Pad Abort Test (2018)**. ISRO also recently unveiled a **space capsule** (crew module) and **Space suit prototype**.
- ISRO has also finalized the layout and design of **Environmental Control & Life Support System (ECLSS)** which maintains a steady cabin pressure and air composition, removes carbon dioxide and other harmful gases, controls temperature and humidity, and manages parameters like fire detection and suppression, food and water management, and emergency support.

Specifications

- GSLV Mk-III launch vehicle will be used to launch Gaganyaan. Two unmanned Gaganyaan missions will be undertaken prior to sending humans, with first unmanned flight within 30 months.
- The total programme is expected to be completed before 2022 and cost is expected to be less than Rs. 10,000 Crores.
- The mission will aim to send a three-member crew to space for a period of five to seven days. The spacecraft will be placed in a low earth orbit of 300-400km.
- This will be the **first human mission indigenously developed by ISRO**, though to accelerate the programme, ISRO may consider collaborations with space agencies from friendly countries. For instance, ISRO and CNES, the French space agency, will be combining their expertise in fields of space medicine, astronaut health monitoring, life support, radiation protection, space debris protection and personal hygiene systems.
- It will comprise of a crew module and service module that constitute an **orbital module**. The crew will do microgravity experiment during the mission.

Need for Gaganyaan

- **Potential for an enormous range of experiments in regard effects of microgravity and cosmic radiation** on bio-organisms ranging from bacteria and plants to large mammals. Some of the research at the International Space Station (ISS) has already started paying off in concrete terms, for instance, it has led to huge advances in multiple technologies ranging from weather research to disaster management to ballpoint pens.
- **Putting humans into space has also led to massive advances in medical technologies and basic understanding of functioning of human bodies:** For instance, microgravity can lead to a debilitating loss of muscle and bone density. Scientists have developed technologies and fitness mechanisms that have been breakthroughs in the treatment of osteoporosis and maintaining muscle mass.
- **Many of the present technologies were result of space research:** Telemedicine, including miniaturized ultrasound units and remote monitoring systems were developed through space research. Similarly, development of laser surgery and robotic surgery was a result of developing better laser technology as part of space technology.
- **Application of space technologies in various areas** such as Agriculture, Railways, Human Resource Development and Road, Transport & Highways, etc. for ease of living. Water purification and sewage recycling can be transformed by adapting such technology at scale. For instance, NASA's water purification techniques are being deployed in drier regions of Africa. Similarly, an ethylene removal system called Advanced Astroculture (ADVASC) was developed in space which removes viruses, bacteria and mould and is now being used to prolong the shelf life of fruit and vegetables and in winemaking. Also, Silica Aerogel developed by ISRO for space purposes found its utility in other fields like agriculture, etc.
- **Manned space research is a much larger employment generator than unmanned missions:** ISRO has estimated that the Gaganyaan Mission will create 15,000 jobs because of the new technologies involved.
- **Enhance national pride** as the programme will make India the fourth nation in the world to launch a Human Spaceflight Mission. So far, only the USA, Russia and China have launched human spaceflight missions.

The Objectives of the Gaganyaan Mission are:

- Enhancement of science and technology levels in the country
- A national project involving several institutes, academia and industry
- Improvement of industrial growth
- Inspiring youth
- Development of technology for social benefits
- Improving international collaboration

Challenges

- **Biosciences:** While ISRO has perfected the engineering aspects of the mission, bioscience is a new field for ISRO that requires greater technological knowhow and collaboration and support from other organizations. Creating habitable space ecospheres also requires a host of technologies, including the development of exotic materials and first class recycling systems.
- **Cost:** Manned missions require huge investments. So, for a developing country like India with limited resources, there is always a debate on need of such costly missions versus spending on social sector.
- **Moving to a manned programme will involve research and development of a whole new range of technologies and precision:** It involves mastering of the highly complicated and dangerous reentry and recovery ability. The spacecraft needs to withstand very high temperatures, in excess of several thousand degrees. Also, the spacecraft needs to reenter the atmosphere at a very precise speed and angle, and even the slightest deviation could end in disaster.
- **Training of astronauts:** India lacks training facilities for astronauts, though ISRO has demanded for indigenous training centers for its astronauts since early 2000s, no action have been taken yet.

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7. SOCIAL

7.1. SABRIMALA ISSUE

Background

- The Sabarimala temple is located in the Periyar Tiger Reserve in the Western Ghat mountain ranges of Pathanamthitta District of Kerala. The Pilgrims trek the Neelimala to reach the shrine, which has 18 sacred steps, to worship Lord Ayyapa after observing strict abstinence vows for 48 days.
- The temple shrine is dedicated to Lord Ayyapa, a celibate.
- Women aged between 10 and 50, that is those who are in menstruating age, are barred from entering the temple. While there is no restriction on women to worship Lord Ayyappa in any other temple, their entry is prohibited in this temple.

Key issues Involved

- Right to Equality V/S Right to Religion
- Faith vs Rationality
- Attitude of Society- regressive and patriarchal

Stakeholders Involved

- The **Indian Young Lawyers Association** and five women lawyers in 2006 approached the Supreme Court seeking a direction to allow entry of women into the temple without age restrictions, challenging the temple practice saying it was discriminatory in nature and against gender justice. Another group of women, part of the "**Happy to Bleed**" campaign, also sought the court's direction on whether society should continue to bear with "menstrual discrimination."
 - Their petition contended that **discrimination in matters of entry into temples was neither a ritual nor a ceremony associated with Hindu religion and that such discrimination was anti-religious.** The religious denomination could only restrict entry into the sanctum sanctorum and could not ban entry into the temple, making a discrimination on the basis of sex.
- The **All India Democratic Women's Association**, argued that the restriction on the entry of females of menstruating age was in violation of the Constitution's equality and dignity principle. Article 26 (freedom to manage religious affairs) was subject to morality and did not permit any discriminatory practice.
- The **Pandalam royal family** (erstwhile custodian of the temple); the **tantri's (supreme priest) family** and **Travancore Devasom Board** which maintains the temple, holds that the ban was in accordance to the centuries-old tradition. Lord Ayyappa, being a Naishtika Brahmachari (one who has vowed to remain celibate).
 - **Different temples have different customs.** In Sabarimala there is no discrimination, there are some restrictions. It is because of the nature of the deity, not because of male chauvanism. Similar stand was taken by the Kerala HC in its 1991 judgement.
 - Practice at Sabarimala of barring women of the age of 10-50 years from entering the temple was an **"essential and integral" practice of a religious denomination under Article 25.** Thus, Supreme Court cannot take upon itself to decide what is 'essential' to a religious denomination on the basis of an Article 32.

The 'living tree' doctrine and Art. 17

- It involves understanding the Constitution to be an evolving and organic instrument.
- For the living tree theorists, it matters little what the intentions were at the time of Constitution making. What matters the most is how the Constitution can be interpreted to contain rights in their broadest realm.
- Article 17 (against untouchability) is inserted to specifically acknowledge and remove the social stigma associated with certain castes/groups. It was enacted in an attempt to eradicate historical inequality.
- The 'living tree' approach — being an alternative and a finer reading of the Constitution — supports a broader interpretation of Article 17.

Other Broad contours/ fault lines:

- **Indian Secularism**- no strict separation between State & Religion
- **Doctrine of "Essential religious practices"**- defines the limits on what could be called the sole domain of religion. i.e. certain groups (denominations) can claim their rights to manage affairs of a temple and perform specific pujas, provided that it does not fall foul of constitutional guarantees to others. Judges gave themselves the power to determine what constitutes essential religious practice not just for one religion, but for all of them.
- **Judicial encroachment on religious matters/ 'judiciopapism'** (judges can completely overrule religious authority): examples Santhara, Women entry in Sabarimala, who can and cannot be Priest(Archakas).

- The deity has the right to remain a 'Naishtika Brahmachari' (eternal celibate) and this was also part of **right to privacy of the deity, will of the deity needed to be respected.**
- **Uniqueness of the deity** i.e. celibate character of the deity **cannot be challenged by those who wished to pray.**
- It is not possible for women to put up with the physical hardship, austerity and days of celibacy like men.
- **Supreme Court's Recent Judgement**
 - **Ban on entry for women of a certain age at Sabarimala temple is based on the "patriarchal" belief** that the dominant status of a man in society makes him capable of performing austerity while a woman, who is only a "chattel of man", is incapable of remaining pure for the 41 days of penance prior to the pilgrimage.
 - **Women's right to worship is a constitutional one and it does not depend on laws.** Hence, banning women aged between 10 and 50 from entering the Sabarimala temple in Kerala runs afoul of their constitutional rights.
 - **Temple ban on women violates Art. 17:** Women have been kept out of Sabarimala because of menstruation (physiological and biological process). As a distinct class, they are being discriminated against. If certain castes are considered 'impure' because of their social status, menstruating women are considered to be so because of their gender. The criteria are different but the effect of exclusion is common.

Analysis & Way Forward

- In essence, the Sabarimala case is a test case **not only for freedom of religion and women's rights** but also for **respecting wider principles of constitutionalism.**
- There is a need for change in religious beliefs in Indian society based on rationality and modernity as otherwise it will dilute the ethos and principle of secularism, freedom and rights of women at large.
- However, **the Judiciary should also use the doctrine of essential religious practices to intervene and decide what are religious practices with restraint** as otherwise it will deprive the rights of religious organisations and denominations.

