

OP-ED

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OF

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ECONOMICS

Can India avoid a telecom duopoly?

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Threat of duopoly in telecom sector

The Indian telecom sector faces the prospect of duopoly due to the impending exit of Vodafone-Idea. This has several implications.

India's telecom sector: From monopoly to hyper-competition

- India's telecom market has seen monopoly as well as hyper-competition.
- Twenty-five years ago, the government alone could provide services.
- Ten years later, there were nearly a dozen competing operators. Most service areas now have four players.
- However, the possible exit of the financially-stressed Vodafone Idea would leave only two dominant players-Airtel and Jio in the telecom sector.
- A looming duopoly, or the exit of a global telecommunications major, are both worrying.
- They deserve a **careful and creative response**.

Why it matters

- Competition has delivered relatively **low prices, advanced technologies, and an acceptable quality of services**.
- There is a **long way to go in expanding access as well as network capacity**.
- For example, India is ranked second globally after China in the number of people connected to the internet.
- However, it is also **first in the number of people unconnected**.
- Over **50% of Indians are not connected to the internet**, despite giant strides in network reach and capacity. India tops aggregate mobile data usage.
- However, its **per capita or device data usage is low**.
- It has an impressive 4G mobile network, however, its fixed network **wireline or optical fibre is sparse and often poor**.
- 5G deployment has yet to start and will be expensive.
- Filling the **gaps in infrastructure and access will require large investments and competition**.
- The exit of the Vodafone-Idea will hurt both objectives.
- The closure of Vodafone Idea is an arguably greater concern than the fading role of BSNL and MTNL.
- The government companies are yet to deploy 4G and have become progressively less competitive.

- Vodafone Idea, on the other hand, **still accounts for about a quarter of subscriptions and revenues** and can boast of a quality network.

Way out

1) Strategic partnership with BSNL-MTNL

- A possible way out could be to combine the resources of the MTNL and BSNL and Vodafone Idea through a **strategic partnership**.
- Creative government action can save Vodafone Idea as well as improve the competitiveness of BSNL and MTNL.
- It could help secure government dues, investments, and jobs.

2) Develop resale market

- Global experience suggests that well-entrenched incumbents have massive advantages.
- New players are daunted by the large investments.
- However, regulators and policymakers have other options to expand choice for telecom consumers.
- Their counterparts in mature regulatory regimes e.g., in the European Union have helped develop **extensive markets for resale**.
- Recognising the limited influence of smaller players, regulators mandate that the incumbent offer wholesale prices to resellers who then expand choice for end-users.
- A key barrier to resale is India's **licence fee regime** which requires licence-holders to share a proportion of their revenues with the government.

Conclusion

It would be tragic if India's telecom-access market was to be reduced to only two competing operators, as we have a long way to go. The government needs to consider the implications of the situation arising due to the exit of one of the major players in the sector.

Source:

<https://www.financialexpress.com/opinion/failing-to-connect-can-india-avoid-a-telecom-duopoly/2281486/>

Investors should not be tempted to ignore macroeconomic factors

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 3- Stock market and risks involved for individual investors

Despite gloom in the economy, financial markets are scaling new highs. The situations calls for diligence on the part of individual investors. The deals with this issue.

What influences investors' decision

- Investors may not necessarily be always sensible or even capable of perceiving the larger picture.
- Nobel laureate Daniel Kahneman argues that humans usually use the **first system of fast thinking to hurriedly act and perceive their environment**.
- Consequently, they are susceptible to the priming effect, framing bias, anchoring effect, overconfidence bias and availability heuristic.
- These phenomena, thus, play their part in pervading optimistic market conditions.
- As a result, investors often end up ignoring or overlooking uncertainties and risks involved in their decision.
- At the same time, investors decision choices could be significantly influenced by **nudging**.
- It is a deliberate tactics and method of behaviour modification by which it is the choice architect that decides who does what and who does so, as argued by the Nobel laureate, Richard H. Thaler.
- The present surge in the Indian stock market is indeed nudging individual investors to trade more.

What makes individual investors vulnerable

- National Stock Exchange data indicate following trends:
- The share of the non-institutional individual investors in **equity trading volume** has risen to one half of the total turnover. in 2021.
- It was around a third in 2016.
- In contrast, the share of **Foreign Institutional Investors (FIIs)** in the total trading volume has shrunk to just about a tenth, it used to be one fifth in 2016.
- Trading in the stock market, the sudden rise, the intraday moves, etc., are, thus, **attributable largely to individual traders now**.
- However, despite their large trading volumes, individual investors have actually **contracted their holding of the market capitalisation**.
- The FIIs currently own around **half of the free float of all Indian companies**.
- Apparently, the retail investors have constantly sold their stake to end up holding less than 20% shares now.

- Trading, thus, seems to be the mainstay of retail investors and this is what makes them more vulnerable to the vagaries of the market.

Market is ignoring macroeconomic factors

- Centre for Monitoring Indian Economy Pvt. Ltd. data of the listed companies reveal a **rise in their profit, due to rationalisation and cost-cutting**.
- Investors might be tempted to ignore macroeconomic factors and invest in such stock believing that **it is the profit that impels the stock prices**.
- In reality, however, share price is expected to ascend if a company declares to cut its wage bill.
- This probably explains why **stock markets around the world have been on the rise** amidst the novel coronavirus pandemic; demand may have declined but profits have been least impacted.
- At the larger economic level, however, **real wages have plunged**.
- Clearly, the market has not entirely decoupled itself from the economic indicators.
- Established wisdom suggests that corporates cannot sustain contraction in the economy for long.
- Sustained decline in demand caused by waning disposable household income would catch them soon.
- Robert J. Shiller attributes this phenomenon of creating a possible bubble to **irrational exuberance**.
- When bubbles burst, they cause a kind of financial earthquake, in turn **destabilising public trust in the integrity of the financial system**.
- Critically, as the past portrays, individual investors, with all their vulnerabilities, **suffer the most devastating consequences**.
- Retail investors are as well susceptible to overreaction when negative news hits the market.

Consider the question "What are the factors driving the financial markets up despite the weak macroeconomic foundations? What are the risks involved in such situation for the individual investors?"

Conclusion

History of financial markets is replete with bubbles and bursts. Most affected in such burst are the individual investors. Informed decisions based on information and risks involved should form the basis of investment by individual investors.

Middle income trap

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 3- How India can avoid the middle income trap

What is Middle Income trap?

- In 2006, economists Indermit Gill and Homi Kharas at the World Bank coined the term middle-income trap while working on growth strategies for East Asian economies.
- Simply put, low-income countries with cheap labour and access to ready-made technology grow fast and start becoming wealthier.
- However, as they reach middle-income status, they tend to slow down as they lose some of their advantages. They fail to converge with wealthier nations and do not get beyond middle-income status.
- It is a status of low productivity and entrenched inequality.
- The Middle income countries are not able to move up to the Higher income status due to operation of several adverse factors:
- A country in the middle income trap has lost its competitive edge in the export of manufactured goods because of rising wages.
- Also, it is unable to keep up with more developed economies in the high-value-added market.
- There is failure to build institutional, human and technological capital.
- Mexico and Brazil are classic examples of such countries.
- A few, such as South Korea, have escaped the trap. China is at the cusp.

On what basis are countries usually categorized?

World Bank has used the 2018 data of gross national income (GNI) per capita to categorize countries into following four categories

- **Low income** : Countries with GNI per capita is up to \$1,025
- **Lower middle-income**: Those with GNI per capita from \$1,026 to \$3,995. Ex: **India** its per capita income in 2018 was \$2,020, at the halfway point for the lower middle-income category.
- **Upper middle-income**: Countries with GNI Per capita between \$3,995 and \$12,375 are upper middle income Ex: **Brazil, South Africa, Mexico, China**
- **High income**: Per capita income above \$12,375 makes a country high income.Ex: US, Germany, Japan, Korea.
- The way the World Banks income classification system works is that as economies grow, the thresholds for these four categories also change. The threshold for the low-income category in 1988 was only \$545. Overall, the lower and upper middle-income thresholds have increased at 2% per year over the last three decades. Over this period, India's per capita income grew at an annual rate of about 5.6%.

Why India might get caught into middle income trap?

1.Backlash against globalization:

Hyperglobalization (that benefited the early convergers like China, South Korea & Japan) led to a backlash in the advanced countries, as seen through increasing protectionism & lowering

World Trade-GDP ratios since 2011. This means that similar trading opportunities may no longer be available for the new convergers.

Thwarted Structural Transformation:

Successful development requires two kinds of structural transformations: 1) a shift of resources from low productivity to high productivity sectors; and 2) a larger share of resources devoted to sectors that have the potential for rapid productivity growth. However, in late convergers like India, premature deindustrialization (tendency for manufacturing to peak at lower levels of activity and earlier in the development process) is a major cause of concern.

Human Capital Regression:

Human capital frontier for the new structural transformation has shifted further away making the transformation costlier. This is because the new advances in technology not only require skilled human capital, but also demands them to learn continually. As opposed to these requirements, there is a wider educational attainment gap between lower income countries and advanced economies.

Climate change-induced Agricultural Stress:

Agricultural productivity is crucial both for feeding people and for ensuring human capital moves from agriculture to modern sectors. With climate change, ambient temperature has increased and weather extremities have become a recurrent phenomenon. This is, in particular, a threat to India where agriculture is heavily dependent on precipitation.

Fall in private consumption

Muted rise in fixed investment and sluggish exports have led to slowdown in the economy and increase India's vulnerability to the middle income trap.

How can India avoid the middle-income trap

1) Improve productivity

- Re-allocation of labour from low-productivity agriculture to high-productivity sectors, such as manufacturing, has been a primary channel through which today's advanced economies raised their living standards.
- In India, growth in **labour productivity has consistently declined** over the past decade.
- The annual growth rate of output per worker has dipped from 7.9% in 2010 to 3.5% in 2019, as per International Labour Organization estimates.
- This was also a period of **low growth in India's manufacturing sector**.
- In 2020-21, it accounted for **only 14.5% of India's gross value added**, down from 17.4% in 2011-12.
- An essential first step in improving productivity would be strengthening this sector.

2) Strengthen manufacturing sector

- **Industrial labour relations** is among the most critical elements to revitalize India's manufacturing sector especially in the context of labour productivity.
- These labour laws created **incentives for firms to remain small** and uncompetitive, thereby affecting productivity.
- The new code, once implemented, would **increase the threshold relating to layoffs and retrenchment** in industrial establishments to **300 workers**.
- Other countries, such as China, Vietnam and Bangladesh, with whom India competes for foreign investment and export markets **do not require the approval of administrative or judicial bodies for dismissals**.
- Therefore, in spite of recent reforms, **India's labour laws stay rigid** in comparison with those of its competitor countries.

3) Technology intensive manufacturing

- Engendering innovation in higher value-added, tech-intensive activities is important for economies before they reach that juncture.
- If exports are taken as a proxy for the manufacturing capabilities and competitiveness of an economy, the present status of tech-intensive manufacturing in India leaves a lot to be desired.

- As per World Bank data, high-tech exports accounted for only 10.3% of India's manufacturing exports in 2019.
- Rival countries had a much higher share of the same: 31% in China, 13% in Brazil, 40% in Vietnam and 24% in Thailand.
- **Low R&D spending in India**, ranging from a mere 0.64% to 0.86% of gross domestic product over the past two decades, has held the country back.

Steps to improve tech-intensive manufacturing

- The government has introduced a production-linked incentive scheme to ensure a greater share of local value addition.
- While this would attract foreign investments in tech-intensive manufacturing, there is **also a need for greater incentives for R&D investments by firms in India**.
- A first step in this direction could be **reinstating the tax exemption on R&D under Section 35 (2AB)**, even for companies opting for the lower corporate tax rate of 22%.

Conclusion

We need appropriate interventions to improve productivity both economy-wide and within the sector. And we must do it now.

FDI IN INDIAN ECONOMY

Failure to comply with international judicial rulings hurts India's image as an investment destination

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : BITS

Mains level : Paper 3- Honouring the adverse international judicial ruling in dispute with investors

The article highlights the lack of immediate compliance by the Indian government in awards involving foreign investors.

Why honouring award is important

- An important factor that propels investors to invest in foreign lands is that the host state will honour contracts and enforce awards even when it loses.
- But when the host state refuses to do so, it shakes investors' confidence in the **host states credibility towards the rule of law**, and escalates the regulatory risk enormously.
- To an extent, this has been India's story over the last few years
- Last year, India lost two high-profile **bilateral investment treaty (BIT) disputes** to two leading global corporations Vodafone and Cairn Energy on **retrospective taxation**.
- India has challenged both the awards at the courts of the seat of arbitration.
- As India drags its feet on the issue of compliance, it harms India's reputation in dealing with foreign investors.

Antrix-Devas agreement cancellation dispute

- The other set of high-profile BIT disputes involve the cancellation of an agreement between **Antrix, a commercial arm of the Indian Space Research Organisation**, and Devas Multimedia.
- This annulment led to three legal disputes a commercial arbitration between Antrix and Devas Multimedia at the **International Chambers of Commerce (ICC)**, and two BIT arbitrations brought by the Mauritius investors and German investors.
- **India lost all three disputes.**
- The ICC arbitration tribunal ordered Antrix to pay \$1.2 billion to Devas after a U.S. court confirmed the award earlier this year.
- After the ICC award, Indian agencies started investigating Devas accusing it of corruption and fraud.
- Last month, the National Company Law Tribunal (NCLT) ordered the liquidation of Devas on the ground that the affairs of the company were being carried on fraudulently.

- This has led to Devas issuing a notice of intention to initiate a **new BIT arbitration against India**, sowing the seeds for complex legal battles again.

Implications for investment in India

- A closer reading of these cases reveals that whenever India loses a case to a foreign investor, **immediate compliance rarely happens**.
- Instead, efforts are made to delay the compliance as much as possible.
- While these efforts may be legal, **it sends out a deleterious message to foreign investors**.
- It shows a recalcitrant attitude towards adverse judicial rulings.

- This may not help India in attracting global corporations to its shores to make for the world.

Consider the question “What are the factors that are leading to more Indian business disputes being settled elsewhere? What are the implications of delay by the government in honouring the awards of the disputes?”

Conclusion

As India aspire to be the global destination of FDI, it needs to burnish its image on the dispute resolution front by honouring the awards.

ANIMAL HUSBANDRY, DAIRY & FISHERIES SECTOR - PASHUDHAN SANJIVANI, E- PASHUDHAN HAAT, ETC

Why the dairy sector needs more private players

Economics | GS3: Economics Of Animal-Rearing

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Operation Flood

Mains level : India's dairy sector

One of India's largest dairy cooperative societies has just raised its milk prices for consumers by Rs 2/litre and this has become national news.

Sparking off a debate

- Many in the media are debating how this will push up Consumer Price Index causing inflationary pressures, which may soon force the RBI to change its accommodative stance on monetary policy.

Why such hues over Milk?

Milk is an important case study for our overall agriculture sector.

- First, milk is our biggest agri-commodity in terms of value, greater than paddy (rice), wheat, and sugarcane combined.
- Second, India is the largest producer of milk in the world with an estimated production of about 208 million tonnes in 2020-21, way above its closest competitor, the US, whose milk production hovers around 100 million tonnes.
- Third, our dairy sector is dominated by smallholders with an average herd size of 4-5 animals.
- Fourth, and this is important, there is no minimum support price (MSP) for milk. It is more like a contract between the company and the farmers.

How is the milk price determined?

- The price of milk is largely determined by the overall forces of demand and supply.
- Increasing costs of production enter through the supply side, but the demand side cannot be ignored.
- As a result of all this, the overall growth in the dairy sector for the last 20 years has been between 4-5 per cent per annum, and lately, it has accelerated to even 6 per cent.

Concerns of dairy farmers

- For dairy farmers, this increase in milk prices is not commensurate to the increase in their feed and other costs, and they feel that their margins are getting squeezed.
- They also feel that this price still does not count their logistics cost.

Transformation since Op Flood



- It is well known that Operation Flood (OF) that started in the 1970s transformed this sector.
- The institutional innovation of a cooperative model, steered by Verghese Kurien, changed the structure of this sector.
- However, even after five decades, cooperatives processed only 10 per cent of the overall milk production.
- India needed the double-engine force of the organised private sector to process another 10 per cent.
- The doors for the private sector were opened partially with the 1991 reforms, but fully in 2002-03 under the leadership of Vajpayee, when the dairy sector was completely de-licenced.

Rise of dairypreneurs

- Many start-ups dairypreneurs have come in promising a farm-to-home experience of milk.
- There is one company that delivers fresh milk at the consumers doorstep and gives quality testing kits at home.
- These have digitized cattle health, milk production, milk procurement, milk testing, and cold chain management.

Effective breeding

- Sexed semen technology helps in predetermining the sex of offspring by sorting X and Y chromosomes from the natural sperm mix.
- This can solve the problem of unwanted bulls on Indian roads.
- Although the current cost of sexed sorted semen is high, Maharashtra has taken a bold step in subsidizing it for artificial insemination.

Way forward

- The upshot of all this is that let prices be determined by market forces, with marginal support from the government or cooperatives in times of extreme.
- The major focus should be on innovations to cut down costs, raise productivity, ensure food safety, and be globally competitive.
- That will help both farmers and consumers alike.
- The cooperatives did a great job during OF, and are still doing that, but the private sector entering this sector in a big way has opened the gates of creativity and competition.

SOLAR ENERGY - JNNISM, SOLAR CITIES, SOLAR PUMPS, ETC.

Rajasthan's rural power solution that other states can emulate

Economics | GS3: Infrastructure: Energy, Ports, Roads, Airports, Railways Etc.

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Climate proofing

Mains level : Paper 3- Decentralised model of solar power generation

Power regulatory body in Rajasthan recently ordered discoms to solarise unelectrified public schools. The move has several benefits and therefore can be emulated by the other states as well.

Expanded electricity access in rural areas and shortcomings in it

- Estimates suggest that India has doubled the electrified rural households, from 55% in 2010 to 96% in 2020.
- However, the measure of access to power supply has been the number of households that have been **connected to the electricity grid**.
- This measure **discounts large areas of essential and productive human activities** such as public schools and primary health centres.
- And despite greater electrification, **power supply is often unreliable in rural areas**.

Solar energy: Solution to electrification in remote parts

- To address the above problems, the Rajasthan Electricity Regulatory Commission (RERC) has ordered the States discoms to solarise unelectrified public schools.

- The RERC has also suggested **installation of batteries** to ensure storage of power.
- Apart from enabling education, this ruling would benefit several other crucial aspects of rural life.
- The RERC order also directed discoms to **seek corporate social responsibility (CSR) funds for the solarising drive** and allows schools ownership of the power systems in a phased manner.
- This removes the **burden of infrastructure development expenses** on discoms, while also ensuring clean energy for the schools.
- The power that is generated could also be counted towards the discoms **Renewable Purchase Obligations (RPO)**.
- Large-scale projects are generally financed by companies that wish to profit from economies of scale.
- They are less interested in investing in rural electricity as it is not as lucrative.
- Large-grid based projects add to the supply of power in urban areas, and therefore, **only marginally further greater energy access goals**.

The decentralised model of power generation

- While Rajasthan has land mass with vast, sparsely populated tracts available to install solar parks, **bulk infrastructure of this scale is susceptible to extreme weather events**.

- With climate change increasing the possibility of such events, a decentralised model of power generation would **prove to be more climate resilient**.
- With battery storage, the susceptibility of grid infrastructure to extreme weather events could be mitigated.
- This is called **climate proofing**.
- As solar installations become inexpensive and with rapidly advancing battery storage technologies, **decentralised solar power generation has become a reality**.

Conclusion

The ruling by Rajasthan's power regulator not only helps in increasing access to electricity, achieving targets of renewable energy but also suggests solutions that other States could emulate.

NEW MINISTRY OF COOPERATION SHOULD ENABLE PEOPLE TO LEVERAGE COMMUNITY NETWORKS

New Ministry of Cooperation should enable people to leverage community networks

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Farmer Producer Companies

Mains level : Paper 3- Cooperatives in India and challenges

Context

India now has a Ministry of Cooperation that aims to strengthen the country's cooperative movement. This is an opportune moment to look at the movement's history, examine the potential of cooperatives and analyse the challenges they face.

Development of Farmer Producer Companies in India

- India's significant tryst with dairy cooperatives began in the 1950s with the success of what we know today as Amul.
- The nation took note of this initiative and the National Dairy Development Board was set up in 1965.
- However, the expansion wasn't working the way it had been envisaged.
- The need for a new model was felt soon as cooperatives outside Anand were not holding regular and proper elections.
- Their accounts were not audited.
- As a result, a committee was set up in the Company Affairs Ministry **to allow farmers to set up companies**.
- **The Farmer Producer Companies (FPCs)** would run on the principle of one share one vote and the essence of cooperatives would not be diluted.
- The Parliamentary Committee looked into the Bill to give legal backing to FPCs, with this, the Companies Act (Second Amendment), 2002 became law.

Funding the FPCs

- The existing funding vehicles were designed to cater to cooperatives, not FPCs
- Around 2010, the Boston Consulting Group (BCG) had been commissioned to develop **a plan for restructuring NABARD**.
- As a result, the restructured NABARD had a special window for FPCs.

Community-based cooperatives

- The Cheliya community set up a chain of Hearty Mart cooperative supermarkets in villages in Gujarat using the franchise model.
- Just as the network of Charotar Patels that Kurien relied on in the case of Amul Cheliya community have played a key role in the spread of the model.
- The idea of leveraging the community network was tried in some parts of the country in the context of re-imagining economic infrastructure.
- To deal with the electricity board failures, **a distribution company was run on a community basis**.
- This model has, in fact, worked in places like Kanpur, even Kerala.

Social cooperatives

- The concept of **social cooperatives** builds on the idea of communities creating infrastructure by using local material and family labour.
- These can be the village tank, paving the village road with or without MGNREGA finishing the last-mile construction of a canal network or even keeping watch on the contractor.
- The pandemic seems to have increased the significance of community effort.
- Reducing vaccine hesitancy, providing food to those waiting outside hospitals and, most importantly, looking after orphaned children are imperatives crying out for the cooperative model.

Way forward for new Ministry of Cooperatives

- Keeping in mind social needs while using resources is a large part of the solution to our current predicament.
- The pandemic will not follow the laws of corporate finance, cooperation has a lot to speak for itself, the new ministry should take this message.

- The new work-from-home model will create several problems as well as offer opportunities.
- The new ministry is a recognition of the needs of our times.
- But it should not be **just about pumping in money**.

Conclusion

This is the time to design models that help those who help themselves. We will wait expectantly to see how the new ministry works.

RBI NOTIFICATIONS

High forex reserves are no guarantee of monetary policy independence

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : CAD

Mains level : Paper 3- Forex reserves and its significance

Context

The ascending stock of forex reserves has led to the view this will enable the sole devotion of monetary policy to domestic objectives.

What is Forex reserve?

India's Forex Reserves include:

- Foreign Currency Assets
- Gold
- Special Drawing Rights
- Reserve position with the **International Monetary Fund (IMF)**

Why Forex reserves are not a guarantee?

Let's look into the experience of China and India in this regard.

1) Learning from China's experience

- In 2016, China had a strong external position current account surplus and **more than \$3tn forex reserves**.
- However, investors' expectations on renminbi (RMB) value began to shift due to rising concerns about its growth outlook, domestic rate cuts and eventual depreciation, and imminent tightening of US monetary policy, resulting in **net capital outflows of \$725 billion (bn) over the year**.
- This put sustained pressure upon the RMB.
- Eventually, China resorted to **capital control measures**, which slowed the outflow and supported the RMB in the first half of 2017.

2) India's own historical record

- India's own historical record shows that, high or low, forex reserves didn't prevent investors from reappraising positions.
- India experienced this in case of oil prices (2018) or taper fears (2013).
- The CAD was moderate, at 1.1% and 1.4% of GDP in two quarters to December 2017.

- But as oil prices climbed, current account projections were rapidly **revised to 2.5-3% of GDP in less than a quarter** seeing the jump in the import bill, lagging exports and continuous outflow of portfolio capital.
- Reserves totalled \$424 bn then (end-March 2018); foreign currency assets were \$399 billion.
- Against a mere \$9 bn capital outflow, the peak-to-trough decline in reserves was \$19 bn in April-June 2018, with **5% depreciation of the rupee**.
- The sharper, \$21 bn fall in mid-April to July 20, 2018 equalled the reserves decline in April-August 2013 **taper episode when the rupee depreciated three times more or 15%!**
- Forex reserves were much lower in 2013 (\$255 bn range) and it had taken only a quarter for the current account gap to widen from 4.0% of GDP in April-June 2012 to 5.4% and a **record 6.7% in subsequent two quarters to December 2012!**

Key takeaways

- History shows that **no level of reserves is a foolproof guarantee** for macroeconomic stability or interest rate immunity.
- The important lesson these episodes hold is that repressive attempts do not always convince markets or prevent shifts in expectations and often compel **large, abrupt adjustment**.
- Investors reassess positions, including global factors, whatever the reserves stock.
- The crucial role of reserves is **psychological**, i.e. market confidence and liquidity insurance that is immediate and unconditional that allows central banks to buy time, whether for a gradual adjustment, soft landing, or as the case may be.

Distortion in bond market and RBI's role in it

- RBI has been systematically suppressing bond yields, particularly the 10-year benchmark, the reference rate for banks.
- So effective was the repression that the bond market became irrelevant as yields altogether stopped responding to inflation or fiscal developments.

- The 207-basis-point jump in retail inflation in a month in May, which exceeded expectations, caused not even a flicker in the yield premium for example.
- This did not prevent responses elsewhere though the **overnight indexed swap (OIS)**, which signals future interest rate movements, increased 20-30 basis points at different tenures with fresh inflation risks.
- Clearly, the **market reading was inconsistent with RBIs**, whose rigid adherence to a particular level (6% in the case of the old, 10-year bond) was disregarded outright.
- The monetary policy **cue was not being accepted**, failing to soothe the ruffled feathers about inflation.

Risk involved in RBI's policy

- If the global financial cycle were to suddenly turn, risk-aversion set in, or oil prices shoot up to risky levels, investors will undoubtedly look at actual differentials, not the one set in stone by RBI.
- There will be exchange rate pressures, which RBI can no doubt manage with liberal reserves.
- But the duration and degree of adjustment is not in RBI's control, identically to the bond market one, where it has infinite capacity to keep local yields where it wants.
- There **s a limit to how much foreign currency it can sell** the \$609bn reserve holding is finite.
- **Currency depreciation** can, therefore, **worsen a bad situation** as higher inflation pressurises domestic interest rates to rise.

- RBI's issuance of the new **10-year benchmark bond at 6.10%**, which came as a surprise against its previous inflexibility, indicates RBI has internalised the above risks.
- The disparate movements were **undermining RBI**, whose commitment to continue the accommodative monetary policy as long as necessary to revive and sustain growth has been reassuring.

Conclusion

When the economy is open, financially integrated and subject to cross-country dynamics, it is more prudent to let market forces play out a bit than persist with a stance that could turn unsustainable despite the high reserves.

Back2Basics: What is Current Account Deficit (CAD) ?

- The current account deficit is a measurement of a country's trade where the **value of the goods and services it imports exceeds the value of the products it exports**.
- The **current account includes net income, such as interest and dividends, and transfers, such as foreign aid**, although these components make up only a small percentage of the total current account.
- The current account represents a country's foreign transactions and, like the **capital account**, is a **component of a country's balance of payments (BOP)**.

CAPITAL MARKETS: CHALLENGES AND DEVELOPMENTS

SEBI needs to adopt dual approval system for independent directors

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Independent director

Mains level : Paper 3- Dual approval system for independent directors

Context

While the regulators have taken giant strides to enhance board independence in India, one significant conundrum persists about appoint and removal process of the independent directors.

How appointment and removal process affects the independence of independent directors?

- Independent directors are appointed just like other directors through **shareholder voting by a simple majority**.
- This confers a significant power in the hands of significant shareholders to **handpick the independents**.
- In case of **family-owned companies**, it is not uncommon to appoint **friendly independent directors**.
- As for public sector undertakings, there is a demonstrable affiliation between **independent directors and the ruling political parties**.

Dual Approval System: Way forward

- The above trends suggest that unless independent directors owe their allegiance to the shareholder body as a whole, independence is likely to remain largely in form and not function.
- In its consultation paper, SEBI proposed a **dual approval system**.
- Under this system, the appointment of an independent director required **the satisfaction of two conditions**:
- First, the approval by a majority of all shareholders.
- Second, **the approval of a majority of the minority**, namely the approval of shareholders other than the promoters.
- SEBI recommended the same dual approval system for the **removal of independent directors** as well.

- SEBI drew inspiration from **Israel and the premium-listed segment of the United Kingdom**, which confers greater **power to minority shareholders** in installing or dethroning independent directors.
- SEBI has not yet made any mention of implementing the dual approval system.

Issues with Dual Approval System

- The first issue is that it **militates against the majority rule principle** that is intrinsic in a corporate democracy.
- While understandable, that is hardly an immutable rule as corporate law does make exceptions in cases involving oppression of minority shareholders.
- The second concern is that **placing too much power in the hands of minority** shareholders would be counterproductive, as it could result in a tyranny of the minority.
- However, the dual approval system instead represents the best of both worlds. It does not negate the promoters involvement in the process of appointing or removing independent directors.
- Only **consensus candidates** would end up becoming independent directors.

- The third issue is one of **shareholder apathy**: Will minority shareholders be motivated to exercise an informed and meaningful choice?
- **Minority shareholders** tend to be passive when they are unable to influence the outcome of shareholding voting.
- However, where they do have a significant say, like in the majority of the minority process, they are likely to be more active in exercising their franchise.

Consider the question “How far has the provision of appointing independent directors to safeguard the interest of minority shareholders succeeded in its objectives? Suggest the changes to improve the challenges faced by the independent directors.”

Conclusion

In all, the appointment and removal system continues to undermine the independence and efficacy of corporate boards. The SEBI needs to implement the dual approval system at the earliest.

CAN INDIAN INVOKE STATE SOVEREIGNTY IN CAIRN ENERGY CASE?

Can Indian invoke state sovereignty in Cairn Energy case?

Economics | GS3: Infrastructure: Energy, Ports, Roads, Airports, Railways Etc.

Note4Students | From UPSC perspective, the following things are important :

Prelims level : BIT

Mains level : Paper 2- State sovereignty

Context

Last year, an arbitration tribunal indicted India for **breaching its obligations** by imposing taxes retrospectively on Cairn. As a result, Cairn Energy has been attempting to seize Indian assets in several jurisdictions to recover \$1.7 billion due from India.

How asset seizure order affects India?

- This episode projects India as an unfriendly country for investors at a time when it wishes to project itself as a prime destination for foreign investment.
- This episode puts India in the league of countries like Pakistan, Congo, Venezuela, Russia and Argentina, who have been part of **attachment proceedings overseas** due to their failure to comply with international arbitral awards.
- Fighting cases will consume an enormous amount of time, money, and resources, in addition to attracting **bad press internationally**.

Understanding the doctrine of state immunity

- State immunity is a well-recognised doctrine in international law.
- It **safeguards a state and its property** against the jurisdiction of another country's domestic courts.

- Despite the universal acceptance of this doctrine, **there is no international legal instrument in force** administering its implementation.
- Attempts are underway to create binding international law on the application of the rules of state immunity such as the **United Nations Convention on Jurisdictional Immunities of States and Their Property (UNSCI)**.
- However, this convention is **yet to be ratified by 30 countries** the minimum number required to bring it in force, as per Article 30(1) of UNSCI.
- India has **signed the convention, but not ratified it**.
- The doctrine of state immunity has progressed from **absolute immunity to restrictive immunity** in which immunity is only for the sovereign functions of the state.

Can India invoke state immunity?

- Most prominent jurisdictions follow the **concept of restrictive immunity**.
- State immunity can be invoked to resist the seizure of sovereign assets, but **not commercial properties**.
- In the context of the execution of the investment treaty arbitration awards, properties serving commercial functions are available for seizure.

- In the case of India, the most popular commercial property that foreign investors would target for attachment are the global assets of India's public sector undertakings such as Air India.

Way forward

- If India wishes to continue the case, it needs to carefully study the laws on state immunity in different jurisdictions where attachment proceedings are likely to come up.

- A better option would be to admit that amending the tax law retrospectively was a mistake and comply with the international ruling.

Conclusion

At the time when India seeks to project itself as an attractive investment destination, such cases could be a setback. India needs to avoid such disputes in the future.

AGRICULTURAL SECTOR AND MARKETING REFORMS - ENAM, MODEL APMC ACT, ECO SURVEY RECO, ETC.

What the new Ministry of Cooperation needs to achieve

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Ministry for Cooperation

Mains level : Paper 3- Performance of cooperative movement

Context

Two weeks ago, the government created a new Ministry for Cooperation. India is, perhaps, the first country to have such a ministry. The Ministry can play an important role in the transformation of cooperatives in the country.

How 1991 economic reforms benefited agriculture

- On July 24, 1991, India decided to unshackle the spirit of private sector entrepreneurship through the move to de-license industry and reduce tariffs on a host of commodities.
- Trade policy changes **improved the terms of trade for agriculture** and benefitted millions of farmers.
- Agri-exports increased, but this led to higher domestic prices.

The success story of dairy sector in India

- In 1991, Manmohan Singh, then finance minister wanted to delicense the dairy sector as well, but there was stiff opposition from Verghese Kurien.
- It was after 10 years in 2002 that the **dairy sector was fully de-licensed**.
- The competition between **cooperatives and corporate dairy players** has benefitted millions of farmers around the country.
- With the entry of the private sector, the growth of the dairy sector accelerated at double the speed.
- Today, both procure roughly the same quantities and growth in the organised private sector is faster than in cooperatives.

Performance of cooperative movement in India

- India's experience with the cooperative movement has produced mixed results **few successes and many failures**.
- There are cooperatives in the financial sector, be it rural or urban.
- But the performance of these agencies when measured in terms of their share in overall credit, achievements in **technology upgradation**, keeping NPAs low or curbing fraudulent deals has been poor to average.

- Sugar cooperatives of Maharashtra initially touted as exemplars of the movement, are in the doldrums now.
- Many are being sold to the private sector.

Performance of cooperatives in dairy sector

1) Amul

- The performance of the cooperative champion, **Gujarat Cooperative Milk Marketing Federation (GCMMF)** with its poster brand, Amul has been most successful.
- During Operation Flood, it received a lot of capital at highly concessional terms.
- But its success is also the result of professionalism, business and, therefore, keeping **politics away**.
- But despite the grand success of Gujarats milk cooperatives in Gujarat, **the model did not spread to other states as successfully**.

2) Karnataka Milk Federation

- In its eagerness to please milk farmers, the Karnataka Milk Federation (KMF), which sells its products under the brand name of Nandini, **gives them Rs 5 to Rs 6 extra per litre**.
- This subsidy, given by the state government, cost the exchequer Rs 1,260 crore till 2019-20.
- KMF procures a lot of milk and then dumps it at lower prices in the market for consumers.
- This **depresses prices in adjoining states** like Maharashtra, affecting the fortunes of Maharashtra milk farmers.
- If Maharashtra and Karnataka were two different countries, Maharashtra would be challenging Karnataka at the WTO.

Way forward

- The new Ministry of Cooperation can work towards ironing out distortions in state price policies due to subsidization such as in Maharastra and Karnatak milk prices.
- Cooperatives desperately need **technological upgradation**.

- The Ministry of Cooperation can give them soft loans for innovation and technology upgradation.
- But such loans should also be extended to the private sector to ensure a level playing field.
- The Ministry of Cooperation needs to ensure the **least political interference** in the operation of cooperatives.

Conclusion

The new Ministry of Cooperation can work towards bringing in professionalism in cooperatives and make them more competitive.

CAPITAL MARKETS: CHALLENGES AND DEVELOPMENTS

India's equity market bubble

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : FPI and FDI

Mains level : Paper 3- Equity market bubble

Context

Even as the real economy returns to the doldrums after being hit by the second wave of COVID-19 infections, the continuing bull run in India's equity market in the April-June quarter has baffled many observers.

What is Equity Market?

- An equity market is a market in which shares of companies are issued and traded, either through exchanges or over-the-counter markets.
- Also known as the stock market, it is one of the most vital areas of a market economy.
- It gives companies access to capital to grow their business, and investors a piece of ownership in a company with the potential to realize gains in their investment based on the company's future performance.

V-shaped recovery of equity market

- The benchmark BSE Sensex had nosedived to below 28,000 in March-April 2020, following the nationwide lockdown.
- The equity market posted a sharp **V-shaped recovery** in 2020-21.
- The Sensex surged beyond 50,000 in February 2021 and is currently closing on the 53,000 level.

Factors suggesting bubble in equity market

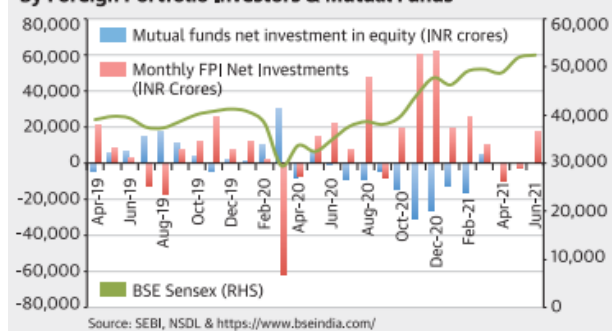
- There was an **81%-plus growth in the Sensex** between April 2020 and March 2021 in the backdrop of **real GDP growth plummeting to -7.3%** during the same period.
- While output contraction had reversed from the third quarter of 2020-21, the **inflation rate** also rose and remained way ahead of the real GDP growth rate in the last two quarters (Chart 1).
- It is difficult to find any rationality behind the skyrocketing BSE Sensex in the context of such **stagflation in the real economy**.
- Just like the fall in the equity prices was driven by the exit of foreign portfolio investors (FPI), the return of massive FPI inflows has driven the Indian equity bubble since then (Chart 2).

- Net FPI inflows clocked an **unprecedented 2.74 lakh crore in 2020-21**, the previous high being 1.4 lakh crore in 2012-13.
- The Reserve Bank of India (RBI)'s annual report (2020-21) to state stated that: This order of asset price inflation in the context of the estimated 8 per cent contraction in GDP in 2020-21 **poses the risk of a bubble**.

Chart 1: Quarterly growth rate of Sensex, Real GDP & Inflation



Chart 2: Monthly Net Investments in Equities by Foreign Portfolio Investors & Mutual Funds



Global factors

- The global **liquidity glut**, following the **expansionary, easy money policies** adopted by the fiscal and monetary authorities of the OECD and G20 countries, has led to equity price inflation in several markets driven by FPIs, especially in Asia.

- Following cues from the U.S. and the U.K., Asian equity markets in Singapore, India, Thailand, Malaysia and Hong Kong are currently witnessing **price-earnings (P/E) ratios significantly above their historic means**.
- The BSE Sensex P/E ratio of 32 in end-June 2021 is way above its historic mean of around 20.

What could burst the bubble?

- **Change in monetary policy:** With COVID-19 vaccination and economic recovery proceeding apace in the U.S., the U.K. and Europe, fiscal and monetary policy stances will change soon.
- **Exit of FPIs:** Once the U.S. Federal Reserve and other central banks start raising interest rates, **the direction of FPI flows will invariably change** bringing about corrections in equity markets across Asia.
- India remains particularly vulnerable to a major correction in the equity market because of two reasons.
- **Low pace of vaccination:** The pace of COVID-19 vaccination in India, given the vast population, lags behind most large countries.
- In the absence of a substantial increase in the vaccination budget and procurement, large segments of the Indian population will remain vulnerable to a potential third wave of COVID-19, with its attendant deleterious impact on the real economy.

- **Weak fiscal stimulus:** India's economic recovery from the recession will remain constrained by the weak fiscal stimulus that has been delivered by the Central government.
- Data from the IMF clearly show that while the total global stimulus consisted of additional public spending or revenue foregone measures **amounting to 7.4% of global GDP**, India's fiscal measures amounted to 3.3% of GDP only.

Consider the question "What are the factors driving equity market boom globally? What are the factors that could threaten such boom with a major correction?"

Conclusion

With all agencies, including the RBI, downsizing India's growth projections for 2021-22, it remains to be seen how long India's equity bubble lasts.

Back2Basics: P/E ratio

- The price-to-earnings ratio (P/E ratio) is the ratio for valuing a company that measures its current share price relative to its per-share earnings (EPS).
- The price-to-earnings ratio is also sometimes known as the price multiple or the earnings multiple.
- To determine the P/E value, one simply must **divide the current stock price by the earnings per share (EPS)**.

P/E Ratio = Earnings per share / Market value per share

FDI IN INDIAN ECONOMY

For Cairns dispute, international arbitration is not the way forward

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : BITS

Mains level : Paper 3- Cairn Energy case

Context

The recent move by Cairn to seize India's sovereign assets in order to enforce its arbitration award has brought into focus the dispute and the related issues.