7.2. HARASSMENT OF WOMEN AT WORKPLACE

Why in news?

The Ministry of Corporate Affairs has amended the Companies (Accounts) Rules, 2014 and has made the disclosure of compliance (under the Sexual Harassment of Women at Workplace Act) mandatory in the Annual Reports of Private companies.

Background

- The Ministry of Women and Child Development (MWCD) has been making continuous efforts to mainstream the implementation of the Sexual Harassment of Women at Workplace Act, 2013.
- All ministries and departments under central government have to constitute Internal Complaints Committee. Complaints can be filed under the Act directly with the ministry through the SHE-Box.
- In context of this the MWCD had requested the Ministry of Corporate Affairs for making disclosure of compliance mandatory in annual reports of private companies.

Rationale behind the amendment in rules

- The inclusion of the compliance under the Sexual Harassment of Women at Workplace Act in the non-financial disclosures will ensure that the issue gets into the focus into Board of Directors of the private companies. This will cast higher responsibility on the Directors for implementation of the Act.

Harassment of women at workplace

- **Reason for harassment:** The basic reason for women harassment at workplace lies in patriarchal structure of the society leading to a sense of male superiority. Apart from jealousy at work, there is general feeling of contempt and disrespect against women which is visible through sexually perverted behaviours.
- Between 2014 and 2015 cases of **sexual harassment within office premises more than doubled** and there has also been a 51% rise in sexual harassment cases at other places related to work in 2015.

- In 2017, the National Commission for Women received an average of 1.7 complaints of sexual harassment at workplace per day.
- **60% of complaints received in 2017 were from five states:** Uttar Pradesh, Delhi, Maharashtra, Madhya Pradesh and Haryana.
- In 2015 a study by FICCI titled Fostering Safe Workplaces showed that **36% of Indian companies and 25% of multinational companies had not yet constituted their ICCs.** About 50% of the more than 120 companies that participated in the study admitted that their ICC members were not legally trained.
- The Act imposes a penalty of upto Rs 50,000 on employers who do not implement the Act in the workplace or even fail to constitute an ICC. But, the number of employers who do not fully comply with the law indicates that there is little monitoring of their redressal machinery.
- According to a survey conducted by the Indian Bar Association in 2017, **70% women did not report sexual harassment by superiors.**

Measures which an organisation can take to enhance the safety of women at workplace

- **Getting women to speak up:** The organisation should make the environment conducive enough for women to register complaints against any such act. The registration complaints in severe cases directed to the government should be fast-tracked.
- **Deploying technology:** Technology such as GPS, CCTV cameras, mobile apps etc should be leveraged to create secure workplace and transportation to the women employees.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:

- It seeks to protect women from sexual harassment at their place of work. The Act defines sexual harassment at the workplace and creates a mechanism for redressal of complaints.
- The definition of “aggrieved woman,” who will get protection under the Act, is extremely wide to cover all women, irrespective of their age or employment status and whether in the organized or unorganized sectors, public or private, and covers clients, customers and domestic workers as well.
- The Act covers concepts of quid pro quo harassment and hostile work environment as forms of sexual harassment if they occur in connection with an act or behaviour of sexual harassment.
- An internal complaints committee (ICC) is mandatory in every private or public organisation that has 10 or more employees.
- The Internal Complaints Committee has been given powers of a civil court for summoning, discovery and production of documents etc.
- Each Internal Committee requires membership from an NGO or association committed to the cause of women.
- A ‘Local Complaints Committee’ is required to be constituted in every district. An additional ‘Local Complaints Committee’ shall also be constituted at the block level to address complaints in situations where the complainant does not have recourse to an Internal Complaints Committee or where the complaint is against the employer himself.
- It also provides safeguards against false or malicious charges.

Criticism of the Act

- The internal committee formed under this act has the power to decide a monetary fine which must be paid by the perpetrator, depending on their income and financial stability. This is a kind of **discriminatory method, it supports and envisages inequality among different sections of the society**, for example, a person earning low income would be paying a lower fine compared to a senior who earns more.
- The Act does not cover the agricultural workers and armed forces.
- The Act does not satisfactorily address accountability. It does not specify who is in charge of ensuring that workplaces comply with the Act.
- It is not a gender-neutral legislation and protects only women from sexual harassment at workplace.

Reasons for failure to report safety concerns:

- **Lack of understanding:** Most women perceive that the behavior is not serious enough for them to take the next step and complain as there is a lack of understanding of what harassment is, the laws covering women safety and what they entail.
- **Lack of faith:** Women lack faith in the complaints process as registering a complaint can be embarrassing and the complaint process seem difficult and useless.
- **Fear of retaliation:** The fear of retaliation by the harasser or organization also makes them silent about it.
- **Self-judgement:** Some women consider that they can take care of the situation themselves rather than going through the entire complaints redressal procedure.
- **Social stigma:** There is a stigma attached to sexual harassment in Indian society. Most of the time women are looked down upon if they report such a case, irrespective of who is at fault in that situation. Several incidences of shaming at social media of women who report sexual abuse have been observed.

- **Gender sensitisation training:** Corporates should conduct gender-sensitization trainings and awareness programs for both men and women across their operations.
- **Mandating appropriate work practices:** Organisations often give more importance towards productivity than safety which gives a wrong signal to employees. The top management level should try to make safety a priority.
- **Instituting safe working conditions:** With a growing economy, working multiple shifts and late hours at the office are quite common. The rising crimes against women limits their capabilities. Therefore, an organization may permit women to look at options such as telecommuting, leaving the office on time and catching up on unfinished work at home. Female security guards can be posted at necessary points in offices and a basic pantry inside the office premises can be provided so that women employees need not venture out for dinner when working late.
- **Zero tolerance policy** should be adopted within code of conduct for employees to show companies' firmness against such sexual harassment.
- Successful "Campaigns like #MeToo and #TimesUp have helped more and more women to come up and speak of their experiences of abuse.

Conclusion

Women always have to trade-off between safety and financial security which partly explains India's low female workforce participation rate as the fear of harassment keeps many skilled women away from the workforce. This is hurting India's productivity and economic growth, as According to World Bank estimates, India's economic growth can rise by a full percentage point if it even manages to raise its female LFPR to the level of Bangladesh. An adequate monitoring and redressal of sexual harassment in companies can play an important role in creating an enabling environment for women.

7.3. WITCH HUNTING

Why in News?

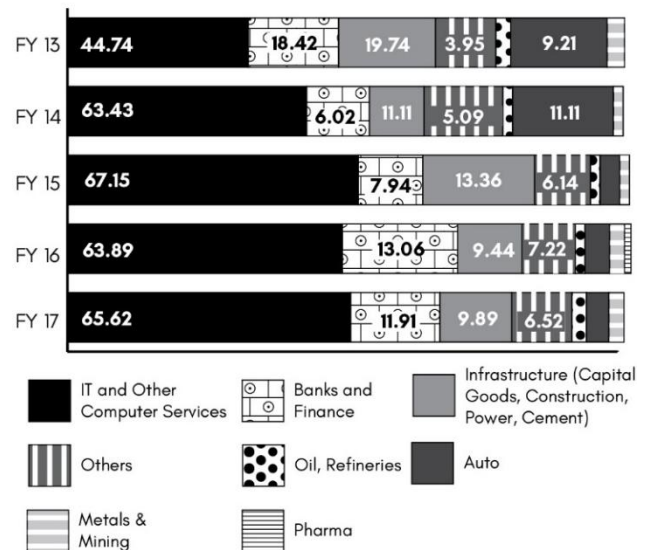
Recently, President has given his assent to the **Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015**.

Introduction

- **Witch hunting** is a superstitious practice which entails the worst forms of cultural violence against women in a society. It's manifestation of violence against women that is practiced in the name of culture, religion and social norms and practices, which are usually overlooked by the society.
- It's a **stigmatization of specific groups of people**, which mostly contains widowed women, women who are childless, old women, women of lower caste etc.
- **Socio-Cultural Deprivation:** Practice of witchcraft and 'witch-hunting' in parts of India appears to be prevalent predominantly among certain castes and tribes. These communities have lived a socially, economically, educationally excluded and deprived life for centuries.

SECTORAL SHARE OF SEXUAL HARASSMENT CASES

The Figures Denote The Percentage Share of Each Sector in Reported Sexual Harassment Cases



RISING DISCLOSURE OF SEXUAL HARASSMENT CASES

The Data Below Shows The Trend in Reportage of Sexual Harassment Cases for 52 BSE-100 Companies for Which Consistent Data was Available Since The Fiscal Year 2013

Reported Sexual Harassment Cases (Absolute Numbers)



- **According to National Crime Records Bureau (NCRB)**, more than 2,500 Indians have been chased, tortured and killed in such hunts between 2000 and 2016 and Jharkhand topped the chart of witch-hunting murders.
- **Human Right Violation: Guwahati High Court has** observed that branding of a man or a woman as a witch and then resorting to witch hunting is the most dehumanising act and is one of the worst forms of human rights violations.