Utility of Bilateral Investment Treaties (BIT)

- After the World Wars, as more countries gained sovereignty, they tended to look at foreign investments as a **form of neo-colonialism**.
- Bilateral investment treaties became the primary tool to forge relationships between developed and developing countries.
- The BITs help to adopt standards for prompt, adequate and effective compensation in case of expropriation.
- With the advent of globalisation, BITs became the means for foreign investment in developing countries.

- Although the impact of investment agreements on foreign investments remains highly contextualised and inconclusive, these came to govern **international investment relations**.
- The BITs retained the old-world construct that allowed **international arbitration**.
- However, many developing countries view arbitration of tax matters as a **reach of their sovereign right to tax**.

The Cairn Energy case

- In 2012, explanations were added to the Income Tax Act 1961 these provisions were deemed as having a retrospective effect.
- This was more in response to the Supreme Courts decision in the Vodafone case which denied the income tax departments assertion of tax claims arising from the offshore transfer of **interest that substantially derived their value from India**.
- The 2012 explanations to the IT Act indeed **sought to fix tax avoidance**.

- Looking into the details of the Cairn case, one can see the series of reorganisations that tip-toed around tax laws of multiple jurisdictions, **resulting in the non-payment of tax.**
- **Taxing offshore indirect transfers** a structuring device to gain tax advantage from the indirect sale of assets is not unique to India (336 tax treaties contain such an article).
- It is also possible to see that the **underlying assets of the subsidiaries were immovable assets in India.**
- The UK-India tax treaty allowed for **taxation of capital gains as per Indian law.**
- India **challenged the admissibility** of the case before the arbitration tribunal.
- However, the case rests on a **distinction between tax and tax-related investment.**
- Surely, all investments have tax implications and the acceptance of such a distinction could create problems even where tax is explicitly carved out from the bilateral investment treaties.
- The option of arbitration upon an unsuccessful **Mutual Agreement Procedure (MAP)** resolution is not available in India.

- For this reason, over the years, there has been a rising trend in tax disputes involving BITs.
- The Cairn case is one such instance where arbitration was invoked especially since MAP was not an option.

Way forward

- The case raises many questions that administrators must address through reform.
- India's **model BIT introduced in 2016** rectifies the issue of the distinction between tax dispute and investment-related taxation dispute through the specific exclusion of taxation.
- The recognition of a tax-related investment dispute, distinct from a tax dispute, should not undermine such a carve-out.

Conclusion

It is also important to note even if the award is enforced, the matter of tax avoidance stands pending before the High Court. Given the complexity, the only reasonable solution would be a negotiated settlement. Even if there's a resolution in the Cairns case, questions of law would remain.

E-COMMERCE: THE NEW BOOM

Open Network for Digital Commerce could disrupt India's e-commerce space

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : ONDC

Mains level : Paper 3- Advantages and challenges in the Open Network for Digital Commerce project

Context

The Department for Promotion of Industry and Internal Trade (DPIIT) recently issued orders appointing an advisory committee for its Open Network for Digital Commerce (ONDC) project.

About ONDC project

- The Open Network for Digital Commerce (ONDC) project aims to **make e-commerce processes open-source.**
- In simple terms, it aims at creating a **platform that can be utilised by all online retailers.**
- This is another effort by the government to facilitate the **creation of shared digital infrastructure**, as it has previously done for identity (Aadhaar) and payments (**Unified Payments Interface**).
- It will digitise e-commerce value chains, standardise operations, promote inclusion of suppliers, and derive efficiencies in logistics.

What are its advantages?

- **Level playing field:** When done well, this approach can level the playing field and create value for users.

- **Curb monopoly:** The market is **dominated by a few players** who are facing investigations for unfair trade practices in many countries.
- **Prevent market failure:** The sector is characterised by many small players who individually do not have the muscle to have an equitable bargain with e-commerce companies.
- Economists call this a market failure, and it presents a **legitimate case for intervention.**

The three layers of an open digital ecosystem and their conceptual framework for adoption and safeguards

1) Tech layer

- The tech layer should be designed for **minimalism and decentralisation.**
- The government should restrict its role to **facilitating standards and protocols** that provide open access, and in getting them adopted organically.
- Building an entire tech platform should happen only if a standards-based approach doesn't suffice.
- If built, the platform should be built on **privacy by design** principles.

- It should collect minimal amounts of data (especially personal data) and store it in a **decentralised manner**.
- Tools like **blockchain** could be used to build **technical safeguards** that cannot be overridden without active consent.

2) Governance layer

- **Avoid excessive government intervention:** The governance layer around this should allay business fears of **excessive state intervention in e-commerce**.
- **Legal provision:** Any deployment of standards or tech should be **accompanied by law or regulation** that lays out the scope of the project.
- **Independent regulator for personal data:** If collection of any personal data is required, **passing the data protection bill** and creating an **independent regulator** should be a precondition.
- **Handling by independent society:** To assure the industry of fairness, the government could hand over the stewardship of the standards or platform to an **independent society or non-profit**.

3) Community layer

- A community layer can foster a truly inclusive and participatory process.
- This may be achieved by **making civil society and the public active contributors** and seeking wide feedback on drafts of the proposal.
- Once the framework is implemented, ensuring **quick and time-bound redressal of grievances** will help build trust in the system.

Concerns with government creating shared digital infrastructure

- This approach also comes with risks and we should tread with caution.
- In general, governments should intervene in markets only when there is a clearly **identifiable market failure** or massive **societal benefits** from creating shared infrastructure.

Way forward

- The governments championing of open-source technology for digital commerce is commendable.
- It should also push the envelope on the other principles of the open-source movement **transparency, collaboration, release early and often, inclusive meritocracy, and community**.
- Even if we do all things right, an **infrastructure-led approach** may not be sufficient.
- Therefore, we need to supplement infrastructure with **tightly-tailored regulation**.
- We need to explore the concept of **interoperability**, that is, mandating that private digital platforms like e-commerce firms enable their users and suppliers to **solicit business on other platforms**.
- To drive the adoption of an **open e-commerce platform** in a sector with entrenched incumbents we need to create reference applications, and financial or non-financial incentives.
- Useful learnings can be drawn from the adoption of UPI: The government **supported the rollout of BHIM as a reference app**, and offered incentives.

Consider the question “How the Open Network for Digital Commerce project can help deal with the issues with the e-commerce sector? Suggest the approach the project should adopt to make it a success.”

Conclusion

It is timely that India is exploring innovative ways to bridge the gaps in e-commerce markets. But the boldness of this vision must be matched by the thoughtfulness of the approach.

Back2Basics: What is ‘Privacy by Design’?

- Privacy by design is a concept that **integrates privacy** into the creation and operation of new devices, IT systems, networked infrastructure, and even corporate policies.
- Developing and integrating privacy solutions in the early phases of a project identifies any potential problems at an early stage to prevent them in the long run.

TRADE SECTOR UPDATES - FALLING EXPORTS, TIES, MEIS, FOREIGN TRADE POLICY, ETC.

EU's new GHG emissions law for Indian industry

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : CBAM

Mains level : Paper 3- Way forward for Indian industry after the introduction of CBAM

Context

On July 14, the European Union introduced new legislation, Fit for 55, to cut its GHG emissions by 55 percent by 2030 and to net zero by 2050.

Implications of Fit for 55

- **Legal backing:** It turns the EU's announcement into law, protecting it from the winds of political change.
- It opens new markets for Indian industry, for example for electric vehicles.
- **CBAM:** However, it also introduces a potentially adverse policy called the **carbon border adjustment mechanism (CBAM)**.

- CBAM is meant to **discourage consumers from buying carbon-intensive products** and encourage producers to **invest in cleaner technologies**.

What is CBAM?

- The EU has had a carbon emission trading system since 2005.
- With Fit for 55, the EU's carbon price is likely to go up.
- The high carbon price will make the **EU's domestic products more expensive** than imports from countries that do not have such rules.
- The new CBAM is meant to **level the playing field** between domestic and imported products.
- CBAM will require foreign producers to **pay for the carbon emitted while manufacturing their products**.
- The adjustment will be **applied to energy-intensive products** that are widely traded by the EU, such as iron and steel, aluminum, cement, fertilizer, and electricity.

What is Carbon Border Tax?

- A carbon border tax (CBT) is a tax on carbon emissions attributed to imported goods that have not been carbon-taxed at the source.
- The carbon border tax proposal is part of the European Commission's European Green Deal that endeavors to make Europe the first climate-neutral continent by 2050.

Why is India opposed to it?

- India, along with other developing countries, has long opposed the EU's proposed carbon border tax.
- In April, it issued a joint statement with the BASIC bloc Brazil, South Africa, India, and China calling CBAM discriminatory.
- The concern is that the border tax will ramp up prices of their goods in Europe and shrink demand.
- The BASIC group also said the EU's proposal goes against the UN principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDRRC).
- The CBDR-RC acknowledges that richer countries have a responsibility of providing financial and technological assistance to developing and vulnerable countries to fight climate change.
- A carbon border tax is worrisome for India as it is the EU's third-largest trading partner.
- In 2020, the EU accounted for 11.1 percent of India's total global trade. India's exports to the EU were also worth \$41.36 billion in 2020-21, according to data from the commerce ministry.
- The tax could create serious near-term challenges for companies with a large greenhouse gas footprint.
- It also said mechanisms like CBAM could cause disruptions in a global trading system already roiled by tariff wars, renegotiated treaties, and rising protectionism.

Why CBAM is a cause for concern for India?

- India is Europe's third-largest trading partner, and it **does not have its own carbon tax or cap**.
- So, CBAM should be a cause for concern for it.
- A UNCTAD study predicts that India will lose \$1-1.7 billion in exports of **energy-intensive products** such as steel and aluminum.
- India's goods trade with the EU was **\$74 billion in 2020**.

Other Issues with CBT

- **Impact on trade:** The degree of impact on industrial sectors would be largely influenced by two factors: carbon intensity and trade intensity.
- **Altering competitiveness:** For companies, it will raise the administrative burden of crossing borders and increase trade frictions, especially for small businesses. That will inevitably reduce choice and raise costs for consumers.
- **Promoting protectionism:** The carbon tax may end up being protectionist and will hit emerging economies like India hard.
- **Unfair practices under WTO:** Depending on their design they could fall foul of WTO measures designed to prevent importing countries from discriminating against particular exporting countries.
- **A violation of the Paris Accord:** CBT compels developing countries to pay the same price as the developed countries to climate change. The EU is essentially bypassing the principle of common but differentiated responsibilities that should guide international climate action.

Way forward for Indian Industry

- **Clean technology partnerships :** Indian Industry should enter clean technology partnerships with European industry.
- **Invest in renewables:** Indian companies should invest in more renewable electricity and energy efficiency.
- **Incentivize low-carbon choices:** They can adopt science-based targets for emission reduction and internal carbon pricing to incentivize low-carbon choices.
- **Schemes and Government financing:** The government can extend the **perform-achieve-trade scheme** to more industries and provide finance to MSMEs to upgrade to clean technologies.
- WRI India's analysis shows that carbon dioxide emissions from the iron and steel industry can be reduced from 900 million tonnes to 500 million tonnes in 2035 through **greater electrification, green hydrogen, energy efficiency, and material efficiency**.
- **Diversify export:** India can try to diversify its exports to other markets and products.

Consider the question "What is carbon border adjustment mechanism (CBAM) introduced by the EU? What are its implications for Indian industry?"

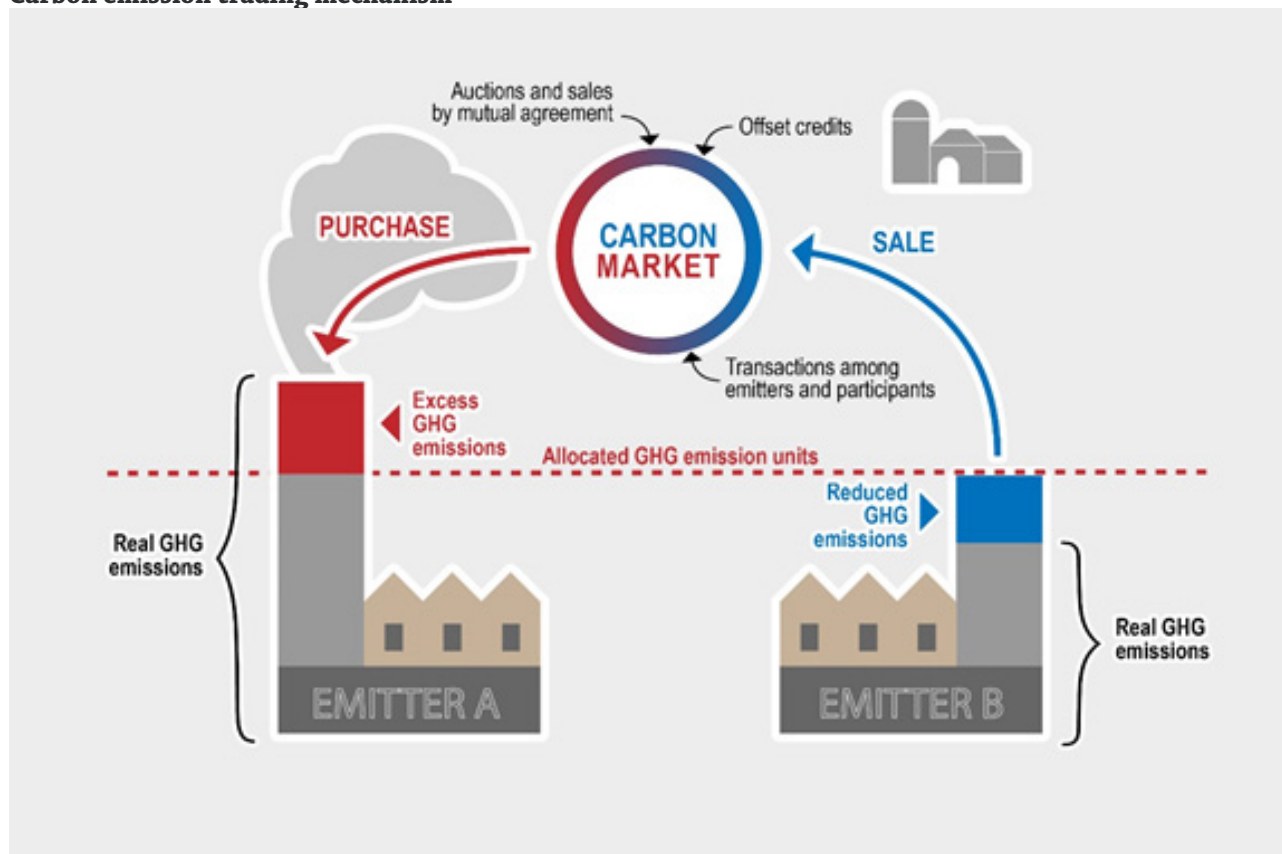
Conclusion

At present, the CBAM may seem obstructionist. But over the long-term, it can provide regulatory certainty to industry by harmonizing carbon prices, and the Indian industry can position itself as a strong player in the trade landscape of the future.

Back2Basics: UNCTAD

- UNCTAD is a permanent intergovernmental body established by the United Nations General Assembly in 1964.
- Its headquarters are located in Geneva, Switzerland, and have offices in New York and Addis Ababa.
- UNCTAD is part of the UN Secretariat.
- It reports to the **UN General Assembly** and the Economic and Social Council but has its own membership, leadership, and budget.
- It is also part of the **United Nations Development Group**.

Carbon emission trading mechanism



LABOUR, JOBS AND EMPLOYMENT - HARMONIZATION OF LABOUR LAWS, GENDER GAP, UNEMPLOYMENT, ETC.

Revival of Construction sector

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : GVA

Mains level : Paper 3- Limits of relying on high-growth sectors

Context

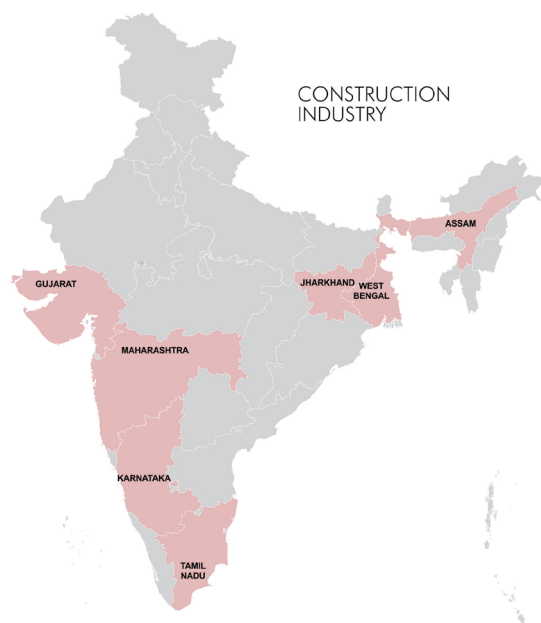
The latest estimates of the fourth quarter of financial year 2020-21 (January-March) brought some relief, for policymakers.

Construction Industry in India

- The construction industry GVA share accounts for 7.3% in FY18.
- The share of infrastructure spending in the construction sector as a part of India's GDP rose to 9% in 2017.
- India stands as the second-largest employer, employing more than 49 million people in the sector.

- The Indian real estate sector is expected to reach a market size of \$ 180 billion by 2020.
- The Construction industry is expected to record a CAGR of 15.7% to reach \$ 738.5 billion by 2022.
- Foreign Direct Investment (FDI) received in the Construction Development sector (townships, housing, built-up infrastructure, and construction development projects) from April 2000 to March 2019 stands at US\$ 25.05 billion.
- Institutional investments in Indian realty touch \$ 4 billion in 2018.
- Construction output is expected to grow on average by 7.1% each year.

Growth Drivers



- Population growth, urbanization, industrialization, and a rise in disposable income are key growth drivers of the industry.
- It is expected to be the world's 3rd largest construction market by 2025.
- 100% FDI under the automatic route is allowed in the construction development sector.
- Cement capacity addition of 80-100 MT per annum is expected over the next five years.
- The government has made tremendous efforts to improve residential and transport infrastructure.
- The government has increased its expenditure on infrastructure development by 20.9%. It was INR 4.9 trillion (US\$ 75.9 billion) in the Financial Year FY 2017-2018 which is increased to INR 6 trillion (US\$ 89.2 billion) in FY 2018-2019.
- Investments valued at around US\$ 965.5 Mn are expected to be required by the infrastructure sector by 2040.
- Development of 100 smart cities by 2020.

Interpreting the construction sector GVA increase

- The construction sector showed a 15 percent increase in gross value added (GVA) in the last quarter, which is nearly double the growth experienced by the sector in the previous year (7.7 percent).
- **Sign of better times:** The buoyant growth of this sector has been hailed by policymakers as a sign of better times to come.
- **Addressing distress:** Growth in the construction sector is also considered as the capacity of the economy to address the distress that households have faced in the past year.
- **Addressing needs of the workforce:** The Chief Economic Advisor pointed to the high growth rates in construction possibly to indicate that growth would address the **needs of the beleaguered workforce**.

- The Union budget 2021 has also allocated a considerable sum towards **infrastructure and construction** in the hopes of the sector playing a catalyzing role.

Issues with relying on the growth of the high-employment sector

- **No strong correlation:** While GVA and/or GDP are considered as indicators of economic health, it has been argued in detail how **it may not be prudent to rely on these alone** as measures of economic welfare.
- In particular, mere growth in a sector may not necessarily translate into benefits for its workers.
- In the last quarter of 2019-2020, when construction GVA grew at nearly 8 percent, employment in the same sector grew by 3 percent based on estimates from CMIE-CPHS.
- **Fallback employment option:** The fact that employment grew in this sector even during a crisis year is largely because of the fact that the construction sector emerged as a fallback employment option for many displaced workers.
- During normal times, the sector typically employs only about 10-15 percent of India's total workforce.
- Even if this sector were to expand in line with its GVA growth, it will not be able to provide employment beyond a certain level.
- **Employment alone is not enough:** Moreover, employment alone is not enough.
- Earnings for an average daily wage worker in the sector have actually **declined** this year.
- Again, the overall economic growth in GVA in the sector has not been passed on to the workers.

Way forward

- Any relief effort that relies solely on economic growth as a means to uplift workers will be sorely inadequate as we see from the experience of workers in construction.
- The need of the hour is to go beyond relying on sectoral growth as a means of delivering relief to workers.
- **Direct transfers of cash and food** are also needed, as is livelihood support through employment guarantee programs.

Conclusion

While boosting the growth of high-employment sectors is one strategy to adopt, this has its limitations. The capacity of a sector is limited in terms of the number of workers that it can absorb, and the extent to which growth can benefit workers.

Back2Basics: What is GVA?

- **Gross value added (GVA)** is an economic productivity metric that measures the contribution of a corporate subsidiary, company, or municipality to an economy, producer, sector, or region.
- GVA is essentially a measure of the **net value of output** deducting the cost of any input that went into its production from its total value.
- GVA thus adjusts gross domestic product (GDP) by the impact of subsidies and taxes (tariffs) on products.