Reason for Its Prevalence

- **Patriarchal Attitude in Society:** In a survey it was found that, women who dare to protest and speak up against the social hegemonic structure are targeted as witch by exploiting India's caste system and culture of patriarchy.
- **Vested Interest:** Many times, branding women as witches is a tool used by land grabbers to deprive families of their property. Sometime people instigate such practices against the lower caste men and women in order to maintain their status in the society. It is also used as a weapon of revenge against women who refuse to yield to sexual advances.
- **Personal Gain:** Practice of witch hunting has become a social and religious business for the local doctors/medicine men/Ojhas to fulfil their materialistic requirements.
- **Issue with the criminal justice system.** Many of the cases registered were closed because of shoddy investigation, lack of evidence and witnesses or a compromise being worked out between the victims and the perpetrators.
- **Lack of proper scientific awareness and education** are one of the reasons of large prevalence of witch hunting in India eg: women were held responsible for all the calamities like rising infant mortality, famine, flood, and epidemic diseases etc.

Challenges

- **Absence of National Legislation:** India does not have any specific national legislation or laws for preventing witch hunting. Most of the cases are dealt with in **Section 323 of the Indian Penal Code (IPC)**, which prescribes one year's imprisonment and a Rs 1,000 fine to anyone who causes harm voluntarily.
- **Poor implementation of prevalent laws:** Ineffectiveness of states legislation is witnessed through the increasing incidents of witch-hunting.
- **Lack of provisions for providing rehabilitation**, relief, or any form of compensation to women after they have been identified as witches.
- **Social Rigidities:** As a social evil, witch hunting is difficult to tackle because the motivation of such action is often rooted in the traditional spiritual and cultural belief system of the communities.

Way Forward

- **Promoting scientific temper under Article 51-A** for ensuring the empowerment of fringe communities.
- **Comprehensive approach** consisting of legal remedies, psychosocial support, economic empowerment, education, persecution of the perpetrator, to achieve better indicators in human development.
- **Improving access to health care** by ensuring that mental health care and support reaches villages with the appointment of psychiatrists and psychologists at the block level while ensuring delivery of justice to accused women through all mean with accelerated programmatic and policy action.
- **Supporting awareness programmes and campaigns** to aware people about the debilitating psychological and economic impacts on women who are made victim of accusations of being a witch and **alter the deep-rooted value system** of patriarchy that discriminate and subordinate women.

Protection to Women

- **Constitutional Obligation:** Indian government has an obligation to protect women from discrimination on the basis of gender (Article -15) and also provide basic rights and security granted by different international treaties, covenant and laws like:
 - **Universal Declaration of Human Rights (UDHR) 1948**, provides protection against any discrimination and promotes equality before law. It also confirms right to life and liberty to every human being.
 - **International Covenant on Civil and Political Rights (ICCPR)**, India associated with it in 1979, promotes equality between men and women by ensuring equal rights to men and women in civil as well as political sphere and prohibits others from subsuming anyone's basic rights. Article 7 explicitly mentions prohibition of cruelty, inhuman or degrading treatment and by associating with the covenant it is obligatory for Indian government to implement these rules.
 - India has signed **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** on 1993 and had agreed to eliminate discrimination and social cruelty against women.

- **Training Of The Panchayat Leaders** in handling the reports on witch hunting and taking all preventive measures in order to ensure zero incidence of witch accusation related violence on women.
- **Capacity Building:** Organizing women's groups, community or sanghas at village level to enhance the self-confidence and economic independence of vulnerable women.
- **Group Building Exercise** by the self-help group or civil society organizations among women within the communities to create a network of support system at the grassroots level and to extend opportunities of socio-economic development.

7.4. DECRIMINALISING ADULTERY

Why in news?

The government has submitted an affidavit to the Supreme Court that dropping of adultery as an offence from the Indian Penal Code (section 497) will erode the sanctity of marriage and will be detrimental to the intrinsic Indian ethos.

Issues Involved

- The Constitution Bench is to decide on whether the pre-Independence provision of adultery in the IPC (Section 497) treats a married woman as her husband's "subordinate" and violates the constitutional concepts of gender equality and sensitivity.
- It will also decide whether Section 497 of IPC treats the man as the adulterer and the married woman as a victim.
- The larger Bench may also examine why the offence of adultery ceases the moment it is established that the husband convinced with or consented to the adulterous act.

Related Information

Section 497 of IPC- Adultery Whoever has sexual intercourse with the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery. In such case the wife shall not be punishable as an abettor.

Section 198 of CrPC-Prosecution for offences against marriage

No person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497.

Various Personal Laws

Adultery is a ground for divorce in all the personal laws. For e.g. Section 13(1) of Hindu Marriage Act, 1955, Section 2(viii)(b) of the Muslim Marriages Act, Section 32(d) of the Parsi Marriage and Divorce Act, 1936 etc.

What is the reason behind this debate?

- The PIL filed by Joseph Shine highlighted the fact that only men were punishable for the offence of adultery despite the sex being consensual.
- The plea also argued that Section 497 was "prima facie unconstitutional on the grounds that it discriminates against men and violates Article 14, 15 and 21 of the Constitution".
- It also found fault with the adultery law, saying it was discriminatory against women by presuming that they are the property of men. This is further evidenced by the fact that if adultery is engaged with the consent of the husband of the woman, then such act ceases to be an offence punishable under the code.
- The petitioner also questioned the constitutional validity of Section 198(2) of CrPC, which deals with the prosecution for offences against marriages.

What is governments' stand?

- In context of the above questions, the government has given its own view that the provision of punishing adultery — Section 497 of IPC — supports, safeguards and protects the institution of marriage and striking it down would destroy the fabric of society itself.
- It has submitted that striking down Section 497 of IPC and Section 198(2) of the CrPC (which were created by the legislature in its wisdom, to protect and safeguard the sanctity of marriage, keeping in mind the unique structure and culture of the Indian society) will prove to be detrimental to the intrinsic Indian ethos which gives paramount importance to the institution and sanctity of marriage.

Criticism against the stand of Government

- Government's opposition to decriminalising adultery is part of a larger reluctance to relinquish powers to police individual choices.
- Government's stand can shift the Supreme Court's focus from constitutionality, which would warrant testing the Indian Penal Code provision outlawing adultery against the right to privacy, personal liberty and equality.

- Modern nations allow individuals to frame and live by their own **codes of personal morality**. Marriage laws should not allow the state to hinder consenting adults.
- The marriage's fate should rest **entirely on the two people** in it. Personal choices like adultery may be morally unacceptable for many individuals but should not amount to criminal offences. Yet, not only does Section 497 IPC entail peeking into bedrooms to catch marital infidelity, it adds insult to injury by punishing merely the cheating man but sparing him if the lover's husband doesn't object.
- **Respecting the privacy and choices** of citizens does not amount to destabilising society at all. It merely recognises that everything deemed ethical cannot be legislated and enforced through coercive governmental power.

Supreme Court's stand during hearings

- The SC has said that the idea of imposition of Section 497 of the Indian Penal Code is not to enforce monogamy but to ensure to **protect fidelity in the marriage**, which is a promise made by both the parties while entering to a marriage.
- It has opined that the **law violates article 14** of the constitution since it creates an irrational classification between men and women. However, it is of view that the Gender neutrality (as recommended by the Malimath Committee) cannot make adultery an offence as the Act is consensual.
- The SC has also said that the women hold positions of authority in almost all spheres, the premise that the woman is always the 'victim' not only **undermines the notion of women's agency** but also is entirely unfair to men.
- The Bench also observed that decriminalising adultery was not "a licence for people to go indulge in it". Further adultery does not even qualify as a criminal offence and is, at the most, a civil wrong that has a civil remedy – Divorce.

The judgement is yet to come.

7.5. STUDY ON TRANSGENDERS

Why in news?

National Human Rights Commission (NHRC) for the first time did a study on the conditions of transgenders in India.

TRANSGENDERS IN INDIA

Social exclusion of Hijras and Transgender women

Exclusion from social and cultural participation

- Exclusion from family and society
- Lack of protection from violence
- Restricted access to education; health services; and public spaces

↕

Social exclusion of hijras/ Transwomen

↕

Exclusion from Politics & Citizen Participation

- Restricted access to collectivisation
- Restricted rights of citizenship
- Restricted participation in decision-making processes

Exclusion from Economy

- Exclusion from employment and livelihood opportunities

The total population of transgenders according to the 2011 Census is 4.8 Lakh; only 30,000 are registered with the Election Commission. However, estimates suggest there are 50 to 60 lakh transgenders in India, but most keep it a secret to avoid discrimination

The study observes that they are totally invisible in all spheres of economic activities. Low level of education and social exclusion limits their capabilities.

- **99%** have suffered social rejection on more than one occasion, including from their family
- **96%** of transgenders are denied jobs and are forced to take low paying or undignified work for livelihood like badhais, sex work and begging
- **89%** of transgenders said there are no jobs for even qualified ones
- **50% to 60%** of transgenders have never attended schools, and those who did faced discrimination.
- It states that the discrimination of transgenders begins from childhood and parents do not play a proactive role in the case of transgender children. Instead, they suffer verbal and corporal abuses at the hands of their parents, siblings and other family members. Transgenders also do not enjoy any legal right in the property inheritance.
- They also don't figure on the agenda of any political party as they do not form a noticeable vote-bank
- **57%** of transgenders are keen on getting sex-alignment surgery but don't have money for it
- **18%** of transgenders are physically abused, 62% are verbally abused in school. 15% are harassed by students as well as teachers
- **2%** of transgenders do not own any property Only 2% of transgenders live with parents. They are not given accommodations by people because of which 53% transgenders have to live under Guru-Chela system (Guru/senior takes cut in the chela's income).