Unlocking recovery

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Inflation

Mains level : Paper 3- Economic recovery

Context

Many developed countries are poised for strong growth. This will compel their respective central banks to begin normalizing the extremely loose monetary policies. This will require a reorientation of India's stimulus strategy.

Global growth momentum

- On the global front, the growth momentum has been strong, particularly in the US and China, although recent data suggest this has peaked or is even stalling.
- Post the perceived hawkishness of the last US Federal Reserve policy meeting, the traded interest rate of the benchmark US 10-year treasury bond fell to below 1.3 percent.
- The falling rate reflects disquiet about the durability of the recovery once the fiscal stimulus starts waning.
- China recently announced a 0.5 percent cut in the required reserves ratio for banks.
- Europe's recovery had begun to inch up, but members of the European Central Bank have begun to push back on market expectations of early tapering.
- However, some smaller global central banks have started normalizing their respective **Quantitative Easing** programs.

Growth momentum in India

- The encouraging aspect of the recovery is **the resilience of many mid-and large-turnover companies** in the face of the debilitating public health crisis
- In India, there are signs that the recovery momentum began to strengthen from mid-June, and of **demand accelerating**, despite **capacity utilization** in many industries below thresholds needed for the next round of private investments.
- In line with the market consensus, we think that 2021-22 growth is likely to be in the 9-10 percent range.
- **Tax collections**, another indicator of activity, even if a bit skewed, support this view.
- A revival of **retail consumer demand** is critical for sustaining the recovery. Reports from industry associations suggest a somewhat mixed picture.
- Demand emanating from rural geographies is important for sustaining recovery.
- Demand for work under MGNREGA suggests continuing stress.

- Monsoons will be a big contributor.
- The sowing of Kharif crops stalled in late June but is predicted to pick up again in mid-July.
- Renewed **government intervention** is required.

Factors deciding the trajectory of recovery

- **Inflation**: Rising inflation could force a monetary policy normalization faster than presently anticipated.
- **Global recovery**: Effects global central banks policy tightening will only add to the difficulty of balancing a policy-induced increase in interest rates, moderating financial markets volatility, and **maintaining growth incentives**.
- **Access to credit**: Access to credit remains a crucial input in the recovery matrix, particularly for small and micro-enterprises.
- The Union governments **Emergency Credit Line Guarantee Scheme (ECLGS)** has reportedly been very effective in stabilizing the solvency (and cash flows) of micro and small businesses.

Way forward

- **Expansion of subvention scheme**: The expansion of subvention (ECLGS) is probably the most effective template to incentivize credit flows, leveraging on the governments balance sheet to take on the first loss risks.
- At the same time, capex proposals of the Centre and states should gradually draw in private sector capex.
- **Policy intervention to create a level field** : Corporate health has improved, with lower debt on balance sheets.
- Adoption of technology is widespread; this **will boost productivity and competitiveness**.
- But these factors reinforce trends in consolidation and market power.
- It will require policy interventions to create **a more level playing field for smaller companies**, which is crucial for job creation.

Conclusion

Policy support will thus need to adapt from the revive to the thrive phase, to place India on a sustained 7 percent-plus growth path.

How to exit farming risk trap

Economics | GS3: Issues Related To Farm Subsidies & Msp, PDS, Buffer Stock & Food Security

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 3- Agriculture reforms to reduce the risk in agriculture in India

Context

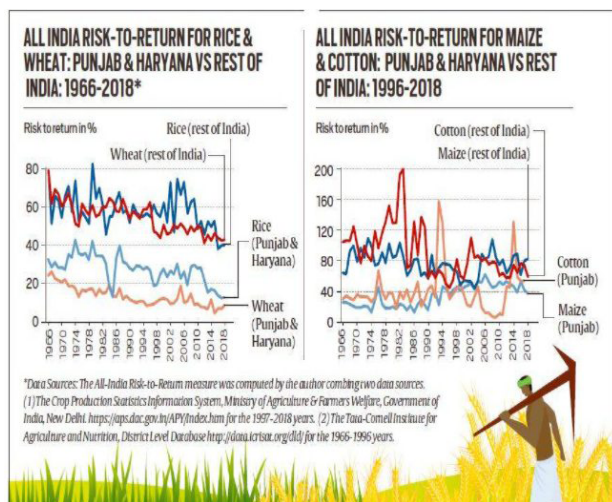
The farmers' protest against farm laws brings into focus the factors afflicting agriculture in India.

Issues of Indian agriculture

- Some 50 years after the Green Revolution, an all-India agricultural landscape is characterized by relatively **low productivity levels** that co-exist with high levels of **variation in crop yields** across our farming districts.
- Excessive control**: Various government agencies have a say on all aspects of the farmers livelihood the latest count includes 13 central and countless state ministries and agencies.
- These agencies oversee rural property rights, land use, and land ceilings; commodity prices, input subsidies, and taxes, infrastructure, production, credit, marketing and procurement, public distribution, research, education, trade policy, etc.
- Poor policies**: The result has been a mix of **arbitrary and conflicting policy** interventions by both the central and state government agencies.
- Poor provision of basic public goods** : This, combined with poor and varying levels of provision of **basic public goods**, including irrigation explains the poor state of Indian agriculture.

Risk-to-return in agriculture

- The following figures indicate the median (typical) district-level yield (in tonnes-per-hectare) for four major crops rice, wheat, maize, and cotton along with the geographic variability of this yield (risk) across all reporting districts for each year from 1966 to 2018.
- Combining these two values median district yield and its geographic variability across all farming districts provides us a measure of the **all-India level of risk-to-return**, in percentage terms.



Lessons from risk-to-return profile

- One, the large gap in rice and wheat yields that opened up between Punjab and Haryana and the farm districts in the rest of the country remains far from being closed.
- Limited mobility of ideas**: There is severe unevenness in the provision of common goods across districts irrigation, roads, power, etc.
- There is also the absence of well-functioning markets for agricultural land, crops, and inputs, the slow labour reform, and the poor quality of education.
- These two factors have worked to **reduce overall resource mobility within and across our farming districts**.
- Most importantly, they have limited the **mobility of ideas and technology** needed to increase productivity and reduce the variation of yield across districts.
- Decentralization failed**: As a result of lack of mobility, the real promise of a decentralized system of experimentation, of learning from each other, and the adoption of best practices and policies has failed to materialize.
- Distortion due to subsidies** : Various input subsidies and minimum price guarantee procurement schemes provided by the state have worked to worsen the overall levels of productivity and the risk in agriculture, generating adverse effects for all of us, through the **degradation of our water resources, soil, health, and climate**.
- At the same time, these policies have tightened the trap our farm households find themselves in.
- Thus, as is evident in the next chart, outside of rice and wheat, the risk-to-return levels are even higher in the case of maize and cotton, including for Punjab.
- As a result, the farm households of Punjab and Haryana fear both, the loss of state support for rice and wheat and the higher risks implied by a switch to other crops.

Way forward

- Minimize risk**: The guiding principle for three farm laws must be to create conditions that allow farm households to maximize their income while **minimizing the overall level of risk** in Indian agriculture.
- Freedom of choice**: Farmers must be made free to determine the best mix of resources, land, inputs, technology, and organizational forms for their farms.
- More freedom**: Farmers, just as entrepreneurs in the non-farm sector, must be allowed to enter and exit agriculture, on their own terms and contract with whomever they wish.
- Allow entry of corporates** : Entry of the large or small private corporates in the Indian agricultural stream will help the Indian farmer, along with the rest of us, move to a low-risk, high-return path of progress.

Conclusion

The more we delay the needed reforms, the more difficult it will prove to be for all of us to extract ourselves out of these risk-laden currents of agriculture.

First group insolvency proceeding points to larger weakness in IBC

Economics | GS3: Indian Economy

Note4Students | From UPSC perspective, the following things are important :

Prelims level : CoC in IBC

Mains level : Paper 3- Issues with IBC

Context

National Company Law Appellate Tribunal (NCLAT) stayed the approval granted by the Mumbai bench of the National Company Law Tribunal (NCLT) to the resolution plan for the Videocon Group.

Concerns with resolution plan

- Resolution plan submitted by Twinstar Technologies, provided for payment of Rs 2,962 crore a mere **4.15 per cent** of Videocons total admitted debt of Rs 64,838 crore.
- **Payment of debt not in fair and equitable manner:** Under the IBC (Section 30(2)(b)), the resolution plan must provide for payment of debts amongst creditors in a **fair and equitable** manner.
- However, in the plan submitted by Twinstar, unsecured assenting financial creditors and **operational creditors** are getting a paltry 0.62 per cent and 0.72 per cent of their admitted dues.
- Even the secured assenting and dissenting **financial creditors** had to settle for only 4.9 per cent and 4.56 per cent of their respective dues.
- **Confidentiality obligation concerns:** Twinstars bid of Rs 2,962 crore is close to the liquidation value of the Videocon Group estimated at Rs 2,568 crore, thereby **raising legitimate suspicion and concern over the confidentiality of the resolution process**.
- The I&B Regulations, 2016 state that **the resolution professional must maintain the confidentiality** of the fair market value and liquidation value of the corporate debtor and can only disclose the same to the CoC members after the resolutions plan have been submitted.
- **Time delay:** Status-quo ante has been restored until the next date of hearing by which time more than three years would have passed since the Videocon group was admitted into insolvency proceedings.
- This is way beyond the **statutory timeline of 330 days**.

Confidentiality rules need to be revised

- The CoC members must, on receipt of the information, issue an **undertaking of confidentiality**.
- But no such obligation falls on the resolution professional.
- Further, Section 29(2) of the code provides that the resolution professional must disclose all relevant information to the resolution applicant and it is **for the resolution applicant to ensure compliance with confidentiality obligations**.
- Again, there is no such duty imposed on the resolution professional.

- Even under Section 25 of the code, titled Duties of resolution professional, the specific duty to maintain confidentiality of sensitive information is absent.
- Clearly, the current regime does not have much deterrence value so as to ensure solemn adherence to confidentiality.

Conclusion

Videocon was one of the first test cases to examine the prospects of insolvency jurisprudence in India and the first one, for group insolvency proceedings. However, almost four years and a 95 per cent haircut later, the call for an immediate course correction couldnt be louder.

Back2Basics: Operational creditor and financial creditors

- When a corporate defaulter is brought under the resolution process (Corporate Insolvency Resolution Process or CIRP), there can be two types of creditors to whom the corporate should give back money
- (1) the entities who **gave loans or funds to the corporate**.
- (2) the entities from whom the corporate **bought inputs and other services**.
- The financial creditors are basically entities (lenders like banks) that have provided funds to the corporate.
- Their relationship with the entity is a pure financial contract, such as a loan or debt security.
- On the other hand, business and other entities that have provided inputs and other materials and services and to whom the defaulted corporate owes a debt are called as **operational creditors**.
- Both have claims on the defaulted corporate or the defaulted corporate owe payments to both these categories.
- Rights for these categories under the resolution process are also different.
- The IBC gives a **clear preference to the claims of the financial creditors** over the operational creditors through several procedures.

Haircut

- A haircut is the difference between the loan amount and the actual value of the asset used as collateral.
- It reflects the lender's perception of the risk of fall in the value of assets.
- But in the context of loan recoveries, **it is the difference between the actual dues from a borrower and the amount he settles with the bank**.

GOVERNANCE

How police can serve citizens better

Governance | GS2: E-Governance, Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : CCTNS

Mains level : Paper 2- Technology driven service delivery mechanism by

The article highlights the necessity of adopting the technology driven service delivery mechanism by the police.

SC mandated police reforms of 2006

SEVEN DIRECTIVES OF SUPREME COURT

- 1 **Constitute a State Security Commission**
- 2 **Fixed two-year tenure for DGP**
- 3 **Two-year term for SPs & SHOs**
- 4 **Separate Investigation and L&O functions**
- 5 **Set up Police Establishment Board**
- 6 **Set up Police Complaints Authorities at State & Dist levels**
- 7 **Set up National Security Commission at Centre level**



Cost of inefficient criminal justice system

- There is a reluctance to implement the Supreme Court-mandated police reforms of 2006.
- The economic cost of the failed criminal justice system is reflected in the **reluctance of foreign companies to set up manufacturing and commercial ventures in India** for want of quick settlement of criminal, labour and civil disputes.
- The social implications can be gauged from the report, Crime in India 2019, published by the National Crime Records Bureau.
- Investigation and prosecution need improvement and all criminal trials must be completed within a year.
- **Technology-driven service delivery mechanisms** can help achieve this.

Need to ensure time-bound delivery of services

- Along with prevention and detection of crime and maintenance of law and order, police stations in India undertake numerous daily tasks.
- These tasks include **providing verifications and no objection certificates** of different kinds to citizens.
- In criminal and non-cognisable cases, police stations provide copies of FIRs, complaints and final reports.
- Police stations also verify domestic help/employees of central and state governments/public sector undertakings/students going abroad for studies.
- The Bureau of Police Research & Development (BPR&D) had identified **45 such tasks in 2017**.
- Ease of business means police stations dispose of these requests in a transparent and time-bound manner.

- The procedures are non-transparent and timelines are often blurred which encourage corrupt practice.
- Even as police reforms are pursued by the Supreme Court, a **definite attempt can be made to ensure time-bound delivery of the above-mentioned services to citizens**.

Use of technology for service delivery

- These e-portals of various state police seek to provide citizen-centric services such as requests for issue/renewal of various NOCs, verification requests for servants, employment, passport, senior citizen registrations etc.
- The India Justice Report (IJR) 2020 supported by Tata Trusts has studied the e-portals of various state police organisations.
- The report mentions that despite the push for digitisation, no state offered the complete bouquet of services
- The report also mentions that users face numerous problems of accessibility to these services.
- The IJR 2020 audit confirms that states need to **invest more resources to upgrade their e-portals** for providing the 45 identified basic services to the citizens

Way forward

- This highlights that **technology for service delivery to citizens** has not been prioritised by the police leadership.
- This is a task that police leadership can concentrate on without any political interference.
- **The Bureau of Police Research** had worked out the timeline for each service and the hierarchy/levels involved.
- The recommendations have been shared with the state police organisations.
- Adhering to a defined process with a timeline and clear delineation of the levels of police officers involved can ensure transparent and non-corrupt service delivery.
- It will reduce the number of fruitless visits a citizen makes to a police station chasing different officers.
- Along with ease of use, the language of e-portals needs attention too.
- Citizens seeking clearances may not be very educated.
- The Ministry of Home Affairs (MHA) earmarked about Rs 20,000 crore for **the modernisation of police (2017-2020)**, for schemes such as **crime and criminal tracing networks and system (CCTNS)**, police wireless and e-prisons.
- States can take up this crucial service delivery mechanism.

Conclusion

Life for Indians would be transformed if government departments, including the police, provide maximum information and services through their portals respecting the defined processes and timelines

Mental health care in India

Governance | GS2: Government Scheme/Policies

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Shift in mental health care system needed

Context

Recently, a High Court suggested that homeless persons with health conditions be branded with a permanent tattoo, when vaccinated against COVID-19.

What is Mental Health

Mental health is defined as a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community. (WHO)

Issues related to Mental Health care in India

- **Neglected Area** : Mental health which forms the core of our personhood is often neglected which impeded the development of an individual to full potential.
- **Stigmatised** : Mental health illness is often considered as Taboo that leads to reluctance on part of family members to seek diagnosis & treatment for the patient
- **Burden of Demography**: According to WHO, the burden of mental disorders is maximal in young adults. India being a young country (nearly 50% of its population below the age of 25) will face increased burden of mental illness in short term
- **Major contributor to the burden of illness**: An estimated 150 million people across India are in need of mental health care interventions, according to India's latest National Mental Health Survey 2015-16.
- **Disproportionate impact**: It is the poor, dispossessed and marginalised who bear the greatest burden of mental health problems, but historically their sufferings are dismissed as a natural extension of their social and economic conditions
- **Post-Treatment gap**: There is need for proper rehabilitation of the mentally ill persons post his/her treatment which is currently not present.
- **Lack of Specialists**: Low proportion of mental health workforce in India (per 100,000 population) include psychiatrists (0.3), nurses (0.12), psychologists (0.07) and social workers (0.07).
- **Dangers of increase in post-COVID order**: Mental health problems, tend to increase during economic distress leading to reduction in life-expectancy. This has been described by Nobel prize winning economist, Angus Deaton, as Deaths of Despair
- **Prone to abuse**: Mentally ill patients are vulnerable to and usually suffer from drug abuse, wrongful confinement, even at homes and mental healthcare facilities which is a cause of concern and a gross human right violation.
- **Affordability issues**: Due to inadequate number of mental health caretakers, such service is often concentrated in Urban areas and are also expensive
- **Needs Unique approach**: There is no one-size-fits-all prescription for mental health issues as they are intimately intertwined with unique, personal life stories.

Steps Taken

- In 1982, the government of India launched the National Mental Health Programme (NMHP) to improve the status of mental health in India.

NMHP has 3 components:

- Treatment of Mentally ill
- Rehabilitation
- Prevention and promotion of positive mental health
- District Mental Health Programme (DMHP), 1996 its objective is to provide community mental health services at the primary health care level.
- Mental Health Act (MHA-87) was enacted in 1987.
- Mental Health Care Act 2017 repealed the Mental Health Act, 1987.
- WHO's Comprehensive Mental Action Plan 2013-2020 was adopted by the 66th World Health Assembly.
- The Sustainable Development Goals target 3.4 and 3.5 talks about reducing mental illness within the population.
- The Mental Health Atlas was launched by WHO in 2017.

Constitutional Provision

- The Supreme Court has held healthcare to be a fundamental right under Article 21 of the Constitution.

Mental health care Act 2017

Right to make an Advance Directive

Patient can state on how to be treated or not to be treated for the illness during a mental health situation.

Right to appoint a Nominated Representative

A person shall have the right to appoint a nominated representative to take on his/her behalf, all health related decisions

- Right to access mental health care
- Right to free & quality services
- Right to get free medicines
- Right to community living
- Right to protection from cruel, inhuman and degrading treatment
- Right to live in an environment, safe and hygienic, having basic amenities
- Right to legal aid
- **No Electroconvulsive Therapy (ECT) without anesthesia**
- **Attempt to commit suicide not an offence** This act brought changes in Section 309 of the Indian Penal Code (which criminalized attempted suicide). Now, a person who attempts to commit suicide will be presumed to be suffering from severe stress and shall not be subjected to any investigation or prosecution. The act envisages the establishment of **Central Mental Health Authority and State Mental Health Authority**.

Way forward: A responsive care system

- We must understand mental health conditions for what they are and for how they are associated with disadvantage.
- These situations are linked, but not always so, therefore, **not all distress can be medicalised**.

- **Adopt WHO guidelines:** Follow the **Guidance on Community Mental Health Services** recently launched by the World Health Organization.
- The Guidance, which includes **three models from India**, addresses the issue from **the same side as the mental health service user** and focuses on the co-production of knowledge and on good practices.
- Drawn from 22 countries, these models **balance care and support with rights and participation**.
- **Open dialogue** : The **practice of open dialogue**, a therapeutic practice that originated in Finland, runs through many programmes in the Guidance.
- This approach trains the therapist in de-escalation of distress and breaks power differentials that allow for free expression.
- **Increase investment:** With emphasis on social care components such as work force participation, pensions and housing, **increased investments** in health and social care seem imperative.
- **Network of services:** For those homeless and who opt not to enter mental health establishments, we can provide a network of services ranging from soup kitchens at vantage points to mobile mental health and social care clinics.
- Small emergency care and recovery centres for those who need crisis support instead of larger hospitals, and long-term inclusive living options in an environment that **values diversity and celebrates social mixing**, will reframe the archaic narrative of how mental health care is to be provided.
- **Community Partnership:** By forming their **self-help groups** of carers families along with NGOs which brings community participation and helps reduction in social stigma associated with mental illness.
- Healthcare is a **state subject** there is need for better coordination between Center-States for proper implementation.
- **Make psychotropic drugs available:** Essential psychotropic drugs should be provided at all levels of healthcare. These medicines should be included in essential drugs list.
- **Empathetic Service delivery:** Delivery of services should be sensitive, compassionate and free from stigma and discrimination in public healthcare institutions plus there is need for **police sensitization** and training regarding recognition of acute mental disorders and undertaking of necessary action to protect the human rights of the mentally ill, his family and his fellow citizens.

Conclusion

Persons with mental health conditions need a responsive care system that inspires hope and participation without which their lives are empty. We should endeavour to provide them with such a responsive care system.