Efforts taken to improve the situation of transgenders in India

- **National Legal Services Authority versus Union of India:** The Supreme Court of India legalized the presence of transgender people in 2014, and allowed the legal creation of a “third gender” category.
 - The judgement also called for affirmative action in education, primary health care, and that transgenders be identified as beneficiaries of social welfare schemes.
 - However, it did not enter into any discussion regarding section 377 of IPC (which criminalizes non-procreative sexual acts) because of which the queer community involved in sex works faces difficulty in getting treatment for health issues such as HIV.
 - NHRC in its report has pointed that center and state government have failed to implement SC guidelines in NALSA judgement or bring laws to improve lives of the transgenders. There is also no clarity on OBC status of transgenders”.
- **Transgender Persons (Protection of Rights) Bill, 2016:**
 - The Bill **defines a transgender person** as one who is partly female or male; or a combination of female and male; or neither female nor male. In addition, the person’s gender must not match the gender assigned at birth, and includes trans-men, trans-women, persons with intersex variations and gender-queers.
 - It **prohibits discrimination** against a transgender person in areas such as education, employment, and healthcare. It directs the central and state governments to provide welfare schemes in these areas.
 - Offences like compelling a transgender person to beg, denial of access to a public place, physical and sexual abuse, etc. would attract up to two years’ imprisonment and a fine.
 - It directs Central government to constitute a **National Council for Transgender** headed by the Union Minister of Social Justice and Empowerment.
 - It provides **no child who is born a transgender can be separated from his parents** except on a court’s order.
 - Every transgender person shall have
 - ✓ a right to reside in the house-hold where parent or immediate family members reside;
 - ✓ b) a right not to be excluded from such house-hold or any part thereof;
 - ✓ a right to enjoy and use the facilities of such house-hold in a nondiscriminatory manner.
 - The Government shall take the following measures in relation to the transgender persons, namely:
 - ✓ a separate **HIV surveillance Centres**;
 - ✓ to provide for **medical care facility including sex reassignment surgery** and hormonal therapy; pre and post sex reassignment surgery and hormonal therapy counselling;
 - ✓ bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;
 - ✓ to facilitate access to the transgender persons in the hospitals and other healthcare institutions and centres;
 - ✓ provision for coverage of medical expenses by a **comprehensive insurance scheme for transgender persons**.
 - **Issues with the bill:**
 - ✓ The Bill states that a person recognised as ‘transgender’ would have the right to ‘self-perceived’ gender identity. However, it does not provide for the enforcement of such a right. A District Screening Committee would issue a certificate of identity to recognise transgender persons.
 - ✓ The Supreme Court has held that the **right to self-identification of gender** is part of the right to dignity and autonomy under Article 21 of the Constitution.
 - ✓ The **definition of ‘transgender persons’** in the Bill is at variance with the definitions recognised by international bodies and experts in India.
 - ✓ The Bill includes terms like ‘trans-men’, ‘trans-women’, persons with ‘intersex

Successful Transgender persons in India

- In 1998 Shabnam Mausi became first transgender to get elected to a public office.
- In 2014, Grace Banu was the first transgender student to secure admission in an engineering college.
- In 2015, India got its first transgender college principal when Manabi Bandhopadhyaya joined as the principle of Krishnagar Women’s College in West Bengal.
- Revathi became the first transgender to write about transgender issues and gender politics in Tamil.
- Padmini Prakash is the first transgender television news anchor in the country.

variations' and 'gender-queers' in its definition of transgender persons. However, these terms have not been defined.

- ✓ Certain criminal and personal laws that are currently in force only recognise the genders of 'man' and 'woman'. It is unclear how such laws would apply to transgender persons who may not identify with either of the two genders.
- ✓ It **does not include the creation of institutions like the national and State commissions for transgenders**, as well as transgender rights courts which were part of the earlier draft bill.
- University Grants commission in 2014 issued a notification to facilitate the education of transgenders such as grievance cells in colleges, separate category in admission and examination forms etc.
- **Important steps taken by states:**
 - **Tamil Nadu** is frontrunning state in taking steps for development of transgenders by providing them education, identity cards and subsidized food and free housing. In a pioneering effort to address the issues faced by transgender people, the government of **Tamil Nadu** established a **transgender welfare board** in 2008 (West Bengal, Maharashtra, Chattisgarh and Karnataka have also established the board).
 - ✓ Seats have been reserved in colleges and universities for the members of transgender community.
 - ✓ Tamil Nadu AIDS Initiative has formed a federation of 20,000 transgenders which provides various health services to its members.
 - **Kerala government** brought the '**State Policy for Transgenders in Kerala 2015**' to provide the "right to live with dignity."
 - ✓ Village and district panchayats and municipalities have been tasked with finding jobs, running special training and skills programmes and welfare projects.
 - ✓ A Transgender Justice Board has been established to address issues of discrimination and violence against them.
 - ✓ The Kochi Metro also provides jobs quota to Transgenders.

Way forward

- Government has taken certain measures to identify and enumerate transgender population. These measures need more streamlining and inter-ministerial cooperation is also required.
- While various state governments formulated schemes for transgender communities, a National policy is an urgent need to ensure greater involvement of transgender persons in policy formulation and program development.
- It is important to **sensitize parents of transgender children and other members of the society** with regards to the human rights of the transgender community.
- Transgender children are under severe stress and low self-esteem and **counselling services** need to be provided to them. A component of such services could be included under the Integrated Child Protection Schemes.
- **Legal and the law enforcement systems need to be empowered and sensitized** on the issues of Transgender community. Special Grievance Redressal Cells for their protection should be set up in all police stations.
- **Child Protection laws need to be strengthened** to address issues faced by transgender adolescents. The abandonment of child is a punishable offence under Section 317 of IPC. The age limit of child for this offence need to be increased to 18 years as abandonment of transgender children usually takes place between 12 and 18 years.
- **Care homes for transgender children** should be setup to prevent exploitation of vulnerable transgender children.
- **Legally transgender cannot enter into a marriage**, have spouse and setup their own family in India. They need to be provided right to marry and right to a family along with right of sexual orientation.

International Practices

- Countries like Denmark, Malta and Argentina have made legislations related to self-determination. Following Argentina's lead India can choose to adopt the **Yogyakarta principles**- i.e. adopt a model of gender recognition that does not rely on a diagnosis by medical professionals.
- In United Kingdom change in legal sex does not have an effect on marriage, security benefits/pensions and do not adversely affect parenthood or succession rights.
- Following precedents set by Iran, Argentina and Brazil sexual reassignment surgery and hormone therapy should be defined as a public health right and be made freely available.

- Government should take steps to provide housing facilities to transgender people.
- **Transgender people should get equal employment opportunities** and every employer should be made to declare policy statement on trans recruitments.
- **Local governments need to play a positive and proactive role** in removal of taboos and discrimination.
- **All treatment and other facilities** should be provided at free of cost or at subsidized rates to all transgender patients in both government and private hospitals.
- School and colleges need to play a supportive and encouraging role in providing education and value-system to Transgender.
- Establishment of helpline for career planning and guidance, career opportunities and online placement system must be empowered.
- Liberal credit facilities and financial assistance must be ensured to start up their career as an entrepreneur or businessman.

7.6. SECTION 377 DECRIMINALIZED

Why in News?

Recently, in a landmark verdict a constitutional bench of Supreme Court in **Navtej Singh Johar v/s Union of India, 2018** case declared parts of Section 377 of IPC as unconstitutional, thus decriminalizing homosexuality.

Background

- Section 377 came into force in 1861 during the British rule to criminalise sexual activities “against the order of nature”, including homosexual activities.
- In **Naz foundation v/s Govt of Delhi case, 2009** the Delhi High Court held that section 377 was in violation of Fundamental Rights of the constitution such as Article 14, 15, 19 and 21 and decriminalized it.
- Later, Supreme Court in **Suresh Kumar Koushal vs Naz Foundation case, 2013** overturned the HC ruling by dismissing the issue as concerns of a ‘miniscule fraction of the country’s population’.
- In 2014, the SC in **NALSA v/s Union of India case** directed the government to declare transgender a ‘third gender’ and include them in the OBC quota.
- Last year in its privacy judgment (**Justice Puttaswamy(retd.) v/s Union of India, 2017**), SC upheld the Right to Privacy as a fundamental right under the Constitution and said that sexual orientation is an essential component of identity and the rights of the LGBTQ persons are real and founded on constitutional doctrine.
- SC also called for equality and condemned discrimination, stating that the protection of sexual orientation lies at the core of the fundamental rights and dignity of the person.

Arguments given by SC against Section 377

- **SC declared Section 377 as irrational, indefensible and manifestly arbitrary:** the fact that Section 377 fails to make a distinction between consensual and non-consensual sexual acts between competent adults was manifestly arbitrary and makes it violative of the right to equality that includes the right against arbitrariness.
- **Unconstitutional and Violative of Right to privacy:** According to the SC, bodily autonomy is individualistic and choice of a partner is part of the fundamental right to privacy, integral to Article 21 of the constitution(SC in Hadiya judgment, 2018). Criminalisation of private sexual conduct between adults of same sex was thus unconstitutional as it also abridged their freedom of choice and expression under Article 19.
- **Discriminated against a minority based solely on their sexual orientation:** thus violating the basic fundamental rights of LGBTQ community under article 14 and 15 of the constitution which prohibits discrimination solely on the basis of sex. It also prohibited them to enjoy equal citizenship and equal protection of laws under Article 21.
- **It is not against the order of nature:** Homosexuality is documented in 1500 species and is not unique to humans. Sexual attraction for the same sex is controlled naturally by neurological and biological factors; an individual’s natural orientation is innate and lies at the core of her/his being and identity.
- **Homosexuality is neither mental illness nor moral depravity:** The Mental Healthcare Act, 2017 already cleared the stigma of mental illness attached to homosexuality.
- **International law strictly prohibits any discrimination on the grounds of sexual orientation or gender identity:** The Office of the UN High Commissioner of the Human Rights obliges states to protect

individuals from homophobic violence; prevent such violence; decriminalize homosexuality; prohibit discrimination; and respect fundamental freedoms of all persons. Similar reiteration of human rights of LGBTQ people were made in recently expanded Yogyakarta Principles.