CORONAVIRUS - HEALTH AND GOVERNANCE ISSUES

Guidelines by the Supreme Court in the migrant labourers case

Governance | GS2: Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : One nation, one ration card scheme

Mains level : Paper 2- Guidelines for providing relief to migrant workers

Context

The Supreme Court on June 29 pronounced its judgment in the migrant labourers case. The case was initiated last year after the national lockdown was announced on March 24.

Guidelines laid down by the Supreme Court

- Two of the most important components to protect the migrants during this time were **the food and travel arrangements** insisted on by the court.
- In the orders pronounced in May this year, it laid down that **dry ration be provided to migrants** who want to return to their homes.
- Further, the court said that **identity proof should not be insisted upon** by the governments since the labourers might not be able to furnish it.

- Secondly, the court called upon the State governments to **arrange transportation for workers** who need to return to their homes.
- The Supreme Court **fixed July 31 as the deadline** for the States to implement the **One nation One Ration Card scheme**.
- Apart from dry ration, the top court also directed the State governments to run community kitchens for migrant workers.
- In the order passed on June 29, the court affirmed **the Right to Food under Article 21 of the Constitution**.
- In furtherance of this, the court asked the States to **formulate their own schemes** and issue food grains to migrants.
- The top court recognised the **need for direct cash benefit transfer** to workers in the unorganised sector.
- But it did not issue any guidelines for the same.

Challenges

- The Supreme Court has given a purposive declaration in the case but the bulk of the judgment seems **declaratory rather than mandatory**.
- Under the One nation One Ration Card scheme, the States are to complete the registration of migrant workers in order to provide dry ration to them.
- But it is **unlikely that a standardised system can be developed** within the deadline prescribed by the court.
- There are **administrative problems** in running community kitchens for migrant workers.
- First, migrant workers keep moving in search of employment and **it is difficult to cover them all under the scheme**.

- Second, many States **do not have the necessary infrastructure** to run and maintain community kitchens on such a large scale.
- The court asked the States to **formulate their own schemes** and issue food grains to migrants, but there are no normative data that would allow the States **to identify eligible migrants**.

Conclusion

In order to efficaciously implement the orders of the court, the State governments need to work with the Centre closely. It is imperative to ensure that government machinery works to its full potential and robust systems are developed to withstand the challenges of the looming third covid wave.

HIGHER EDUCATION - RUSA, NIRF, HEFA, ETC.

Issues with school enrolment in India

Governance | GS2: Health & Education

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Issues with school education in India

Context

Proportion of children attending the government schools has been on the decline. This has several implications.

Issues with school education in India

- A quality, free and regular school education represents our most potent infrastructure of opportunity, a fundamental duty of the state.
- Meritocracy represents the idea that people should advance based on their talents and efforts.
- But India's meritocracy is sabotaged by **flailing government schools**.
- The proportion of India's children attending a government school has now **declined to 45 per cent**.
- This number is 85 per cent in America, 90 per cent in England, and 95 per cent in Japan.
- India's **100 per cent plus school enrolment** masks challenges; a **huge dropout ratio and poor learning outcomes**.
- We have **too many schools** and 4 lakh have less than 50 students (70 per cent of schools in Rajasthan, Karnataka, J&K, and Uttarakhand).
- China has similar total student numbers with 30 per cent of our school numbers.

It is not Government Vs. Private schools

- Demand for better government schools is not an argument against private schools.
- Because, without this market response to demand, the post-1947 policy errors in primary education would have been catastrophic for India's human capital.

Way forward

- We need the difficult reforms of governance, performance management, and English instruction.
- **Governance** must shift from control of resources to learning outcomes; learning design, responsiveness, teacher management, community relationships, integrity, fair decision making, and financial sustainability.
- **Performance management**, currently equated with teacher attendance, needs evaluation of scores, skills, competence and classroom management. Scores need continuous assessments or end-of-year exams.
- The new world of work **redefines employability** to include the 3Rs of **reading, writing, and arithmetic** and a fourth R of relationships.
- India's farm to non-farm transition is not happening to factories but to sales and customer services which need 4R competency and **English awareness**.
- English instruction is about bilingualism, higher education pathways, and **employability**.
- Employment outcomes are **50 per cent higher for kids with English familiarity** because of higher geographic mobility, sector mobility, role eligibility, and entrance exam ease.
- India's constitution wrote **Education Policy into Lists I (Centre), II (State), and III (concurrent jurisdiction)**; this fragmentation needs revisiting because it tends to concentrate decisions **that should be made locally** in Delhi or state capitals.

Conclusion

Government needs urgent measure to address the issues which has bearing on its future.

Arbitration in India: Issues

Governance | GS2: Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Arbitrations and issues with it in India

Context

Plagued by delays and rising costs, arbitration in India needs urgent attention. The pandemic has only worsened the situation.

What is arbitration?

- In simple words, arbitration is the **act of dispute settlement through an arbitrator**, i.e. a third party, who is not involved in the dispute.
- It is an alternative dispute settlement mechanism, aiming at **settlement outside the court**.

What are the advantages arbitration?

- It **minimizes the court intervention**.
- It **brings down the costs** of dispute settlement.
- It fixes timelines for **expeditious disposal**.
- It ensures the **neutrality of arbitrator** and enforcement of awards.
- Having an **arbitration law encourages foreign investments** to a country. It projects the country as an investor friendly one having a sound legal framework and ease of doing business.
- Having an arbitration law facilitate effective conduct of international and domestic arbitrations raised under various agreements.

Institutional Mechanism in India

- Arbitration council of India
- The Arbitration And Conciliation (Amendment) Act, 2021

Issues with arbitrations process in India

- Arbitrations in India suffers from **rising costs and sluggish proceedings**.
- Arbitration proceedings are often dragged on by lawyers on either side filing misconceived applications at various stages of the proceedings.
- Litigants, too, at times contribute to this delay with their stubbornness in not conceding a loss or defeat.
- The courts have narrowed down the scope of judicial interference under Section 34 of the Arbitration and Conciliation Act.
- The very limited recourse for setting aside an arbitral award under the Act invariably means that it will be upheld, even if it appears unfair or illogical.
- The aggrieved party may well be stuck with the award and precluded forever from challenging it.
- Arbitration hearings are **generally held in camera**, and decisions are usually not publicly accessible, giving rise to **doubts about impartiality and fairness**.
- Arbitration proceedings have become more complex with time.
- The Supreme Court, in *Guru Nanak Foundation v. Rattan Singh and Sons*, had expressed disappointment against the **procedural delays and tardiness** in the resolution of disputes through arbitration.

- Even the clauses providing for fees of the arbitrators and fixed timelines for disposal are often disregarded by the players
- The inevitable consequence of these drawbacks is a slow **departure of the biggest litigant, the government**, from the arbitration spectrum.
- A sector that is dominated by approvals, protocols and scrutiny, uncertainty about the budget outlay towards arbitrations and unexpected delays in disposal does not inspire confidence and detracts from the sanctity of the process.

Way forward

- Arbitrators have endeavoured to simplify the proceedings by limiting the pleadings, insisting on written arguments, reducing the number of sittings and laying down a schedule for various milestones.
- **Some restraint is needed from all quarters** to bring its wheels back on the tracks. These are:
 - A small check on the arbitral fees and timelines.
 - **Careful drafting** of arbitration clauses.
 - Stringent **procedural safeguards** to curb delays.
 - Expeditious disposal of the court proceedings and legislative intent towards all of the above.
- **Institutional Setup**: Setting up of arbitration institutions with international standard with hearing centres on widened jurisdiction of India is one of the foremost challenges
- **Upgrading Institutional Infrastructure**: Establishing a stable and vibrant eco-system for the arbitral institution is the next significant consideration. The institutions in themselves should be credible, independent, efficient and transparent which is a challenge in India looking at its diversity.
- **Scaling Human Capital** : Creation of physical infrastructure in itself would be insufficient without a pool of professional arbitrators who are able, conflict free and above all, non-partisan. The arbitrators should be competent, technically sound and specialized in their field.
- **Institutionalising Arbitration**: Presently in the Indian context, arbitrations are not conducted in a structured manner. The Law Commission of India has in its 246 th Report has noted that ad hoc arbitrations usually devolve into the format of a court hearing with the result that adjournments are granted regularly and lawyers too prefer to appear in court rather than completing the arbitration proceeding.
- **Setting up a Dedicated Bar** : Institutionalising arbitration would also have to be supported by a dedicated bar comprising of professionals competent to conduct arbitration in accordance with the rules of the institutions and provide competent, viable services.
- **Awareness Generation** : Strengthening of arbitration in the country would have to be couple with promoting arbitration as a mode for dispute resolution.

Consider the question “What are the issues faced by the arbitration in India? Suggest the measures to deal with these issues.”

Conclusion

Arbitration still has the inherent potential and characteristics to outperform other modes of dispute resolution, but for that to happen, some changes are a must.

ISSUES WITH COERCIVE POPULATION POLICY

Issues with coercive Population Policy

Governance | GS2: Government Scheme/Policies

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Right to reproductive freedom

Mains level : Paper 2- Coercive policy measures to control population

Context

Recently, the government of Uttar Pradesh released a Population Policy in which it stated its intention to bring the gross fertility rate in the State down from the existing 2.7 to 2.1 by 2026.

What is fertility rate?

- Fertility rate may be defined as the number of children that would be born of a woman during her reproductive years.
- For a country's population to remain stable, it is the total fertility rate should be 2.1.
- Studies suggest that India's national fertility rate is 2.2 at the moment.

Provisions in the Bill

- This draft law, titled the **Uttar Pradesh Population (Control, Stabilisation and Welfare) Bill, 2021**, seeks to provide a series of incentives to families that adhere to a two-child norm.
- The Bill also intends on **disentitling families** that breach the norm **from benefits and subsidies**.
- It promises **public servants** who undergo sterilisation and adopt a two-child norm several benefits.
- The draft Bill also contains a list of punishments.
- A person who breaches the two-child norm will be debarred from securing the benefit of any government-sponsored welfare scheme and will be **disqualified from applying to any State government job**.
- Existing government employees who infringe the rule will be denied the benefit of promotion.
- Transgressing individuals will be prohibited from contesting elections to local authorities and bodies.

Why UP needs such policy?

- Uttar Pradesh, India's most populous state, has a population of around 220 million.
- In Uttar Pradesh, there are limited ecological and economic resources at hand.
- It was necessary that the provision of basic necessities of human life, economic/livelihood opportunities and a secure living is accessible to all citizens.

Issues with coercive population control policies

1) Counter-productive measure

- Through an affidavit filed in court, the central government argued that international experience shows that any coercion to have a certain number of children is **counter-productive and leads to demographic distortions**.

2) Against international obligations

- India is committed to its **obligations under international law**, including the principles contained in the **International Conference on Population and Development Programme of Action, 1994**.
- Foremost in those principles was a pledge from nations that they would **look beyond demographic targets** and focus instead on guaranteeing a **right to reproductive freedom**.

3) Against right to reproductive freedom and privacy

- In *Suchita Srivastava & Anr vs Chandigarh Administration* (2009), the Court found that a woman's freedom to make reproductive decisions is an integral facet of the **right to personal liberty guaranteed by Article 21**.
- This ruling was endorsed by the Supreme Court's nine-judge Bench verdict in *K.S. Puttaswamy vs Union of India* (2017).
- A reading of the plurality of opinions there shows us that the Constitution sees a **persons autonomy over her body as an extension of the right to privacy**.
- A simple reading of U.P.'s draft law will show us that, if enacted, it will grossly **impinge on the right to reproductive freedom**.
- However, in *Javed & Ors vs State of Haryana & Ors* (2003), the Court upheld a law that disqualified persons with more than two children from contesting in local body elections.
- But the present UP Bill is far more disproportionate, therefore, the **judgment in Javed can no longer be seen as good law**.
- The UP government will likely argue that there is no violation of privacy here because any decision on sterilisation would be voluntary.
- But, as we ought to by now know, **making welfare conditional is a hallmark of coercion**.
- Therefore, the proposed law will fall foul of a proportionality analysis.

4) Negative consequences

- An already skewed sex ratio may be compounded by families **aborting a daughter** in the hope of having a son with a view to conforming to the two-child norm.
- The law could also lead to a proliferation in sterilisation camps, a practice that the Supreme Court has previously deprecated.
- In *Devika Biswas vs Union of India* (2016), the Court pointed to how these camps invariably have a disparate impact on minorities and other vulnerable groups.

5) India's TFR is about to reach the net replacement rate

- India's **TFR is about to reach the net replacement rate**, or NRR, of about 2.1-2.2. So, India is **not being threatened by a population explosion**. The National Family Health Survey (NFHS) and Census data show that in most states, and many urban areas, the total fertility rate (TFR) has already reached replacement levels (2.1).

6) Against National Human Rights Commission order:

- The incentives/disincentives approach has been denounced in the past by the NHRC after such measures were introduced by several States in the 1990s and 2000s. i.e., Haryana, undivided Andhra Pradesh, Madhya Pradesh, Rajasthan, Chhattisgarh, and Odisha.

Way forward

- Experiences from other States in India show us that there are more efficacious and alternative measures available to control the growth of population, including processes aimed at **improving public health and access to education**.
- If the states want to ensure a lower and stable fertility rate, they first **need to strengthen medical infrastructure and focus on socio-economic issues**.
- The success of India's southern states in containing population growth indicates that economic growth, as well as attention to education, health, and empowerment of women, **work far better to disincentivize larger families than punitive measures**.

1. **Adhering to the Cairo consensus** : Cairo International Conference on Population and Development in 1994 stressed population. The Cairo Consensus called for the **promotion of reproductive rights, empowering women, universal education, maternal and infant health to untangle the knotty issue of poverty and high fertility**. The consensus also demands an increase in the rate of modern contraceptive prevalence, male contraception. **States instead of releasing population control measures can start to adhere to implementing the Cairo**

consensus. Adopting Women-Centric Approach: Population stabilisation is not only about controlling population growth, but also entails gender parity. So, states need to **incentivize later marriages and childbirth**, promoting women's labor force participation, etc.

2. Seeing Population as a Resource rather than Burden :

As the Economic Survey, 2018-19, points out that India is set to witness a sharp slowdown in population growth in the next two decades.

3. Further, population estimates also predict a **generational divide between India's north and south, Fifteen years from now**.

4. So instead of population control policies at the state level, **India needs a universal policy to utilize population** in a better way.


5.

6. **India needs to look after the ageing population** : According to the United Nations 2015 World Population Ageing Report, the number of people over 60 years in India is expected to increase from 116.55 million in 2015 to over 330 million by 2050. Population control measures will increase the dependency ratio in future. So, the government has to ensure adequate savings and insurance policies for the ageing population.

Conclusion

For one thing, the reasoning of the Bill goes against the Puttaswamy case. But as rousing as the nine-judge Bench verdict is, its legacy depends on how its findings are applied.

Future planning | The Uttar Pradesh Population Policy 2021-2030 was launched to reduce maternal and infant deaths in a time-bound manner. The policy aims to:



Baby steps: Yogi Adityanath encouraging a newly married couple to opt for family planning in Lucknow on Sunday. • PTI

| Target | Current Status | Target by 2026 | Target by 2030 |
|--|----------------|----------------|----------------|
| Decrease the total fertility rate (number of children per woman) | 2.7 | 2.1 | 1.7 |
| Decrease maternal mortality rate (per 1,00,000 live births) | 197 | 150 | 98 |
| Decrease infant mortality rate (per 1,000 live births) | 43 | 32 | 22 |
| Decrease under 5 mortality rate (per 1,000 live births) | 47 | 35 | 25 |
| Increase modern contraceptive prevalence rate | 31.7% | 45% | 52% |
| Increase male methods of contraception use | 10.8% | - | - |

Awareness and extensive programmes would be held among those communities, cadres and geographical areas that have a higher fertility rate
U.P. POPULATION POLICY

We should not forget that the increase in population contributes to poverty in society. Hence, until all sections are made comprehensively aware, there will be a delay in fulfilling various goals
YOGI ADITYANATH, UTTAR PRADESH CM

Need for social security to migrant and informal workers

Governance | GS2: Schemes For Vulnerable Sections

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Recommendation 202

Mains level : Paper 2- Social security for migrant labour

Context

The migrants crisis after the two covid waves compelled policy-makers to make certain provisions for them in the schemes announced for the assistance of the poor.

Supreme Court judgement on the issue

- On June 29, the Supreme Court finally delivered its judgment on the plight of migrant labour.
- The judgement was notable for two main reasons.
- First, it recognised that there was the **large-scale exclusion of migrant workers** and other informal workers from existing schemes due to the lack of their registration and outdated eligibility lists.
- It noted that no benefits will be denied to migrant workers for want of an Aadhaar card and that food assistance will be provided for migrants who were not covered by the National Food Security Act.
- Second, it connected informal workers and migrant workers, both of whom experience exclusion, and mandated that the **portal for registration of all informal/migrant workers** should be fully operational before July 31.

Advantages of providing social protection

- Investment in social protection is not charity, it is an **investment in workers productivity** and in equitable growth.
- Providing social protection is, as the UN mooted in 2009 when it spelt out the **social protection floor (SPF)** initiative after the global financial crisis, the surest way out of a crisis by boosting demand at the bottom of the pyramid.
- The report of the Advisory Committee of the ILO, in which India was represented by its labour secretary, provides a strong rationale for instituting a **universal SPF** during economic crises.
- As a result, all constituents of the ILO adopted **Recommendation 202** on social protection floors at the International Labour Conference in 2012.

Inadequate provisions by government

- The **Unorganised Workers Social Security Act**, was approved by Parliament in December 2008.

- But it lacks the mandatory elements of the NCEUS proposals and included neither a National Minimum Social Security Package, nor the provision for mandatory registration.
- Estimates show that the central governments expenditure on all major social protection programmes **declined from 1.96 per cent of GDP in 2008-09 to 1.6 per cent in 2013-14** and to only 1.28 per cent in 2019-20.

Way forward

- The National Commission for Enterprises in the Unorganised Sector (NCEUS) had pointed out that the circular migrant workers were a disadvantaged segment among informal workers.
- **Comprehensive law**: The NCEUS had advocated a **comprehensive law** for the protection of the rights of all informal workers, including migrants, home workers, and domestic workers.
- **Universal registration**: NCEUS had also recommended a universal **registration mechanism based on self-declaration**, with the issuance of a smart social security card, and a **National Minimum Social Security Package**.
- **Guaranteed social security/social protection**: We need the provision of a minimum level of **guaranteed social security/social protection** for all informal workers and their households within a definite time frame.
- **More public spending**: Guaranteed social protection would involve a **clear framework** and a commitment to **greater public resources being spent on social protection** as a large class of workers in India do not have an identifiable employer and a contributory social insurance framework will not work for them.
- **Recommendation 202**: Government should embrace ILOs **Recommendation 202** and work towards these in a time-bound manner.

Conclusion

To end the silent, painful, and enduring crisis for the workers, as well as the crisis for the economy, the government must urgently recognise the right to social security, embedded both in the Indian Constitution and international covenants.

Issue of undertrials

Governance | GS2: Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Article 21

Mains level : Paper 2- Addressing the issue of undertrials

Context

After the death of Stan Swamy, questions about the conditions of jails and treatment of the incarcerated have been raised anew.

Issue of deaths of prisoners

- The NCRB data reports the death of over 1,800 prisoners in the year 2018.
- An estimated 70 per cent of prison inmates are undertrials, so it can be safely assumed that a large percentage of those dying in prison are not convicted of any offence.
- Despite the promise of Article 21, **that no person shall be denied life or liberty except by the due process of law**, the NCRB data reveals that the number of those dying in prison as they await their trials is only going up.

What is undertrial?

Undertrial is a person who is in judicial custody or remand during investigation and denotes an unconvicted prisoner.

Status of Undertrials in India:

- More than 65% of the prison population in India are under trials. Of these undertrials, more than 2,000 have been in jail for over five years
- The share of the prison population awaiting trial or sentencing in India is extremely high by international standards; for example, it is 11% in the UK, 20% in the US and 29% in France.
- According to NCRB, out of the total number of undertrials in India, 55% are Dalits, Muslims or Adivasis. This is disproportional as these communities make up only 39% of the Indian population
- Further, 42% of the undertrials have not completed their secondary education

Reasons for an increasing number of Undertrials:

- **Population-Judge ratio:** Population-judge ratio is extremely low in India, which is only 12 judge per million of population (in USA its 1100 per million and in China 190 per million). this leads to huge pendency of cases with undertrials being incarcerated in jails without even a fair chance of trial.
- **Delayed investigation:** Investigation and trial process is often delayed by police and prosecution functionaries. A major reason for this delay is low Police- Population ratio. Moreover, alleged corruption in police forces often leads to delays and unnecessary arrests.
- **Inadequate Prosecution system:** The Delhi High Court, in a March 2014 order observed, One of the predominant causes for delay in disposal of criminal case is due to shortage of public prosecutors.
- **Poverty and illiteracy:** A large number of Undertrials are poor, illiterate, belonging to the marginalized communities. Given this, most undertrials require public defender and legal aid to secure bail. However, there is a dire crunch of legal representatives for the under trials.