- **Constitutional morality privileges over social or majoritarian morality:** Constitutional morality must seek to usher in a pluralistic and inclusive society. It is the responsibility of the State to curb majoritarianism and any attempt to create a homogeneous, uniform, consistent and a standardized philosophy would violate the constitutional morality. The Constitution is not for just the majority, the fundamental rights are guaranteed to “any person” and “any citizen”, and the sustenance of these rights does not require majoritarian sanction.
- **The idea of transformative constitutionalism** must be utilized to transform society for the better so as to embrace the ideals of justice, liberty, equality and fraternity among the citizens.
- **The destruction of individual identity would tantamount to the crushing of dignity:** Attitudes and mentalities have to change to accept distinct identities of individuals, who must be respected for who they are, and not compelled to become who they are not. Courts must protect dignity of an individual as right to live with dignity is recognized as fundamental right.

Implications of the Judgment

- it would not apply to consensual same-sex acts between homosexuals, heterosexuals and other sexual minorities but would apply to bestiality and sexual acts without consent by one of them.
- **End discrimination:** It will put an end to the discrimination that many millions faced because of their sexual orientation or gender identity for so many years.
- **Impact on other judgments:** the present ruling will impact similar cases pending in the court such as that of section 497 which provides for criminalizing adultery.
- **Transnational impacts:** the judgment would provide an impetus to other countries to critically consider the lawfulness and legality of provisions that similarly criminalise sexual relations.

Way Forward

- A new law must be brought to explicitly provide protection for sexual minorities and the Government must work towards eradicating the societal stigma surrounding homosexuality.
- Laws must be appropriately amended to give them right to marriage, inheritance, guardianship and adoption to ensure complete equality, dignity and societal acceptance.
- Similarly, discriminations faced by LGBTQ community in education, jobs and at health care centers must be adequately dealt with.
- The current judgment presents an opportunity to adopt international Principles regarding human rights of LGBTQ in a structured manner to correct the wrongs done to the fellow citizens.

7.7. DEVELOPMENT INDUCED DISPLACEMENT OF TRIBALS

Why in news?

As per **Art 338**, NCST has directed Andhra Pradesh to improve on resettlement and rehabilitation of tribal families displaced by Indira Sagar Polavaram project.

Background

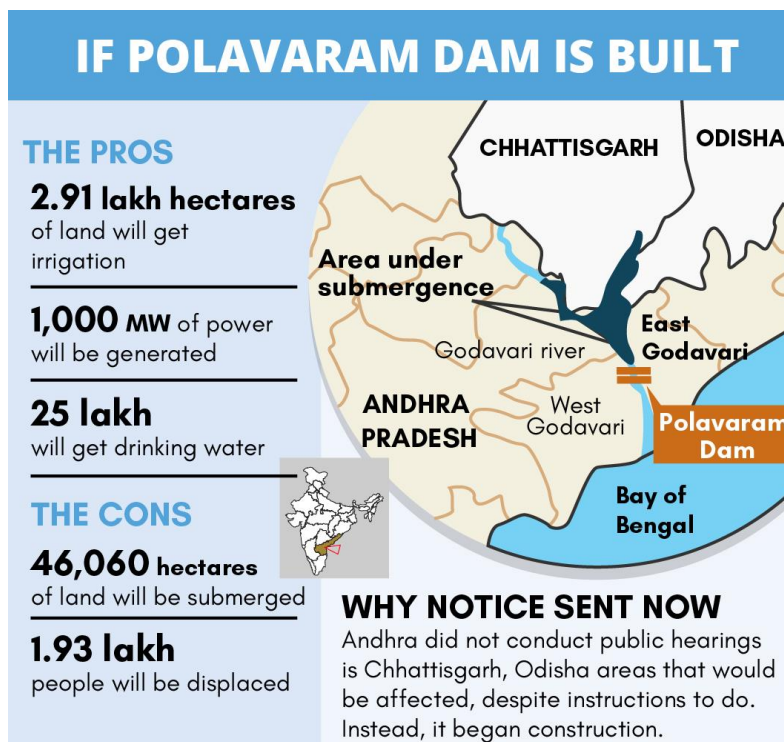
- Numerous big development projects have been seen as crucial for the overall development of the economy. For example, Dams are known as the ‘temples of India’.
- Many of these projects have been set up in tribal

Related Information

- The **National Commission for Scheduled Tribes (NCST)** was constituted consequent to the amendment of **Article 338** of the Constitution of India and insertion of a new **Article 338A vide the Constitution (Eighty-ninth Amendment) Act, 2003** which, inter-alia, enjoins upon the Commission to oversee the implementation of various safeguards provided to Scheduled Tribes under the Constitution or under any other law for the time being in force or under any other order of the Government and to evaluate the working of such safeguards.
- **Article 338** provides for a Special Officer for Scheduled Castes, Scheduled Tribes to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.
- A major legislation that deals with the issue of displacement and resettlement is Land acquisition, Rehabilitation, Resettlement Act 2013.
- Other laws for tribal development include Panchayats (Extension to Scheduled Areas) Act 1996 (PESA), Forest Rights Act 2006 and Fifth Schedule of the Constitution.

areas and on the lands owned by tribals. These are the groups that have traditionally depended on the common property resource basically on forestland for their survival.

- ‘**Development induced displacement and resettlement (DIDR)**’ can be defined as the forcing of communities and individuals out of their homes, often also their homelands, for the purposes of economic development. At the international level, it is viewed as a violation of human rights.
- Compensation and rehabilitation policies designed to mitigate effects of displacement are often unsuccessful. This is largely due to corruption of street level bureaucrats, underestimation of the value of resources, failure of planners to recognize the intricacies of the existing social and economic systems of the displaced and lack of involvement of displaced persons in the planning process.



Problems faced by the displaced families can be summarised as

- The affected communities many a times are **not even consulted regarding the actions** and their consequences on them. For example, in case of Bargi Project over Narmada, it was told that 104 villages will be affected, while 162 villages got submerged leading to displacement of people.
- **Under-evaluation of Compensation:** Due to high level of corruption, illiteracy among the Tribals and various other reasons, the people are cheated as compensation is not enough in terms of the loss they usually go through.
- **Inability to handle cash compensation:** Their money gets depleted quickly through fraud, from repayment of old debt, in liquor and other conspicuous consumption. A lifetime of livelihood security or shelter is squandered in months, sometimes weeks, condemning displaced persons to assured and irrevocable destitution.
- **Failure to acquire cultivable land:** The problems associated with the

Important Provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

- The process for land acquisition involves a **Social Impact Assessment survey**, preliminary notification stating the intent for acquisition, a declaration of acquisition, and compensation to be given by a certain time. All acquisitions require rehabilitation and resettlement to be provided to the people affected by the acquisition.
- The ‘**public purpose**’ for which land can be acquired by the government is defined.
- The Act also **provides for** schools and playgrounds, health centers, roads and electric connections and assured sources of safe drinking water for each family.
- The **role of the gram sabha** has been clearly stressed and the government has to consult them.
- **Compensation** for the owners of the acquired land shall be four times the market value in case of rural areas and twice in case of urban areas.
- In case of acquisition of land for **use by private companies** or public private partnerships, consent of 80 per cent of the displaced people will be required. Purchase of large pieces of land by private companies will require provision of rehabilitation and resettlement.
- The Act forbids land acquisition when such acquisition would include multi-crop irrigated area. However, such acquisition may be permitted on demonstrable last resort, which will be subjected to an aggregated upper limit for all the projects in a District or State as notified by the State Government. In addition to the above condition, wherever multi-crop irrigated land is acquired an equivalent area of cultivable wasteland shall be developed by the state for agricultural purposes.

absence of a comprehensive rehabilitation plan, of undervaluation of compensation and the inability to negotiate a money economy, combine as serious barriers for displaced land owners to secure alternate cultivable lands.

- **Traumatic, Forced and delayed relocation:** The driving objective of project authorities has not been to prepare and assist the families to relocate and to make a gradual and less painful transition to their new habitats. Instead the only objective is to vacate the submergence zone of what are perceived to be its human encumbrances.
- **Problems in resettlement sites:** Resettlement sites are often inhospitable in a number of ways (small houses, temporary structures, absence of basic facilities, schools and colleges, etc.) and their locations are selected without reference to availability of livelihood opportunities, or the preferences of displaced persons themselves.
- **Multiple displacement:** Due to absence of coordination among offices, displacement takes place twice or thrice, for which the villagers are not even compensated.
- **Failure to provide alternative livelihood:** Land for land policy rarely operationalise and the authorities are unable to provide non-land based sustainable livelihood to the displaced.
- **Problems of host communities:** Unoccupied areas rarely exist and therefore resettlement takes place in existing settlements. This increases competition for few available resources and jobs. Therefore, the host communities rarely accept the displaced people.
- **Special vulnerabilities** due to class, caste, gender, age, etc is also observed during displacement. The displaced family's livelihood, their family, kinship systems, cultural identity and informal social networks are badly affected and disrupted. The condition of the women is even more traumatic. Lack of policy framework and social securities has made them insecure and psychologically very weak.