- **Problems with the Bail system:** The Law Commission in its 268th report has highlighted the fact that the rich and the affluent get bail with ease. However, poverty becomes the reason for incarceration of many prisoners, as they are unable to afford bail bonds or provide sureties.

How prisoners are subjected to additional torture

- **Overcrowding**, delayed medical attention, **unhygienic conditions and malnutrition** exist in all Indian prisons.
- It is the responsibility of the State and the judiciary **to ensure that they are only deprived of their liberty and are not exposed to any additional torture** in the form of medical deprivation, unhygienic conditions, bad or inadequate food, etc.
- Yet, thousands are dying every year and the **prison authorities are not made accountable**.

Supreme Court Directives:

- Eight-point guidelines were issued by SC in a landmark **judgement on inhumane conditions in prisons in 2013**. The guidelines on the issue of undertrials are as follows:
- The **Under Trial Review Committee** in every district should meet every quarter.
- The Under Trial Review Committee should specifically look into aspects pertaining to effective implementation of **Section 436** of the CrPC (prisoners to be released on bail except for non-bailable offences) and **Section 436A** of the CrPC so that undertrial prisoners are released at the earliest.
- **State Legal Service Authority** of every state should ensure that an adequate number of competent lawyers are provided to assist undertrial prisoners and convicts, particularly the poor and indigent
- **District Legal Services Committee** should also look into the issue of the release of undertrial prisoners in compoundable offences.
- **Bhim Singh v. Union of India, 2014:** SC had set a deadline of 2 months and directed district judges and prison officials to oversee the process of release of undertrial prisoners who have served half of their probable maximum prison term.

Law Commission recommendations:

The Law Commission in its 268th Report has made the following recommendations:

- When a person is arrested without a warrant, the arresting officer should inform the person about the available legal remedies including applying for bail.
- Bail applications should be decided by subordinate courts within a week.
- If the investigating officer finds that the under-trial is not in a position to pay surety then that person should be allowed bail without payment of surety.
- A portion of the funds transferred to the Panchayat for developmental work should be set aside to meet the bail amount for under trials belonging to the particular panchayat / block.

- Release of Undertrials:
- The bail provisions under Section 436A of the CrPC should be amended to ensure early release of under-trials.
- Those who had completed one-third of the maximum sentence for offences up to seven years should be released.
- Those who were awaiting trial for offences punishable with imprisonment of more than seven years should be let out on bail if they had completed half their sentence.

Government initiatives:

- Establishing **fast-track courts** to speed up the resolution of cases involving undertrial prisoners.
- **Mission Mode Programme for Delivery of Justice & Legal Reforms Undertrial Programme:** It aimed to resolve 2/3rd of all undertrial cases and ease congestion in jails by 2010. It worked with state governments to identify the undertrial prisoners who were entitled to be released under the law and link them with Legal Service Authority to ensure their release.
- Introducing the **concept of plea bargaining through Section 265 of CrPC** :
 - It states that the plea bargaining shall be available to the accused who is charged of any offence other than offences punishable with death or imprisonment or for life or of an imprisonment for a term exceeding to seven years.

- Plea bargaining has been encouraged by National Legal Services Authority (NALSA) within CrPC parameters
- Note: Plea bargaining is a pre-trial negotiation between the accused and the prosecution where the accused agrees to plead guilty in exchange for certain concessions by the prosecution.
- Insertion of **Section 436A of CrPC** It states that if an accused is detained for more than half the maximum period of imprisonment associated with the crime, he/she has the right to be released on the presentation of a personal bond.
- **Free legal services** are provided to all undertrial prisoners by NALSAs legal service clinics.

Way forward

- Acts of extreme neglect that could result in the death of inmates should be acknowledged as **extrajudicial torture and made an offence**.
- The Constitutional Bench judgment in **Sunil Batra (I) v. Delhi Administration (1978)**, held that the humane thread of jail jurisprudence that runs right through is that **no prison authority enjoys amnesty for unconstitutionality**".

Conclusion

The government needs to take urgent measures to address the issue of additional torture in various forms and the death of prisoners.

HEALTH SECTOR - UHC, NATIONAL HEALTH POLICY, FAMILY PLANNING, HEALTH INSURANCE, ETC.

A cardinal omission in the COVID-19 package

Governance | GS2: Health & Education

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Importance of medical workforce in making the healthcare system robust

Context

On July 8, 2021, the Union government announced the India COVID-19 Emergency Response and Health Systems Preparedness Package: Phase II. But it lacks provision for the medical workforce.

Objectives of the package

- The stated purpose of the package is to boost health infrastructure and prepare for a possible third wave of COVID-19.
- There is plan to increase COVID-19 beds, **improve the oxygen availability and supply**, create buffer stocks of essential medicines; purchase equipment and strengthen paediatric beds.

What is lacking in the package?

- **Workforce shortage:** The package barely has any attention on **improving the availability of health human resources**.
- As reported in rural health statistics and the national health profile there are vacancies for staff in government health facilities, which range from 30% to 80% depending upon the

sub-group of **medical officers, specialist doctors to nurses, laboratory technicians, pharmacists and radiographers**, amongst others.

- **Interstate variation:** In addition, there are wide inter-State variations, with **States that have poor health indicators** with the highest vacancies.

Way forward

- **Package for filling the existing vacancies:** The COVID-19 package II needs to be urgently supplemented by another plan and a similar financial package (with shared Union and State government funding) **to fill the existing vacancies of health staff at all levels**.
- An objective approach to assess the mid-term health human resource needs could be the **Indian Public Health Standards (IPHS)**.
- IPHS prescribes the human resources and infrastructure needed to make various types of government health facilities functional.
- The pandemic should be used **as an opportunity** to prepare India's health system for the future.

- **Scrutiny of the progress on policy decision:** The progress on key policy decisions, for the last few years, to strengthen India's health system, including those in India's national health policy of 2017, need to be **objectively scrutinised**.
- These two sets of policy decisions should be reviewed and progress monitored, through a meeting of the **Central Council of Health and Family Welfare**, of which the Health Ministers of the States are members.

Conclusion

India's health system will not benefit from ad hoc and a patchwork of one or other small packages. It essentially needs some transformational changes.

PEGASUS SCANDAL AND IMPLICATIONS FOR PRIVACY

Pegasus scandal and implications for privacy

Governance | GS2: Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Zero click attack

Mains level : Paper 2- Issues with surveillance

Context

The Pegasus spyware, created by NSO Group in Israel has created a political storm in India over its alleged use by the government.

About the Pegasus spyware controversy

- It uses a **zero-click attack** which allows the device to be taken over remotely by exploiting software and hardware vulnerabilities.
- The Israeli Defence Ministry stated that Pegasus and other cyber products are exported exclusively to government entities and are only for the purpose of **preventing and investigating crime and counter terrorism**.
- Pegasus has been used to **illegally hack into peoples lives** and to obtain private information outside the boundaries of the law.
- Those who were supposedly targeted range from the uppermost echelons of the judiciary, Opposition party leaders, activists and journalists.

How it harms freedoms and rights guaranteed by the Constitution

- A person has the basic fundamental rights of liberty, privacy, speech and expression amongst others.
- These rights go hand in hand with each other.
- The alleged use of Pegasus to illegally hack into persons lives, listen in on private conversations, to thereafter use this private information against said persons in hope of gaining undue advantage, **are all outside the boundaries of the law**.
- Surveillance on this level would have the effect of instilling fear and directly hampering a **persons ability to freely make their own decisions**.
- The effect is that a person does not have the freedom to think, to speak or even be in the privacy of their own homes.

Legal provisions for surveillance

- In December 2018, the government authorised **10 security and intelligence agencies to intercept, monitor and decrypt** any information generated, transmitted, received or stored in any **computer resource**.
- The **authorisation is required** before any of the 10 notified agencies can intercept, monitor or decrypt any information.
- This and other grounds are being taken by the government before the Supreme Court to defend its stance.
- The Data Protection Bill (yet to be passed by Parliament) **offers no protection in respect of surveillance**.
- Sections 43 and 66 of the **Information Technology Act, 2000** criminalise hacking.

Conclusion

The majority is not always right. A democracy has the indelible right to question, to demand answers and explanations. The government has many questions to answer and steps to take to protect the rights and freedoms of its citizens.

Back2Basics: Zero-click attack

- A zero-click attack is a remote cyber attack which does not require any interaction from the target to compromise it.
- Pegasus spyware **eliminates the need for human errors** to compromise a device and instead relies on software or hardware flaws to gain complete access to a device.
- Zero-click attacks occur only when **an attacker is able to takeover a device remotely** after successfully exploiting vulnerabilities in the software and hardware of the phone.
- To make this kind of attack successful, an attacker needs to exploit flaws in a device, whereas spear phishing is a social engineering attack.

One nation, one police is a reform that is long overdue

Governance | GS2: Federalism, Governance, Transparency & Accountability, Citizens Charters

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Police Act 1861

Mains level : Paper 2- One nation, one police

Context

Police reforms are still an unfinished task, fifteen years after the Supreme Court gave directives in the Prakash Singh case in 2006.

Integrated schemes in different facilities

- The Government of India has lately been talking of One Nation, One Ration Card, One Nation, One Registry, One Nation, One Gas Grid, and even One Nation, One Election.
- These ideas would contribute to an integrated scheme in different facilities and networks **across the country**.
- The attempt at uniformity should, however, take cognisance of **local factors and special features**.

Issue of different states passing different

Police Act

- Every state is legislating a different Police Act, purportedly in compliance with the Supreme Courts directions on police reforms given on **September 22, 2006**.
- We are in the process of having one nation, many police acts.
- **Circumventing the Prakash Singh judgement**: The objective behind these laws is to give legislative cover to the existing arrangement and thereby **circumvent the judicial directions given in the Prakash Singh judgement in 2006**.
- Eighteen states have already passed Police Acts.
- **Absence of central guidelines**: Several states have, in the absence of any central guidance or directive, passed their own Police Acts, **blatantly violating the Supreme Courts directions**.
- **No action by judiciary**: The Supreme Court has, for inexplicable reasons, **not issued a contempt notice** to any of the states for non-compliance of its directions on police reforms.

Way forward

1) The Centre should legislate a Model Police Act

- **Article 252** of the Constitution gives Parliament the power to **legislate for two or more states by consent**.
- Soon after the Supreme Courts directions on police reforms, the Police Act Drafting Committee of the Ministry of Home Affairs came out with the Model Police Act, 2006.
- The Government of India should have enacted a law based on this Model Police Act with such changes as it may have found necessary, and the states should have **mutatis mutandis** (making necessary alterations while not affecting the main point at issue) **adopted it**.
- The least that the Government of India could have done was to **legislate for the UTs and then prevailed upon the states** to pass similar legislation.
- Enacting a law in the states could have been incentivised by **linking their passage with the modernisation grants** made available to the states.

2) Need for the spirit of cooperative federalism

- In recent times, we saw the unseemly spectacle of the Mumbai police commissioner accusing the state home minister of using the police as an instrument for extortion.

- In West Bengal, the police have been a mute spectator to the post-election violence.
- The Centre, through a fiat, gave protection to all the MLAs of the BJP.
- Normally, any such arrangement should have been in consultation and **with the involvement of the state government**.
- **Cooperative federalism** : The best option would be for the central and state governments to respect each others turf in a spirit of cooperative federalism.

3) Need for a fresh look at the distribution of power

- If the central and state governments cannot respect each other's turf, it would perhaps be necessary to have a **fresh look at the distribution of powers** in the seventh schedule of the Constitution.

Conclusion

Police reforms on the lines of judicial directives given by the Supreme Court is the need of the hour. The centre needs to act first and nudge the states toward a uniform police structure throughout the country.

Back2Basics: Supreme Court Directive on Police Reforms

1) Limit political control

- Constitute a **State Security Commission** to:
- Ensure that the state government does not exercise unwarranted influence or pressure on the police.
- Lay down broad policy guidelines.
- Evaluate the performance of the state police.

2. Appointments based on merit

- Ensure that the **Director-General of Police** is appointed through a merit - based, transparent process, and secures a minimum tenure of 2 years.

3. Fix minimum tenure

- Ensure that other police officers on operational duties (including Superintendents of Police in charge of a district and Station House Officers in charge of a police station) are also provided a **minimum tenure of 2 years**.

4. Separate police functions

- Separate the functions of investigation and maintaining law and order.

5. Set up fair and transparent systems

- Set up a **Police Establishment Board** to decide and make recommendations on transfers, postings, promotions and other service-related matters of police officers of and below the rank of Deputy Superintendent of Police.

6. Establish a Police Complaints Authority in each state

- At the state level, there should be a Police Complaints Authority to look into public complaints against police officers of and above the rank of Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt or rape in police custody.
- At the district level, the Police Complaints Authority should be set up to inquire into public complaints against the police personnel of and up to the rank of Deputy Superintendent of Police in cases of serious misconduct.

7. Set up a selection commission

- A **National Security Commission** needs to be set up at the union level to prepare a panel for selection and placement of chiefs of the Central Police Organizations with a minimum tenure of 2 years.

POLITY

Rule of Law vs Rule by Law

Polity | GS2: Executive & Judiciary

Note4Students | From UPSC perspective, the following things are important :

Prelims level : What is rule of law?

Mains level : Paper 2- Rule of law and role of judiciary

What makes the Rule of Law different from the Rule by Law? It is the idea of justice and equity that separates the two. The article explains the principles that emerge as the basis of the Rule of law and the role of the judiciary in ensuring their constitutionality.

Understanding law

- Law, in its most general sense, is a tool of social control that is **backed by the sovereign**.
- However, such a definition of law can be used not only to render justice, **it can also be used to justify oppression**.
- Therefore it is argued that a law cannot really be classified as a law unless **it imbibes within itself the ideals of justice and equity**.
- So, any law backed by a sovereign must be **tempered by certain ideals or tenets of justice**.
- Only a state that is governed by such law, can be said to have the Rule of Law.
- The British colonial power used the law as a tool of political repression, enforcing it unequally on the parties, with a different set of rules for the British and for the Indians.
- It was an enterprise famous for Rule by Law, rather than Rule of Law.

Four principles of rule of law

- **Clarity and accessibility**: Laws must be clear and accessible, the people at least ought to know what the laws are.
- Another implication of this principle is that the **y should be worded in simple, unambiguous language**.
- **Equality** :An important aspect of equality before law is **having equal access to justice**.
- This guarantee of equal justice will be rendered meaningless if the vulnerable sections are unable to enjoy their rights because of their poverty or illiteracy or any other kind of weakness.
- Another aspect is the issue of gender equality.
- **Participation of people**: The third principle, the right to participate in the creation and refinement of laws.

- The very essence of a democracy is that its citizenry **has a role to play, directly or indirectly, in the laws that govern them**.
- In India, it is done through elections.
- The idea that people are the ultimate sovereign is also to be found in notions of human dignity and autonomy
- **Strong independent judiciary**: The fourth principle stems from the idea that the judiciary is the guardian of the Constitution.
- The judiciary is the primary organ which is tasked with ensuring that the laws that are enacted are in line with the Constitution.

Independent judiciary and role of media

- The judiciary cannot be controlled, directly or indirectly, by the legislature or the executive, or else the Rule of Law would become illusory.
- At the same time, judges should not be swayed by the emotional pitch of public opinion either, **which is getting amplified through social media platforms**.
- Judges have to be mindful of the fact that the noise thus amplified is **not necessarily reflective of what is right and what the majority believes in**.
- Therefore, **media trials cannot be a guiding factor in deciding cases**.
- It is, therefore, extremely vital to function independently and withstand all external aids and pressures.
- While there is a lot of discussion about the pressure from the executive, it is also **imperative to start a discourse as to how social media trends can affect the institutions**.

Conclusion

The importance of the judiciary shouldnt blind us to the fact that the responsibility of safeguarding constitutionalism lies not just with the courts. All the three organs of the state, i.e., the executive, legislature and the judiciary, are equal repositories of constitutional trust.

How the GNCTD (Amendment) Act affects functioning of Delhi Assembly

Polity | GS2: Executive & Judiciary, Federalism

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Article 239AA and 239AB

Mains level : Paper 2- Effect of GNCTD (Amendment) Act on functioning of Delhi Assembly

Context

The Government of National Capital Territory of Delhi (GNCTD) (Amendment) Act, 2021 has been criticised as a retrograde law. However, what deserves equal attention is the Acts assault on the functioning of Delhi's Legislative Assembly.

Background of GNCTD Act

- The GNCTD Act was enacted in 1992.
- Under the Act, Delhi Legislative Assembly **was given the power to regulate its own procedure**, as well as the conduct of its business.
- This sought to realise a delicate balance reflecting Delhi's unique constitutional position: neither full state nor a centrally governed Union Territory.

How amendment affects functioning of Assembly

- Its standards of procedure and conduct of business have been firmly tethered to that of the Lok Sabha, depriving Delhi's elected MLAs of an effective say in how their Assembly should be run.
- The Amending Act prohibits the Assembly from making any rule enabling **either itself or its committees** to consider any issue concerned with the day-to-day administration of the capital or conduct inquiries in relation to administrative decisions.
- The most significant impact of this shall be on the exercise of free speech in the Assembly and its committees.

- The amendment impeded the Assembly from performing its most basic legislative function that of holding the executive to account by restricting its ability to freely discuss matters happening in the capital.

Impact on committees

- The deliberations and inputs of **committees often pave the way for intelligent legislative action**.
- In a way, they act as the eyes and ears for the whole House, which has neither the time nor the expertise to scrutinise issues in depth.
- It would be impossible for committees to perform this function **without the power to conduct inquiries**.
- Pre-emptively injunct a committee from conducting an inquiry in relation to the administrative decisions (an extremely broad exception) completely negates the ability of committees to function effectively as the Assembly's advisors and agents.
- The **quality of legislative work emanating from the Assembly is thus ultimately bound to suffer**.

Consider the question "What are the reasons for frequent disputes between Delhi government and the Lt. Governor? Would the Government of National Capital Territory of Delhi (GNCTD) (Amendment) Act, 2021 succeed in ending that trend?"

Conclusion

The amendment deprive the Delhi Assembly of its very basic functions and render it a legislature in name only. Surely, Delhi's voters deserve better than that. The Government need to reconsider the provisions of the amendment act.

Fresh stirrings on federalism as a new politics

Polity | GS2: Federalism

Note4Students | From UPSC perspective, the following things are important :

Prelims level : 15th Finance Commission

Mains level : Paper 2- Federalism at the centre stage of politics

Context

- Several issues such as vaccine wars, debates over the Goods and Services Tax (GST), the fracas over West Bengal's Chief Secretary, and the pushback against controversial regulations in Lakshadweep have once again brought into focus the idea of federalism.
- The Dravida Munnetra Kazhagam, since taking office, has begun to craft an ideological narrative on State rights, **by re-introducing the term Union into the public discourse** and pushing back against increased fiscal centralisation

Lack of political consensus among States for genuine federalism

- Federalism in India **has always had political relevance**, but except for the **States Reorganisation Act**, federalism has rarely been an axis of political mobilisation.
- **Fiscal and administrative centralisation** persisted despite nearly two decades of coalition governments.
- Rather than deepen federalism, the contingencies of electoral politics have created significant impediments to creating a **political consensus for genuine federalism**.

Three challenges in deepening federalism among States

1) Tendency to equate federalism as against nationalism

- The grammar of development and nationalism, which has mass electoral appeal is used to undermine federalism.
- Slogans such as one nation, one market, one nation, one ration card, one nation, one grid symbolise development and nationalism while leaving little space for federalism.
- In this context, federalism as a principle risks being equated with regionalism and a narrow parochialism that is anti-development and anti-national.

2) Lack of federal principles

- Pratap Bhanu Mehta has pointed out that over the decades, **federal principles have been bent** in all kinds of ways to co-produce a **political culture of flexible federalism**.
- Federalism in this rendition is reduced to a game of political upmanship and **remains restricted to a partisan tussle**.
- Claimants of greater federalism often maintain silence on unilateral decisions that affect other States.
- For instance, the downgrading of Jammu and Kashmir into a Union Territory, the notification of the NCT of Delhi (Amendment) Act, 2021 hardly witnessed protests by States that were not directly affected by these.

3) Economic and governance divergence among states

- Across all key indicators, southern (and western) States have outperformed much of northern and eastern India.

- This has resulted in a **greater divergence** rather than expected **convergence with growth**.
- This has created a context where collective action amongst States becomes difficult **as poorer regions of India contribute far less to the economy but require greater fiscal resources** to overcome their economic fragilities.
- These emerging tensions were visible when the 15th Finance Commission (FC) was mandated to use the 2011 Census rather than the established practice of using the 1971 Census.
- This, Southern states feared, risked **penalising States that had successfully controlled population growth** by reducing their share in the overall resource pool.
- With the impending delimitation exercise due in 2026, these tensions will only increase.

Way forward

- A politics for deepening federalism will need to **overcome a nationalist rhetoric** that pits federalism against nationalism and development.
- **Reclaim fiscal federalism**: Weak fiscal management has brought the Union government on the brink of what economist Rathin Roy has called a **silent fiscal crisis**.
- The Unions response has been to **squeeze revenue from States by increasing cesses**.
- Its insistence on giving **GST compensation to States as loans** (after long delays) and increasing State shares in central schemes.
- Against this backdrop, both sub-nationalist sentiments and the need to reclaim fiscal federalism create a **political moment for a principled politics of federalism**.
- **Sharing burden with poorer States**: On the fiscal side, richer States must find a way of sharing the burden with the poorer States.
- An inter-State platform that brings States together in a routine dialogue on matters of fiscal federalism could be the starting point for building trust and a common agenda.
- **Overcome isolationist tendency**: The politics of regional identity is isolationist by its very nature.
- An effort at collective political action for federalism based on identity concerns will have to overcome this risk.
- Finally, beyond principles, a renewed politics of federalism is also **an electoral necessity**.

Consider the question "Federalism in India has always had political relevance, but it has rarely been an axis of political mobilisation. What are the factors responsible for this? Suggest the way forward for the states to overcome these factors."

Conclusion

A renewed politics of federalism would require immense patience and maturity from regional parties. It remains to be seen whether they up to the task.

Issues with the UAPA and role of judiciary

Polity | GS2: Executive & Judiciary

Note4Students | From UPSC perspective, the following things are important :

Prelims level : UAPA

Mains level : Paper 2- Misuse of UAPA and role of judiciary

Context

Father Stan Swamy passed away at a private hospital in Mumbai on July 5. Fr. Swamy was arrested by the National Investigation Agency (NIA), under the **Unlawful Activities (Prevention) Act (UAPA)**.

How Supreme Court judgment leaves the scope for misuse of UAPA

- The Supreme Court's April 2019 decision in *National Investigation Agency vs Zahoor Ahmad Shah Watalion* the interpretation of the UAPA has affected all downstream decisions involving the statute.
- This decision has created a new doctrine.
- According to the decision, in considering bail applications under the UAPA, **courts must presume every allegation made in the First Information Report to be correct**.
- Further, bail can now be obtained only if the **accused produces material to contradict the prosecution**.
- In other words, **the burden rests on the accused to disprove the allegations**, which is virtually impossible in most cases.
- The decision has essentially **excluded the admissibility of evidence at the stage of bail**.
- By doing so, it has effectively **excluded the Evidence Act itself**, which arguably makes the decision unconstitutional.
- Due to the Supreme Court judgment, **High Courts have their hands tied**, and must perforce refuse bail, as disproving the case is virtually impossible.

- The Delhi High Court recently granted bail to three young activists arrested under UAPA in a conspiracy relating to the 2020 riots in Delhi.
- The Supreme Court reportedly expressed surprise and gave the direction that the decision will **not to be treated as precedent** by any court to give similar reliefs.

Misuse of the UAPA

- With such high barriers of proof, it is now impossible for an accused to obtain bail, and is in fact a convenient tool to put a person behind bars indefinitely.
- This is being abused by the government, police and prosecution liberally: now, all dissenters are routinely implicated under charges of sedition or criminal conspiracy and under the UAPA.
- In multiple instances, evidence is untenable, sometimes even arguably planted, and generally weak overall.
- But as a consequence of UAPA being applied, the accused cannot even get bail.

Way forward

- If we want to prevent the misuse, the decision in the Watali case must be urgently reversed or diluted, otherwise, we run the risk of personal liberties being compromised very easily.

Conclusion

The provision of the act leaves the scope for misuse and therefore judiciary and legislature need to take steps to provide safeguards to prevent the misuse.

Collegium system's role in protecting democracy

Polity | GS2: Executive & Judiciary

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Article 124 and Article 214

Mains level : Paper 2- Collegium system

Context

Judiciary is being challenged, from within and outside. It must shield itself from further erosion of its independence and competence by scrupulously following the law, as declared by the Supreme Court (SC) itself.

How the Collegium helped to secure the independence of judiciary

- In 1993, the SC held the following:
- The process of appointment of Judges to the Supreme Court and the High Courts is an integrated **participatory consultative process**.

- The process aims at selecting **the best and most suitable persons available for appointment**.
- The Collegium consists of the **CJI and the four senior-most judges of the SC and high courts**.
- It was devised to ensure that the opinion of the Chief Justice of India is not merely his individual opinion, but an opinion **formed collectively by a body of men at the apex level in the judiciary**.
- By judicial interpretation, the Supreme Court **re-interpreting Article 124 and 214 of the Constitution** empowered the judiciary to make appointments to the higher judiciary to **secure the rule of law**.

Threat to the judicial independence

- The framers of the Constitution were alive to the likely erosion of judicial independence.
- On May 23, 1949, K T Shah stated that the Judiciary, which is the main bulwark of civil liberties, should be completely separate from and independent of the Executive, whether by **direct or by indirect influence**.
- In 2016, the Supreme Court struck down a constitutional amendment for creating the **National Judicial Appointments Commission (NJAC)**.
- The SC strongly **disapproved of any role for the political executive** in the final selection and appointment of judges.
- The SC said that **reciprocity and feelings of payback** to the political executive would be disastrous to the independence of the judiciary.

Consider the question “How the Collegium system helped the Judiciary secure its independence? What are the issues with it?”

Conclusion

The selection of deserving judges is essential to ensure the independence of the judiciary. The Collegium must do its best in this task.

Back2Basics: About the National Judicial Appointments Commission

- The NJAC or National Judicial Appointments Commission sought to change the system, where judges would have been appointed by a commission where the legislative and the executive would have had a role.
- The NJAC was supposed to comprise of the Chief Justice of India (Chairperson, ex-officio), two other senior judges of the Supreme Court, The Union Minister of Law and Justice, ex-officio and two eminent persons, to be appointed by the Chief Justice of India, Prime Minister of India, and Leader of Opposition in the Lok Sabha.
- The bill was passed by the Lok Sabha on 13 August 2014 and by the Rajya Sabha on 14 August 2014, and became an Act.
- The NJAC replaced the collegium system for the appointment of judges.
- The NJAC Bill and the Constitutional Amendment Bill, was ratified by 16 of the state legislatures in India, and the President gave his assent on 31 December 2014.
- The NJAC Act became effective from April 13, 2015.
- The NJAC enjoyed support from the Supreme Court Bar Association and many legal luminaries but was also challenged by some lawyer associations and groups before the Supreme Court of India through Writ Petitions.
- A three-judge bench of the Supreme Court referred the matter to a Constitution Bench that heard different arguments for over a month.
- Finally, on October 16, a five-judge bench of the Supreme Court declared the 99th Constitutional Amendment Act and the NJAC Act 2014 “**unconstitutional and void**”.

THE UPCOMING CHALLENGES TO INDIAN FEDERALISM

The upcoming challenges to Indian federalism

Polity | GS2: Federalism

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Federal structure

Mains level : Paper 2- Challenges to India's federalism

Context

In 2026, there will be the challenge of addressing the conflict between the democratic principles and the federal principles, when there will be a reallocation of Lok Sabha seats. India needs to reimagine the current federal compact to address the challenges to federalism.

Population freeze for Lok Sabha seats

- Since 1976, seats in the Lok Sabha have reflected the 1971 census and have not taken into account changes in the population.

- The primary reason for this has been **unequal population growth** among States.
- India's most highly developed and prosperous States have been successful at family planning, while the poorer States continue to expand.
- The freeze was thus a chance to ensure that India's most **successful States are not punished politically** for their success.
- Therefore, the Indian Constitution may face an unprecedented crisis in 2026 when there will be a **dramatic change in the composition of the Lok Sabha**.

Challenge of balancing the principle of democracy and federalism

- As Article 1 of the Indian Constitution says, India is a Union of States.
- However, the history of the linguistic reorganisation of States in 1956, and subsequent movements for Statehood afterwards demonstrates that **States are distinct associative communities, within the federal structure of the Indian Union.**
- In a democratic set-up, **all citizens are equal and are thus entitled to equal representation in governance.**
- But this would imply that bigger States are likely to dominate the national conversation over smaller States.
- This leads us to an inherent **contradiction** between the principles of democracy and federalism **when federal units are unequal in size, population and economics.**
- The small States fear that they would get a smaller share of the pie **economically**, a much reduced say in **national issues**, and be irrelevant in the **political governance of the country.**

How the US Constitution addresses the concerns of small states

- When the Americans adopted their Constitution, they protected smaller States in four ways.
- First, **national powers over the States were limited.**
- Second, each State regardless of size had **two seats in the Senate**, giving smaller States an **outsized role in national governance.**
- Third, Presidents are elected **by electoral votes**, which means **they must win States** rather than the total national population.
- Fourth, the slave-owning states were allowed to count the slaves for purposes of representation, with each slave being counted as three-fifths of a person.
- This essential structure remains the bedrock of the American Constitution today.

How Indian Constitution deals with the issue?

- India's quasi-federal structure has always been **sui generis.**
- Our founders knew that India's diversity made federalism inevitable, but, fearing separatist tendencies among States that had never been a single political unit, they also created a **strong centre.**

- However, the **1956 reorganisation of States on linguistic lines** was a popular recognition of federal principles and yet did not result in separatist tendencies.
- Since then, new States within the Union have been created in response to the **demands of people for greater autonomy.**

Way forward on addressing the challenges to federalism

- There is an urgent need to **reimagine our national compact.**
- Following are the components of such a new balance that need to be fine-tuned to Indian realities.
- **Give more powers to States:** The powers of States vis--vis the Centre contained in the Lists and in the provisions dealing with altering boundaries of States must be increased to assuage the fear of smaller States that they will be dominated by bigger ones.
- More **localised decision-making** is bound to increase national prosperity.
- Indeed, this was the entire goal of the creation of Panchayat governance through the 73rd and 74th Amendments to the Constitution.
- **Expand the role of Rajya Sabha:** The role and **composition** of the Rajya Sabha, our House of States, must be expanded.
- This would allow smaller States a kind of **brake over national majoritarian politics** that adversely impact them.
- **Consent of all states on financial redistribution:** Constitutional change and the change in financial redistribution between the States must require the consent of all or nearly all States.
- Constitutional provisions dealing with **language and religion** must also be inviolate.
- **Break the bigger States:** Serious thought must be given to breaking up the biggest States into smaller units that will not by themselves dominate the national conversation.

Conclusion

The unity of India is, of course, the fundamental premise underlying this discussion; but this unity does not depend on an overbearing Centre for its survival.

Addressing claims of backwardness by various politically powerful castes

Polity | GS2: Executive & Judiciary, Government Scheme/Policies

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Social backwardness

Mains level : Paper 2- Claim of backwardness and challenges

Context

Two rulings of the Supreme Court have frayed nerves in Maharashtra on the broader question of reservation. The other pertains to OBC reservation in local bodies. Both issues have relevance beyond Maharashtra.

Challenges in addressing the demand for reservation

- **Lack of quantitative data:** The issue of **actual numbers or population share of OBCs** has been talked about for over a decade.
- Besides, there is a need to understand the socio-economic situation of **different backward communities**.
- In the last instance, we have to decide which groups are backward and what needs to be done for them.
- The political class have consistently avoided the juridical reality.

Consensus between judiciary and political class

- That consensus after implementation of Mandal commission recommendation had three dimensions:
- 1) Accepting that caste is the main cause of **tradition-born backwardness** among a large section of the population.
- 2) Resorting to reservation as the easiest policy response.
- 3) Recognising and accommodating the political aspirations of the backward sections by **expanding the social base of the political elite**.
- But this resulted in the current deadlock on the question of social justice.
- Today, not only the Marathas, but Jats and Patidars, too, claim that vast numbers among them have been left behind in the contemporary economy.
- These demands have deflected attention from two matters.
- 1) That the enabling provision of the Constitution aims at **social backwardness** (caused by societal location).
- 2) That the causes of economic distress originating in development policies are **distinct from backwardness primarily originating in caste location**.
- **Granting reservations on an economic basis** seems to have complicated matters.

Five reservation-related issues gaining renewed urgency

- **Intra-OBC differentiations:** This issue was already raised by a member of the Mandal Commission itself.
- Most states have failed to come up with an effective arrangement to addressing the issue.
- The Centre is currently waiting for a report on this question.
- **Intra-caste stratification:** Intra-caste stratification is increasing something that was rather limited at the time of Mandal.
- What sociologist D L Sheth called as classification is now becoming the central issue, with many complications.
- **Advantages and logic:** The third question is about the specific advantages and logic of reservation in the three different arenas of employment, education and political representation.
- **Limits of reservation:** There is need to discuss the **limits of reservation** and the need to think of additional measures to augment the policy of social justice.
- **Setting boundaries:** With such widespread poverty and suffering, how do we distinguish between backwardness primarily caused by a group's social location in traditional social order and backwardness resulting from distortions of the political economy?
- Unless we grapple with this question, reservation is bound to remain a contentious issue.

Way forward

- The above questions are best left ideally to a third backward classes commission whose time has come.
- Removing the 50 per cent cap legislatively needs to be considered.

Conclusion

We need to devise a mechanism to verify the claims of backwardness to address the increasing demands for reservation from the politically strong section of society.

Interference an investigating officer can do without

Polity | GS2: Executive & Judiciary

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Judicial interference in investigation

Context

Instances of judiciary directing the investigating officer point to the need for restraint from the judiciary.

Challenging the discretion of investigating officer

- There have been growing instances of subordinate judicial officers, and even High Courts sometimes, **directing the investigating officer** to effect the arrest of a particular individual.
- To deal with the issue, the Supreme Court of India recently made the observation that courts have **no authority to direct an investigating officer** to in turn direct the arrest of any particular individual connected with a crime
- This points to the need for a slightly kindlier view of police conduct and more latitude to them in the standard operating procedures which they follow, especially when they investigate a complicated crime.
- The **Code of Criminal Procedure (CrPC)** vests sufficient discretion in the investigating officer to take such decisions as arrests and searches.

Issues with court's directions

- Court observations that smack of a lack of faith in police ability and integrity will make grass-root level **policemen even more arbitrary than now** and force them into carrying out questionable actions that will cast aspersions on an officers ability to think for himself.
- Court interference in the day-to-day investigation is not only undesirable but is also **not sanctioned by law**.

- Only the Supreme Court, has been vested with enormous authority and discretion by the Constitution, the lesser courts shall not give directions in the matter of arrests and searches.

Safeguard against police misconduct

- We need to educate the Executive and the common man that it is now well-established law that the police have to register an FIR.
- It is mandatory that every police station in the land should register a complaint **under the relevant sections of a statute** the moment a cognisable offence is made out in the complaint
- There is another safeguard against police misconduct.
- The CrPC makes it obligatory for the investigating officer to **write a diary** that details the action taken every day following registration.
- When in doubt, the competent court, which already has a copy of the first information report, can demand to see the **case diary**.
- Courts should remember that the police are a well-established hierarchy that is obligated to ensure objectivity during a criminal investigation.
- Every investigation is **supervised by at least two immediate senior officers**.

Conclusion

Judicial interference in an investigation is counterproductive to the idea of justice. Therefore, there is a need for allowing more freedom to the investigating officers in the standard operating procedure that they follow.

Surveillance reform is the need of the hour

Polity | GS2: Executive & Judiciary, Separation Of Power

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Article 19 and 21

Mains level : Paper 3- Issues with surveillance by the government

Context

The Pegasus Project report says that over 300 verified Indian mobile telephone numbers, including those used by ministers, opposition leaders, journalists, the legal community,

businessmen, government officials, scientists, rights activists and others, were targeted using spyware made by the Israeli firm, NSO Group.

Threat to press freedom

- Revelations highlight a disturbing trend with regard to the use of hacking software against dissidents and adversaries.
- A significant number of Indians reportedly affected by Pegasus are journalists.
- This is not surprising since the World Press Freedom Index produced by Reporters Without Borders has ranked **India 142 out of 180 countries in 2021**.
- The press requires (and in democracies is afforded) greater **protections on speech and privacy**.
- **Privacy and free speech** are what enable good reporting.
- This has been recognised in Supreme Court decisions.
- In the absence of privacy, the safety of journalists, especially those whose work criticises the government, and the personal safety of their sources is jeopardised.
- Such a lack of privacy, therefore, creates an aura of distrust around these journalists and **effectively buries their credibility**.

Issues with the legal provision

- Provisions of law under the **Indian Telegraph Act of 1885** and the **Information Technology (IT) Act of 2000** are used by the government for its **interception and monitoring activities**.
- While the provisions of the Telegraph Act relate to **telephone conversations**, the IT Act relates to all communications undertaken using a computer resource.
- Both provisions are problematic and offer the government **total opacity** in respect of its interception and monitoring activities.
- **Section 69 of the IT Act** and the **Interception Rules of 2009** are even more opaque than the Telegraph Act, and offer even weaker protections to the surveilled.
- No provision, however, allows the government to hack the phones of any individual since the hacking of computer resources, including mobile phones and apps, is a criminal offence under the IT Act.

Issues with surveillance system

- Surveillance itself, whether under a provision of law or without it, is a gross **violation of the fundamental rights of citizens**.
- **Violation of freedom of speech**: The very existence of a surveillance system impacts **the right to privacy** and the exercise of **freedom of speech and personal liberty** under **Articles 19 and 21** of the Constitution, respectively.

- It prevents people from reading and exchanging unorthodox, controversial or provocative ideas.
- **No scope for judicial scrutiny**: There is also no scope for an individual subjected to surveillance **to approach a court of law** prior to or during or subsequent to acts of surveillance since the system itself is covert.
- **No oversight**: In the **absence of parliamentary or judicial oversight**, electronic surveillance gives the executive the power to influence both the subject of surveillance and all classes of individuals, resulting in a chilling effect on free speech.
- **Against separation of power**: Constitutional functionaries such as a sitting judge of the Supreme Court have reportedly been surveilled under Pegasus.
- Vesting such **disproportionate power with one wing of the government** threatens the separation of powers of the government.
- The existing provisions are insufficient to protect against the **spread of authoritarianism** since they allow the executive to exercise a disproportionate amount of power.

Way forward

- There needs to be **oversight from another branch of the government**.
- **Judicial oversight**: Only the judiciary can be competent to decide whether specific instances of surveillance are proportionate, whether less onerous alternatives are available, and to balance the necessity of the governments objectives with the rights of the impacted individuals.
- **Surveillance reforms**: Not only are **existing protections weak** but the proposed legislation related to the **personal data protection** of Indian citizens fails to consider surveillance while also providing wide exemptions to government authorities.
- Surveillance reform is the need of the hour in India.

Consider the question “Discuss the threats posed by the use of surveillance systems by the government. Suggest the measures to deal with these threats.”

Conclusion

The only solution to the problem of spyware is immediate and far-reaching surveillance reform.

Biocentric jurisprudence for nature

Polity | GS2: Executive & Judiciary

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Article 21

Mains level : Paper 2- Biocentric jurisprudence

Context

In a recent ruling, the Supreme Court of India has sought to move away from an anthropocentric basis of law.

Biocentrism Vs. Anthropocentrism

- **Anthropocentrism** argues that of all the species on earth humans are the most significant and that all other resources on earth may be justifiably exploited for the benefit of human beings.
- The philosophy of **biocentrism** holds that the natural environment has its own set of rights which is independent of its ability to be exploited by or to be useful to humans.
- Biocentrism often comes into conflict with anthropocentrism.

How is anthropocentrism causing damage to the environment?

Humans share the world with countless other species, many of which are nearing extinction on account of mans imprudent insensitivity. For instance,

- About 50 years ago, there were 4,50,000 lions in Africa. Today, there are hardly 20,000 now.
- Indiscriminate monoculture farming in the forests of Borneo and Sumatra is leading to the extinction of orangutans.
- Rhinos are hunted for the so-called medicinal value of their horns and are slowly becoming extinct.
- From the time humans populated Madagascar about 2,000 years ago, about 15 to 20 species of Lemurs, which are primates, have become extinct.
- Above all, the **compilation prepared by the International Union for Conservation of Nature lists about 37,400 species that are gravely endangered** ; and the list is ever-growing.