Recommendations for Rehabilitation and Resettlement of displaced people:

- **Agricultural land:** The state government should provide only land fit for agriculture to the displaced family within the command area of Irrigation Project with proper irrigation facilities.
 - While awarding compensation in respect of tribal people, “**land for land**” policy should be followed to the maximum extent.
 - The ceiling of 2.5. acres of land should be waived in case of ST people, and they should be provided equal or at least 2.5 acres of land within the Command Area in case of irrigation project such as Polavaram.
- **Means of livelihood:** The state government should also take care of the people without land holdings (who depended on minor forest produce for livelihood) by providing them adequate means of livelihood. The government may consider developing an industrial estate/hub adjoining the resettlement area to provide employment and economic opportunities to the displaced families.
- **Housings:** Government should immediately re-build the newly constructed houses which are destroyed by flash flood to mitigate the sufferings of displaced.
- **The compensation packages** need to be revised keeping in view the suggestions of the Supreme Court of India in the case of Mahanadi Coalfields Ltd.
- **Infrastructure:** In the resettlement colonies, focus/emphasis needs to be given for creation of social infrastructure like setting up of Colleges, University, Stadiums, Medical College on the pattern of AIIMs, Art and Music academies/centers, etc. in addition to their entitlement.
- **Advance Construction and compensation:** The State Government must ensure that R&R work is completed and compensation paid to the project affected as well as project displaced families at least four months prior to submergence or commissioning of the project or their displacement, whichever is earlier.
- **Overseeing the process:** The NCST strongly recommended that there should be a dedicated team of R&R officials to be stationed in rehabilitation area to oversee the developmental activities and other welfare measures for a period of at least 5 years from completion of the project.
- **Alternative solutions** such as **reviving traditional systems of water harvesting** (it has worked in various parts of Rajasthan and has changed the economy of farmers and also addressed drinking water problems in the region), **applying modern rainwater harvesting models** and **building small check dams**, precise irrigation methods, sustainable mining etc. can be adopted instead of bigger projects.

7.8. PROPOSED NATIONAL POLICY FOR DOMESTIC WORKERS

Why in News?

Discussions are underway regarding a policy for Domestic Workers as government recently came out with its proposed salient features.

Issues with the domestic workers

- **No accurate data on their exact number:** though 68th round of NSSO survey for employment and unemployment indicate 3.9 Million, unofficial numbers may be higher.
- **No legal framework currently recognizing their rights:** Though India has two laws which address the concerns of domestic workers and in a circuitous way regard them as 'workers' which include Unorganized Workers Social Security Act, 2008 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, neither of these identifies workers as rights bearing workers.
- **Indifferent attitude of State governments towards domestic workers:** states have failed to include domestic workers in their respective schedules of employment.
- **Vast Sector and still not considered an economic activity:** In purview of labour laws the work of domestic workers is not termed as a work- cooking, cleaning, babysitting, etc. are not recognized as work by state. They don't have access to basic social security benefits including Maternity leaves, Pension and insurance.
- **The Minimum Wages Act 1948 doesn't take domestic workers into account:** This results in poor grievance redressal in case of underpaid workers.
- **Includes Children below age of sixteen:** who are unable to enjoy their fundamental right under article 21A that guarantees them compulsory elementary education.
- India is a signatory to the **International Labor Organization's 189th convention**, known as the Convention on Domestic Workers, but has not ratified it yet.

Past efforts towards legislation for Domestic workers

The National Platform for Domestic Workers submitted a draft bill, the **Domestic Workers Regulation of Work and Social Security Bill, 2016** which called for the compulsory registration of the employer and the employee with the District Board for regulation of domestic workers.

Why need for a policy?

- **Domestic Workers lack an organized union:** they come under the unorganized sector, thus they don't act as a pressure group which disables them to highlight their grievances to the authorities.
- **Migrant Workers:** Most of these are from vulnerable communities – Adivasis, Dalits or landless OBCs and almost all of them are migrants who require work to survive. Overwhelming number of them are women.
- **Victims of abuse:** they are often mistreated and are verbally or physically abused and also many times face sexual harassment which creates an unsafe working environment.
- **Remain out of mainstream economy:** they are unable to utilize the benefits of rapid economic development and growth.

Initiatives by states

- Many state governments like Rajasthan, Kerala, Punjab, Tamil Nadu and Tripura have included domestic workers in the schedule of Minimum Wages Act and workers are, therefore, entitled to file cases before the concerned authorities in case of any grievances in this regard.
- **Mathadi board model** prevalent in Maharashtra: The Mathadi boards were set up to ensure fair wages were paid to workers carrying loads. This ensures that equal wages are paid for equal work.

Salient Features for proposed National Policy for domestic workers

- Inclusion of domestic workers in the existing legislations.
- Registration of domestic workers.
- Right to form their own associations, trade unions.
- Right to have minimum wages, access to social security, protection from abuse, harassment, violence.
- Right to enhance their professional skills.
- Protection of domestic workers from abuse and exploitation.
- Domestic workers to have access to courts, tribunals, etc.
- Establishment of a mechanism for regulation of placement agencies.

Significance of proposal

- Aims to provide equitable salaries and fair employment terms, protection from abuse/harassment and violence and address their grievances and resolve disputes.
- States to set up a Board/Trust to register and regulate placement agencies for domestic workers. The board will make recommendations on working hours, minimum wages and leave entitlements, promoting equal pay for equal work.
- Clearly define part time, full time and live-in workers, employers and private placement agencies.
- Domestic workers would now be included in the Universal Social Security code that is being drafted by labour Ministry, which would provide them with benefits such as medical insurances, pensions, maternity and mandatory leave.
- It would be a step forward in formalization of domestic workers.

7.9. THE TRAFFICKING OF PERSONS BILL, 2018

Why in news?

Lok Sabha has recently passed the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018.

What is human trafficking?

- **United Nations Convention against Transnational Organized Crime (UNTOC)** defines Trafficking in Persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
- Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- Human trafficking is a crime against the person because of the violation of the victim's right to movement through coercion and because of their commercial exploitation. It is the third largest organized crime in the world.

What increases vulnerability to human trafficking?

- **Political Instability:** It creates unstable conditions in which people may live in constant fear with limited options for survival or earning a living.
 - It may also lead to **forced migration** leading to homelessness, unemployment, and other deprivations of which traffickers may take advantage.
- **Poverty:** Traffickers specifically target poor and marginalized communities to offer vulnerable individuals false opportunities to improve their circumstances. Parents are often forced to sell their children due to poverty.
- **Gender Inequality:** makes women more vulnerable to recruitment by traffickers.

Human Trafficking in India

- The most current available data from the National Crime Records Bureau (NCRB) indicate that there were more than 8,000 reported cases of human trafficking across India in 2016.
- West Bengal (having porous borders with Bangladesh and Nepal) has become a human trafficking hub as it registered more than one-third of the total number of victims in 2016.
- India is a source, transit as well as a consumer country in South-East Asian human-trafficking industry.

Steps taken to combat human trafficking

- India ratified the UNTOC in 2011.
- The Government of India applies the **Criminal Law (Amendment) Act 2013**, as well as Section 370 and 370A IPC provides stringent punishment for human trafficking; trafficking of children for exploitation in any form including physical exploitation; or any form of sexual exploitation, slavery, servitude or the forced removal of organs.
- Apart from this, there many other laws and provisions that protect people from exploitation, like-
 - **Article 23 (1)** of Indian Constitution prohibits Trafficking in Human and forced labour,
 - The Immoral Traffic (Prevention) Act, 1956 (ITPA) for prevention of trafficking for commercial sexual exploitation.
 - Bonded Labour System (Abolition) Act, 1976,
 - Protection of Children from Sexual offences (POCSO) Act, 2012 to protect children from sexual abuse and exploitation, etc.

- **Addictions:** Traffickers use substance dependency and addiction to keep control of the trafficked person. Some traffickers purposely supply drugs to vulnerable people to break down their resistance and coerce them into forced labour or sex.
- **Mental Health:** People with mental health issues face a variety of challenges including isolation, diminished capacity to consent or offer informed consent, and limited ability to assess risk and detect ill-intentions. Traffickers are skilled in detecting these vulnerabilities and manipulating them to their advantage.
- **Online Vulnerability:** Traffickers maintain an online presence to lure vulnerable adults and children with the goal of meeting them in person, to take and circulate explicit photos, and to coerce an individual to comply with their demands.

Salient Features of the Anti-trafficking Bill, 2018

- A **National Anti-Trafficking Bureau (NATB)** will be established for coordinating, monitoring and surveillance of trafficking cases. It will also deal with crimes having inter-state ramifications.
- **Anti-Trafficking Relief and Rehabilitation Committees** to be established at the national, state, and district levels. These Committees will be responsible for: (i) providing compensation to victims, (ii) repatriation of victims, and (iii) re-integration of victims in society, among others.
- **State Anti-Trafficking Officers:** He will be responsible for: (i) follow up action under the Bill, as per the instructions of the State Anti-Trafficking Committee, and (ii) providing relief and rehabilitation services. The state government will also appoint a Police Nodal Officer at the state and district levels.
- **Anti-Trafficking Units:** ATUs will deal with the prevention, rescue, and protection of victims and witnesses, and for the investigation and prosecution of trafficking offences. In districts where an ATU is not functional, this responsibility will be taken up by the local police station.
- **Protection and rehabilitation:** It requires the central or state government to set up Protection Homes. These would provide shelter, food, counselling, and medical services to victims.
- **Designated courts** will be established in each district to provide **time-bound (within an year) judgement**. The bill also provides penalties for various offences.

Analysis

- The bill provides a robust policy framework which ties together the approaches of prevention, rescue and rehabilitation and also introduced the concept of 'aggravated forms of trafficking'

Recommended Guidelines on Human Rights and Human Trafficking by Human Rights Council of the UN

- **Promotion and protection of human rights.** Anti-trafficking measures should not adversely affect the human rights and dignity of persons and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum-seekers.
- **Identification of trafficked persons and traffickers.** A failure to identify a trafficked person correctly is likely to result in a further denial of that person's rights.
- Effective and **realistic anti-trafficking strategies** must be based on accurate and current information, experience and analysis.
- There is an urgent need to **harmonize legal definitions**, procedures and cooperation at the national and regional levels in accordance with international standards through an adequate legal framework.
- An adequate law enforcement response to trafficking is dependent on the **cooperation of trafficked persons and other witnesses**. Law enforcement **officials must also be sensitized** to the paramount requirement of ensuring the safety of trafficked persons.
- Appropriate protection and support should be extended to all trafficked persons **without discrimination**.
- Strategies aimed at preventing trafficking should take into account **root causes** like addressing issues like inequality, poverty and all forms of discrimination and prejudice.
- **Child victims of trafficking** should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs.
- To overcome the problem of lack of awareness about **right to remedies** among the victims of trafficking, legal and other material assistance should be provided to trafficked persons to enable them to realize their right to adequate and appropriate remedies.
- **States, intergovernmental and non-governmental** organizations are responsible for the actions of those working under their authority and are therefore under an obligation to take **effective measures to prevent** their nationals and employees from engaging in trafficking and related exploitation.
- **International, multilateral and bilateral cooperation** can play an important role in combating trafficking activities. Such cooperation is particularly critical between countries involved in different stages of the trafficking cycle.

- such as begging, child-bearing, administering hormones, etc.
- The bill provides **protection to witness** as well as confidentiality through in-camera proceedings, video-conferencing etc along with a provision for time-bound trial.
 - It seeks to build the **capacity of victims** by providing capital, infrastructure, education and skill development to empower them to access justice and to prevent further trafficking. This will be accomplished and strengthened through the intelligence apparatus to improve the collection, collation and dissemination of operational intelligence.
 - However, there still remain certain issues that need to be rectified, like-
 - It has **not been sent to the standing committee** as demanded by many.
 - It is also believed that it is just rehash of existing laws as section 370 of IPC still exists. The creation of several anti-trafficking bureaucratic bodies will **create confusion in the enforcement** of these laws.
 - Various vague phrases and provisions like “any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner” provides scope for wider interpretations which may have impact on freedom of speech and expression.
 - It has also been criticised for not being in accordance with the recommendations of the UN Human Rights Council.
 - The provisions without safeguards could result in **harassment of transgenders**. The use of phrases such as ‘administration of hormones’ in the Bill can be used to target transgender persons, since many of them take hormones during their process of gender affirmation.
 - Certain provisions such as confiscation of property will hurt those sex workers which are **voluntarily involved in the job**. The Bill promotes “rescue raids” by the police and **institutionalisation of victims** in the name of rehabilitation.

7.10. MIGRATION

Introduction

Human migration is the movement by people from one place to another with the intention of settling temporarily or permanently in the new location.

Migration Facts of India

- **Feminization of Migration:** As per Census 2011, women migrate more than men. It's majorly between rural to rural areas (47.4%), followed by urban to urban areas (22.6%), rural to urban areas (22.1%), and urban to rural areas (7.9%) (see infographic).
- **Migrant workforce:** In urban areas, about 33% of the male workforce, and 56% of the female workforce is composed of migrant workers.
- **Nature of jobs:** In urban areas, 33% of the male migrants work in traditional services (wholesale and retail trade, hotels, transport), followed by 27% in manufacturing, and 16% in modern services (real estate, education, health)
- According to Economic Survey 2017-18, growing migration by men is causing **Feminisation' of Agriculture Sector**.
- **According to ILO**, Migrants, especially migrant women, have higher labour force participation rates than non-migrants.
- **According to World Economic Forum**, about 5-6 million migrants are on the move every year in India, travelling from some of its poorer states to newly emerging urban zones.

Feminisation of Migration

In recent time, shift in migration patterns relates to an increase in the migration of single women and partnered women who migrate without their families

Causes

- **Gender relations and hierarchies within the family** context affect the migration of women. Family both defines and assigns the roles of women, which determine their relative motivation and incentive to migrate, and controls the distribution of resources and information that can support, discourage, or prevent migration.

- **Macro Characteristics of Place of Origin**, influence gender-specific migration propensities. These characteristics include, the state of the economy; the types of economies; the level of displacement caused by economic changes; land tenure laws; etc.

Challenges faced by women migrants

- **Lack of Individual Rights:** Studies of immigrant women argue that women more often than men are denied full incorporation; that is, the full civil, political, and social rights and responsibilities that normally come with membership in a society.
- **Work Stigma:** Women may have different experiences than men because they are frequently segregated into traditional "female" occupations, such as domestic work, childcare, or garment manufacturing.
- The existing push and pull factors are also fostering an increase in irregular migration exposing migrant workers, especially women, to **exploitative working conditions** and denying them access to legal and social protection.
- **Forced by domestic economic conditions**, women are sometimes forced to migrate in search of employment avenues.
- **Cultural Discrimination:** Migrant women workers are often seen as aliens and treated as inferiors—culturally and socially, making them more vulnerable to exploitation and sexual abuse.

Other Challenges faced by migrants

- **Access to employment:** Certain states have introduced domicile requirements with regard to employment which puts migrants at a disadvantage.
- **Access to benefits:** Migrants are registered to claim legal and social entitlements (such as PDS) at their source location. However, post migration, they lose access to these benefits at the destination. Migrants may also be missed out in BPL Surveys.
- **Denied Substantial Work:** Seasonal migrants dominate the low-paying, hazardous and informal market jobs in key sectors in urban destinations, such as construction, hotel, textile, manufacturing, transportation, services, domestic work etc.
- **Health Issues:** They have poor access to health services, which results in very poor occupational health.
- **Lack of Skill:** large number of migrants find work as unskilled labourers since they enter the job market at a very early age, experience no upward mobility and remain stuck in the most unskilled, poorly paid and hazardous jobs for their whole work-life span.
- **Lack of credible data on incidence of seasonal migration** poses serious constraint in framing an effective policy. Census and NSS that have a significant impact on policy making also are unable to capture seasonal and circular migration.
- **Voting Right:** They are unable to participate in the formal electoral system and are denied a fundamental citizenship right - their right to vote.

Policy framework for inter-state migrant labour in India

- Migrant workers who largely form the informal labour market escape the safety nets because of the lack of provisions to recognize their mobile nature and temporary work tenures.
- The migrant specific policies attempted to fill this gap by introducing registration systems to regulate the inflow of migrant labourers and putting in accountability measures for the employer and contractors.
- The **Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979** was ground-breaking in this context but exists only on paper and failed to meet the objectives.
 - The Act is ridden with formulation flaws like recognition of migrants hired through a contractor only, no defined direct engagement with the principal employer; lack of provisions for security of employment; no obligation on the part of the employer or the contractor; or penalties for offence.
- Apart from these flaws within the legislative framework, a major reason for its failure has been the concurrent nature of social security laws and labour laws in India, which means that they are enacted and implemented both by the Central government and the state governments.
 - The responsibility for the effective enforcement of the provisions of the Act gets dissipated between the Central, host state and home state governments. Huge variation among Indian states on labour regimes has acted as a major hurdle in the implementation of such welfare schemes for the migrant workers.

Way Forward

- A **review of the existing legislative framework and providing basic guarantees** on wage and work conditions for all workers. A comprehensive law should be brought in for the unorganised sector workers, which could also provide social protection to such workers.
- **PDS should be made portable**, and expanded to extend coverage to migrants.
- **Resolving Housing Issues** by expanding of basic services (water supply, electricity) to all settlements, provision of wide variety of rental accommodation and provision of dormitories and working women's hostels.
- States should **move away from the requirement of domicile status** to prevent any discrimination in work and employment for the migrants.
- The vast network of the Post Offices, banking system and Payment Banks, need to be strengthen in order to reduce the cost of transfer of money and to avoid informal remittances channels.
- Underutilised **Construction Workers Welfare Cess Fund** should be used to promote rental housing, working Women Hostels for the benefits of migrants.
- **Awareness campaigns** should be started aiming at addressing the issue of stereotypes and misapprehensions about migrants and also encouraging migrants to raise their political voice.
- The challenges of moving into new communities that speak different languages and have different cultures need to be understood and addressed. Here, the issues of the locals must also be appreciated.

7.11. MOB LYNCHING

Why in news?

Government has set up a high-level committee chaired by the Union Home Secretary **Rajiv Gauba** to make recommendations for checking incidents of mob lynching across the country.

Mob Lynching in India

- Mob Lynching or Mob violence is a **violent punishment or execution, without following due process of law, for real or alleged crimes**.
- India is perhaps **the only place in the world** where mobile messaging has led to such a widespread mass exodus and lynching.
- In September 2017, the Supreme Court had asked states to take strong measures to curb such instances of violence in the name of cow protection, but not much steps were taken to that effect.
- More recently, **Supreme Court** denounced the **horrendous acts of mobocracy** and gave certain directions to deal with such crimes.
 - Appointment by states of senior police officers as nodal officers in districts,
 - Identification of vulnerable and sensitive regions
 - More efficient patrolling of highways in these areas
 - Lodging of FIRs without delay
 - Compensation schemes for victims and their families
 - Designated fast track courts to try the culprits
 - Prompt departmental action against police officers and administrative officials who fail to uphold the law.
 - A **special law** to be framed by Parliament, creating a **separate offence of lynching**.

Need of a separate law

- **No existing law:** Presently there is no law which criminalizes mob lynching as a separate crime.
- **Deterrence:** A dedicated law would help create enough deterrence against such heinous crime.
- **Ensure governance:** The killing of human being by a crowd out to enforce mob justice puts a dent on democratic society and questions governance capabilities of the state. Thus, it needs to be punished.
- **Deal with multi-dimensional challenges:** such as vigilantism, lynching due to spread of rumor etc.

However, some experts feel that the lynch mob is a law and order challenge and there are enough provisions in IPC related to murder, attempt to murder, acts done by several persons in furtherance of common intention etc. to tackle such menace if implemented strongly and effectively.

Issues with mob lynching

- **Against rule of law:** The process of adjudication takes place within the courts of justice, and not on the streets.
- **Against human rights:** The lynching by mob create an atmosphere where human beings are dehumanised, freedom of speech, expression and personal choices are endangered and plurality and diversity is not accepted.
- **Fuel communalism and casteism:** as in most cases, victims are the most vulnerable people of society - nomadic tribes, religious minorities, lower castes etc.
- **No database to analyse trends:** As per Ministry of Home Affairs there is no record keeping on public lynching. Thus, making it difficult to draw conclusions and possible solutions to the problem.
- **Rise in causes that fuel the tendency towards such incidents**
 - Loss of **faith of people in the judicial/democratic system** of governance especially the poor and marginalized. So they are tempted to deliver instant justice in their own ways.
 - **Socio-political framework:** it involves people with little or no education, deep fissures and mistrust, political patronage to achieve narrow political gains, rising intolerance and growing polarization.
 - **Misinformation and propagandas spread through platforms like Facebook, WhatsApp:** For e.g. recent rumours regarding child lifters have incited many impulsive and unplanned acts of violence across the country.
 - **The incapability/unwillingness of law enforcement agencies** to act against mob crimes further encourages it to take the law into their own hands frequently. Public officials and police departments should be held accountable for showing incompetence rather than putting onus on social media platforms completely
 - **Dispersion of responsibility and guilt** unlike sense of responsibility in individual action.

Way forward

- **Setting example and ensuring prosecution and punishment:** Mob lynching points to a disruption that reflects the loss of trust in state capabilities in justice delivery. Thus, such reiterative brutality and assaults on personal liberty and the right to life needs to be suppressed and punished so that perpetrators know that they would not be able to get away with it.
- **Focus needed on social/attitudinal change:** through reaching out to local communities to keep peace and check trouble makers from spreading rumours, creating awareness regarding misuse of social media by mass campaigns with help of civil society etc.
- **Strengthening administration and governance to ensure public confidence in state institutions:** by strengthening local intelligence networks, swifter response from police, proactive flagging of rumors.
- **Holding Social media platforms accountable:** WhatsApp should change its platform to enable privacy in messages between individuals and tracking identity where forwarded message is to public.
- **Adopt innovative practices as adopted in various states:** For example
 - **Telangana police** has trained a team of 500 police officers to tackle the fake news menace. These officers go to villages to spread awareness about social issues. Police personnel have also been added to local WhatsApp groups in villages to spot rumors that could lead to violence.
 - The **West Bengal police** took to Twitter to dispel a rumor that government had sanctioned a five-day holiday on account of Eid, nixing attempts to incite communal tension.

7.12. THE RTE AMENDMENT BILL, 2017

Why in News?

Recently, in the monsoon session Lok Sabha passed the amendment to **The Right of Children to Free and Compulsory Education (second amendment) Bill, 2017** to abolish the 'No- Detention' policy in schools.

Background

- The **86th Constitution Amendment Act, 2002** requires the State to provide free and compulsory elementary education to all children. **The Right of Children to Free and Compulsory Education (RTE) Act, 2009** seeks to give effect to this Amendment under which all children between the ages of 6 and 14 years have the right to elementary education (class 1-8) in a neighbourhood school.

- The **Section 30 (1) of the RTE Act** states that a child cannot be detained in any class till the completion of elementary education.
- In recent years, two expert committees-**Geeta Bhukkal (2014)** and **TSR Subramanian (2016)**- reviewed the no-detention provision in the RTE Act and recommended it be removed or be discontinued in a phased manner.
- As per the amendment bill, regular examination will be held in Classes 5 and 8 and if a child fails there is a provision to give her additional opportunity to take a re-examination within two months. If she fails again in the re-examination, the relevant Central or State Government may decide to allow schools to detain the child.

Arguments against No Detention Policy

- **No incentives for children to learn and for the teachers to teach:** there is no provision under RTE Act to ensure objective measurement of learning outcomes through criteria such as attendance, test scores or examinations at the end of every class and thus automatic promotion reduces incentives for both children and teachers.
- **Children become non-serious, inattentive to studies and irregular in attendance:** for many students the Mid Day Meal is the only incentive, thus though No detention policy resulted in significant increase in enrollment, there has been little or no improvement in academic standards or quality of education.
- **Students lack required educational competence, knowledge and skills relevant to higher classes:** thus their poor performance further enhances in every subsequent class. Moreover, promoting laggards drags down the standard of the whole class and handicaps the teacher's ability to teach the curriculum at the expected pace which is unfair to the majority of the students in the class.
- **Increases the pressure and tension on the child:** Failing to ensure that child learns fundamentals of language (mother tongue) and basic arithmetic in primary classes increases the pressure and tension on the child and she may start drifting away from regular schooling system.
- **Reduction of dropout rate is an artificial construct and illusion created by No detention policy:** Automatic promotion of children only rolls over and postpones the problem of dropouts as seen from shoot up of dropouts in class 8 at the end of elementary stage.
- **Number of students failing in class 9 examinations has been on increase in many states:** In Delhi, for instance, the number of repeating students as a percentage of total students enrolled in Class 9 rose from 2.8% in 2010 to 13.4% in 2014, thus resulting in many states demanding a review of no detention policy.

Arguments for the No Detention Policy

- **Detaining children at the elementary level damages their self-esteem and give them a permanent inferiority complex:** The social stigma associated with "failing", has deeply damaging effects on the psyche of the child.
- **Detention leads to increased dropouts and rise in number of social problems:** Fear of failing in examinations and being detained has a detrimental effect on curricular learning for children. Detention leads to children dropping out of school and taking to vagrancy, begging and petty crime. On the other hand, keeping children in school prevents a host of social problems, including juvenile delinquency and child marriage.
- **Detention makes a child repeat entire syllabus of the class:** However, instead of detaining and repeating the same whole material again for another nine months, weaker areas of the child can be selectively targeted to cover the gaps in two or three months.
- **Learning as a continuous process:** Learning takes place in a continuum and any pass or fail categorization at a particular point of time is a narrow simplification and educationally invalid.
- **Issues with poor and vulnerable children:** In rural areas and among below poverty line families, educational awareness is missing which often result in late admissions in the schools. In other cases, children miss school for long periods due to poverty, illness, engagement in child labour and thus lag behind in their studies, performing badly in the examination. Detention will only aggravate these weaknesses and encourage them to drop out and remain unschooled forever.
- **Steady rise in the GER at the elementary level for the marginalized sections of the society:** for both boys and girls, as well as for Scheduled Castes, Tribes and other marginalised sections since the coming into effect of the no-detention policy. In a deeply fragmented society such as India, this is a significant gain which should not be reversed.

Way Forward

- Education should be inclusive and should have a common curriculum, so that all children become familiar with the basic concepts, tenets, principles and ethos of an Indian education.
- Detention should be resorted to only after giving the child remedial coaching and at least two extra chances to prove his capability.
- As recommended by TSR Subramanian committee if a child again fails to clear the examination, she should also be given other opportunities of pursuing her education through a vocational stream so that she can demonstrate her abilities and competencies elsewhere.
- Advances in technology must provide an additional 'augmentation' avenue to help the slow-learner child makeup for the lost ground.
- Simultaneously other significant areas such as teacher training, quality and accountability mechanisms must be improved in a holistic manner.

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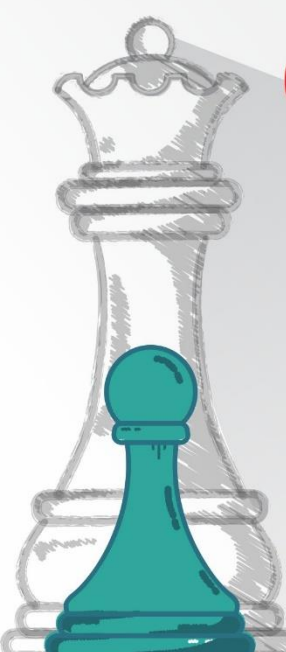
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