Supreme Court of India upholds biocentric principles

- The Great Indian Bustard is a gravely **endangered species**, with hardly about 200 alive in India today.
- The overhead power lines have become a threat to the life of these species as these birds frequently tend to collide with these power lines and get killed.
- Recently, the Supreme Court in **M.K. Ranjitsinh & Others vs Union of India & Others**, said that in all cases where the overhead lines in power projects exist, the governments of Rajasthan and Gujarat shall take steps forthwith to install bird diverters.
- In protecting the birds, the Court has **affirmed and emphasised the biocentric values of eco-preservation**.

- A noteworthy instance of the application of anthropocentrism in the legal world is in that of the Snail darter case in the United States.
- The Supreme Court of the United States of America in Tennessee Valley Authority vs Hill, had held that since the Snail darter fish was a specifically protected species under the Act, the executive could not proceed with the reservoir project.

India and Biocentrism

- **Isa Upanishad** elaborates on the **ancient Indian roots of ecocentrism**. It clearly says that **all the living and non-living organisms in this universe belong to God alone**.
- The Constitution of India declares that it is applicable to the territory of India. While making such a declaration, it very obviously refers to humans within that territory and its predominant aim was to give them rights, impose obligations and regulate human affairs.
- But, the Constitution is significantly **silent on any explicitly stated, binding legal obligations** we owe to our fellow species and to the environment that sustains us.
- The **Indian judiciary earlier was inclined towards anthropocentrism**. But gradually, **it has shifted more towards ecocentrism**. For example,
- **T.N. Godavarman Thirumulpad case, 2012** : In this case, the court explained the ecocentric approach and elaborated on the necessary application of the same.
- **Centre for Environment Law, WWFI v. Union of India case, 2013** : The court threw light on the intrinsic value of all living beings, irrespective of the fact that they were instrumental for human survival or not.

Way forward

- The **conversion to ecocentrism overnight is impossible**, especially in the **developed societies** because of their **heavy reliance on resources** and generation of waste.
- So, abandoning anthropocentrism is impossible instantly; however, we can **distinguish our nature-consumption outcomes and intervene when the need is vital to our survival**, and not because it is a desire or interest. For example,
- Interfering with the environment to build a golf course is unethical because they are hardly essential for survival

Conclusion

In times like this the Supreme Courts judgment in M.K. Ranjithsinh upholding the biocentric principles of coexistence is a shot in the arm for nature conservation. One does hope that the respective governments implement the judgment of the Court.

Supreme Court strikes down part of Constitution Amendment on cooperative societies

Polity | GS2: Executive & Judiciary, Federalism

Note4Students | From UPSC perspective, the following things are important :

Prelims level : 97th Amendment

Mains level : Paper 2- Striking down of the 97th Amendment Act

Context

In *Union of India vs Rajendra N. Shah*, the Supreme Court of India partially struck down the 97th Constitutional Amendment.

Background of the 97th Constitutional Amendment

- The 97th Constitutional Amendment came into effect from February 15 2012.
- The amendment added cooperative societies to the **protected forms of association** under Article 19(1)(c), elevating it to a **fundamental right**.
- It also inserted **Part IXB in the Constitution** which laid down the **terms by which cooperative societies would be governed**, in more granular detail than was palatable.

Verdict

- The Supreme Court in a **2:1 majority verdict** upheld the validity of the 97th constitutional amendment (**Part IX B**) that deals with issues related to **effective management of cooperative societies** but struck down a part inserted by it which relates to the Constitution and working of cooperative societies.
- The ruling came from a bench of **Justices R F Nariman, K M Joseph and B R Gavai** which upheld a 2013 Gujarat High Court verdict that struck down parts of the amendment.

Why was the Amendment struck down?

- The Constitution can be amended only by the procedure provided in **Article 368**.
- The amendment procedure requires a majority of the total strength of each of the Houses of Parliament and two-thirds majority of those present and voting.
- A proviso to the Article lists out some articles and chapters of the Constitution, which can be amended only by a special procedure.
- **The special procedure** requires that the amendment will also have to be **ratified by the legislatures of half of the States**.
- It is precisely on the grounds of **violation of this additional requirement** that the 97th Constitutional Amendment was challenged.
- The Gujarat High Court struck down the amendment in 2013 on the grounds that it had failed to comply with the requirements under **Article 368(2)** by virtue of not having been ratified by the States and had also given an additional finding that the 97th Amendment **violated the basic structure of the Constitution**.
- The Union Government challenged the Gujarat High Court judgment before the Supreme Court, arguing that the amendment neither directly nor effectively changed the scheme of **distribution of powers between the Centre and the States**.

- The court took the example of the 73rd and 74th Amendments which were similar in impact on the legislative power of the States, **had been passed by the special procedure** involving ratification by State legislatures.
- **Procedural lacuna**: The court noted that the procedure had not been followed in this case.
- The Supreme Court clarified that it does not go into the question of the amendment being **violative of the basic structure** of the Constitution.
- The judgment makes a distinction between cooperative societies operating in one State and **multi-State cooperative societies** and holds that while a ratification by half the State legislatures would have been necessary insofar as it applies to cooperative societies in one State.

Increasing control of the Union government

- Union government has been acquiring **incrementally greater control** of cooperative societies over the years.
- Cooperative banks have been brought under the purview of the Reserve Bank of India.
- Union Government recently established **Union Ministry for Cooperation**.

Issues with Central control over cooperative sector

- **Domain of States**: The idea that the cooperative sector ought to be controlled at the State level and not at the central or Union level goes back all the way to the Government of India Act, 1919 which placed **cooperatives in the provincial list**.
- **Part of State list**: **Entry 32 of the State List in the Seventh Schedule** of the Constitution confer power on the State legislatures to make laws pertaining to incorporation, regulation and the winding up of cooperative societies.
- The cooperative sector has always been in the **domain of the States or provinces**.
- **Different organising principles**: The organising principles and mechanism of these cooperatives **differ from area to area** and depend on the industry or crop which forms the fulcrum of the cooperative.
- **Homogeneity nor require**: **Homogeneity** in this area would only result in the creation of round holes in which square pegs no longer fit.
- They also would not really serve to break the control some political interests have taken over cooperatives.

Conclusion

It is best that the Government takes this judgment in the right spirit and stays away from further meddling in the cooperative sector, notwithstanding the creation of the new Ministry.

B2BASICS

97th Constitutional Amendment: Cooperative Societies

- The Constitution (97th Amendment) Act, 2011 relates to the cooperative societies working in India.
- It aims to overcome all the problems faced by these societies and bring about an efficient way to manage them.
- The 97th Constitution Amendment Act, 2011 provided for **amendment of following things** :
 - It amended **Article 19(1) c** by inserting, after the words or unions the words or Co-operative Societies.
 - It also inserted **Article 43B** in Part IV of the Constitution as The State Shall endeavor to promote Voluntary formation, autonomous functioning, democratic Control and professional management of the Co-operative societies and
 - After Part IX-A of the Constitution, **Part IX-B** was inserted. Part IX-B extended from Article 243ZH to Article 243ZT.
 - The **Major features** of the Act are as follows:
 - Incorporation, regulation and winding up of cooperative Societies based on the principles of Voluntary formation, democratic member Control, member economic participation and autonomous functioning;

- Maximum number of directors of a Co-operatives Society to be not exceeding twenty-one members;
- A fixed term of five years from the date of election in respect of the elected members of the board and its office bearers; and an authority or body for the Conduct of elections to a Cooperative Society;
- A maximum time limit of Six months during which board of directors of a Co-operative Society Could be kept under Supersession or suspension;
- Independent professional audit;
- Right of information to the members of the Co-operative Societies;
- Empowering the State Governments to obtain periodic reports of activities and accounts of Co-operatives Societies;
- Reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two Seats for women on the board of every Cooperative Society, which have individuals as members from Such Categories ; and
- Penalties in respect of offences relating to Co-Operatives Societies

PROMOTING FISCAL FEDERALISM

Promoting fiscal federalism

Polity | GS2: Federalism

Note4Students | From UPSC perspective, the following things are important :

Prelims level : 101st Constitutional Amendment

Mains level : Paper 2- Fiscal federalism

Context

States are facing financial constraints in the backdrop of lockdown and consequent dwindling revenue collection. The situation also highlights the issues of fiscal federalism in India.

Issues facing fiscal federalism in India

1) Issue of 14% compensation

- As per the Constitution (**One Hundred and First Amendment**) **Act**, compensation on account of the implementation of GST will be available for a period of five years.
- **14% increment assurance**: At the time of introducing the Goods and Services Tax (GST) law assured States a 14% increase in their annual revenue for five years (up to July 1, 2020).
- But the Union government has **deviated from the statutory promise** and has been insisting that States avail themselves of loans.
- The future **interest liability** of these loans should not be placed on the shoulders of the States.
- **Borrowing limits built into loan**: Moreover, the borrowing limit of States, as per the Fiscal Responsibility and Budget Management Act, **should not be built into these loans**.

2) Conditional increase in borrowing limit

- Last year, the Union government increased the borrowing ceiling of the States **from 3% to 5% for FY 2020-21**.

- But conditions are attached to 1.5% of the 2% of increased ceiling.
- Attaching conditions for expenditure out of the borrowed amount would clip the wings of the States and **goes against the principle of cooperative federalism**.

Way forward

- **Introduce special rate**: A special rate could be levied for a specified period in order to raise additional resources to meet the challenges posed by COVID-19 with the approval of the GST Council.
- As per Section 4(f) of **Article 279A**, the Union government can consider **introducing any special rate** to raise additional resources during the pandemic (any natural calamity or disaster).
- The present GST compensation period will end in 2021-22.
- **Increase the period beyond five years**: Compensation beyond five years requires a constitutional amendment.
- If this period is not increased, it will create serious financial stress to the States, especially to those which require higher compensation.

Conclusion

There is a need for measures on part of the Central government to consolidate fiscal federalism in the aftermath of pandemic and implementation of the GST regime in India.

India at 75 is ready for a sedition-less future

Polity | GS2: Executive & Judiciary, Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Freedom of speech and restrictions on it

Mains level : Paper 2- Issues with Section 124A of Indian Constitution

Context

Chief Justice of India N V Ramana has ignited a passionate debate during a preliminary hearing concerning whether sedition should be an offence at all, and how to prevent its misuse or abuse, were it to remain

Issues with the sedition under Section 124A

- **Against fundamental right:** The meandering meanings of expressions such as disaffection towards the government, hatred, contempt etc. constitute an unreasonable restriction on the fundamental right to free expression guaranteed under **Article 19(1)(a)**.
- Neither the framers of the Constitution nor the authors of the amended Article 19(2) included sedition as a ground for reasonable restriction to freedom of speech and expression.
- **Colonial past:** CJI Ramana in preliminary hearings has pointedly asked the Attorney General whether sedition under Section 124A of the Indian Penal Code is still required after 75 years of independence from colonial rule.

- **Prone to misuse:** The lack of definition of terms used in the section leaves wide the scope for interpretation and thus rampant misuse and abuse.

Way forward

- Some law luminaries have found new stirrings of hope in the Supreme Court to **strike it down**.
- **Find means to prevent misuse and abuse:** Alternative way, as the learned attorney general observed is to find constitutional ways and practical means to **prevent the abuse and misuse of law**.
- **Forbid rampant private complaints:** A most immediate step is to forbid rampant private complaints by citizens and authorise only **very senior police officials to take appropriate action**.

Conclusion

What Gandhiji said the law may not be used to manufacture affection under pain of a penal sanction was as true then as it remains now. It is high time to realise that the law of sedition must go, even when it may strictly not even exist!

INTERNATIONAL RELATIONS

India-Turkey relations

International Relations | GS2: India & Its Neighborhood - Relations

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Turkey's rising space in geopolitical arena

As a new round of geopolitical jousting begins on India's north-western frontiers, Delhi must deal with a number of new actors that have carved out a role for themselves in the region.

Overambitious Turkey

- Our focus today is on Turkey's regional ambitions (particularly in Afghanistan) and their implications for India.
- Ankara is in negotiations with the US on taking charge of the Kabul airport which is critical for an international presence in Afghanistan that is coming under the Taliban's control.
- Turkey has been running Kabul airport security for a while, but doing so after the US pullout will be quite demanding.
- Taking a longer view, though, Turkey is not a new regional actor in India's northwest.

History of bilateral relations

- India and Turkey have deep historical connections. The relationship dates back to the years 1481-82 when the first exchange of diplomatic mission took place between the Ottoman Sultans and the Muslim rulers of the sub-continent.
- India and Turkey share cultural overlap as well. We can note the Turkish impact on India in the terms of language, culture and civilization, art and architecture, and costumes and cuisine. There are numerous words common in both Hindustani and Turkish language.
- India also extended its support to the Turkish war of independence and the formation of the Turkish republic in the 1920s. Mahatma Gandhi himself took a stand against the injustices inflicted on Turkey at the end of World War-I.
- Turkey and India established diplomatic relations in 1948.
- In recent times, bilateral relations have been strengthened by the exchange of visits by the leaders of both countries.

Areas of cooperation

1. On combating terrorism:

- Both the countries are determined to combat terrorism in any form. They stressed on the issue of global terrorism and mutually agreed upon in fighting terrorism and also agreed to strengthen cooperation in an effective manner in dealing with the menace both bilaterally and at multilateral fora.

2. On United Nations reforms:

- Both the leaders of the country emphasised on the need for comprehensive reform of the United Nations including expansion of its Security Council to make the body more representative, accountable and effective.

3. On business relations:

- India-Turkey bilateral trade has increased significantly in the last one and a half decade. The major Indian exports to Turkey include medium oils and fuels, man-made filaments and staple fibres, automotive spare parts and accessories and organic chemicals.

- Turkey's exports to India are poppy seeds, machinery and mechanical appliances, iron and steel articles, inorganic chemicals, pearls and precious stones and metals and marble.
- Erdogan also showed his keen interest in the free trade with India and the two leaders of both the countries resolved to expand trade ties and decided to encourage business efforts to accomplish a level of at least \$10 billion of bilateral trade by 2022.
- On the current status of bilateral trade between the two countries, Erdogan said that the turnover of around \$6 billion in bilateral trade is not justified for the convergences of both the economies.

4. Turkey and Afghanistan

- Ankara and Kabul have recently celebrated the centennial of the establishment of diplomatic relations.
- Through this century, Turkey has engaged purposefully with Afghanistan over a wide domain.
- While it joined the NATO military mission in Afghanistan after the ouster of the Taliban at the end of 2001, Turkey avoided any combat role and differentiated itself from the Western powers.
- Ankara has contributed to the training of the Afghan military and police forces.
- It has also undertaken much independent humanitarian and developmental work.

Issues with India

1. Affinity with Pakistan

- Turkey's good relations with both Afghanistan and Pakistan have also given space for Ankara to present itself as a mediator between the warring South Asian neighbours.
- Turkey's Heart of Asia conference or the Istanbul Process has been a major diplomatic vehicle for attempted Afghan reconciliation in the last few years.
- Widespread goodwill for Turkey in Afghanistan has now come in handy for the US in managing some elements of the post-withdrawal phase.
- In Pakistan, PM Imran Khan has rallied behind Erdogan's ambition to seize the leadership of the Islamic world from Saudi Arabia.
- Pakistan's Army Chief had to step in to limit the damage with Saudi Arabia, which has long been Pakistan's major economic benefactor.

Challenges for India

- Turkey's growing role in Afghanistan opens a more difficult phase in relations between Delhi and Ankara.
- India's opposition to alliances and Turkey's alignments reflected divergent international orientations of Delhi and Ankara after the Second World War.
- And Turkey's deepening bilateral military-security cooperation with Pakistan made it even harder for Delhi to take a positive view of Ankara.

- Turkey and Pakistan were part of the Central Treaty Organization (CENTO) that was set up in 1955 by the British.
- Although CENTO eventually wound up in 1979, Turkey and Pakistan remained close partners in a number of regional organizations and international forums like the Organization of Islamic Cooperation.

2.Pre-Erdogan era Turkish Values weakening

- The shared secular values between Delhi and Ankara in the pre-Erdogan era were not enough to overcome the strategic differences between the two in the Cold War.
- To make matters more complicated, the positive legacy of the Subcontinents solidarity with the Ottoman Empire and the Turkish Republic, emerged out of its ruins in the early 20th century, accrued mostly to Pakistan.
- There were moments during the tenures of PM Rajiv Gandhi and Mr Vajpayee, when India and Turkey seemed poised for a more productive relationship.
- But those have been rather few and far between.

Turkeys departure from Secularism

- Meanwhile, Turkey's Islamist internationalism under Recep Tayyip Erdogan has inevitably led to its deeper alliance with Pakistan, greater meddling in South Asia, and a sharper contraction with India.
- The Pakistani prism through which Delhi has long seen Ankara, however, has prevented it from fully appreciating the growing strategic salience of Turkey.
- Erdogans active claim for leadership of the Islamic world has seen a more intensive Turkish political, religious, and cultural outreach to the Subcontinents 600 million Muslims.

3.Self-goals on Kashmir

- Turkey has become the most active international supporter of Pakistan on the Kashmir question.
- Delhi is aware of Erdogans hypocrisy on minority rights.
- While pitching for self-determination in Kashmir, Erdogan actively tramples on the rights of its Kurdish minority at home and confronts them across Turkey's border in Syria and Iraq.

4.Other ambitions in Asia

- Erdogan was quick to condemn the Bangladesh governments hanging of a senior extremist leader in 2016.
- But in a reflection of his strategic suppleness, Erdogan also offered strong political support for Dhaka on the Rohingya refugee crisis.
- As Bangladesh emerges as an attractive economy, Ankara is now stepping up its commercial cooperation with Dhaka.
- Turkey, which hosted the Caliphate in the Ottoman era, had natural spiritual resonance among the South Asian Muslims.

5.Riving the Caliphate

- With the abolition of the Caliphate in 1924, Turkey's Westernization under Atatürk reduced its religious significance.
- Erdogans Islamist politics are about regaining that salience.
- Erdogans strategy marks the declining relevance of the old antinomies between alliances and autonomy, East and West, North and South, Islam and the West, Arabs and the Jews that so resonate with the traditional Indian foreign policy discourse.

6.Stance on Israel

- Turkey was the first Muslim-majority nation that established full diplomatic relations with Israel.
- Erdogan now actively mobilizes the Arab and Islamic world against Israel without breaking relations with Tel Aviv.
- Erdogans outrage on Israel is about presenting himself as a better champion of Palestine than his Arab rivals.

India's option against Turkey

- India, which has been at the receiving end of Erdogans internationalism, has multiple options in pushing back.
- The recent naval exercise between India and Greece in the Mediterranean offers a small hint of India's possibilities in Turkey's neighbourhood.
- Many Arab leaders reject Erdogans policies that remind them of Ottoman imperialism.
- They resent Erdogans support of groups like the Muslim Brotherhood that seek to overthrow moderate governments in the Middle East.
- There is much that India can do to up its game in the Arab world.

Lessons for India

- The new fluidity in geopolitics in India's extended neighbourhood to the west.
- Agency for regional powers is growing as the influence of great power weakens.
- Religious ideology, like the more secular ones, is a cover for the pursuit of power.
- Finally, Erdogan has carefully modulated his confrontation with major powers by avoiding a breakdown in relations.

Conclusion

- For Erdogan, the choices are not between black and white. That should be a good guide for India's own relations with Turkey.
- Delhi needs to vigorously challenge Turkey's positions where it must, seize the opportunities opened by regional resentments against Erdogans adventurism, and at the same time prepare for a more intensive bilateral engagement with Ankara.

Crafting a unique partnership with Africa

International Relations | GS2: Bilateral, Regional and Global Groupings and agreements involving India

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : China's scramble for Africa and challenges for India

This op-ed analyses the future of India-Africa cooperation in agriculture amid the looming Chinese involvement in African countries.

Agricultural significance of Africa

- With 65% of the world's uncultivated arable land, employing over 60% of the workforce, and accounting for almost 20% of Sub-Saharan Africa's GDP, agriculture is critical to Africa's economy.

China factor behind

- As this relationship enters the post-pandemic world, it is vital to prioritize and channel resources into augmenting partnerships in agriculture.
- This is crucial given its unexplored potential, centrality to global food security, business prospects and to provide credible alternatives to the increasing involvement of Chinese stakeholders in the sector.

Analyzing Chinese engagement

Chinese corporations, small and medium-sized enterprises and entrepreneurs adopt has provided a layered perspective of the sociopolitical, economic and environmental impact of Chinese engagement.

- **Trade:** China is among Africa's largest trading partners.
- **Credit facility:** It is also Africa's single biggest creditor.
- **Infrastructure:** Its corporations dominate the region's infrastructure market and are now entering the agri-infrastructure sector.
- **Strategic support:** While access to Africa's natural resources, its untapped markets and support for One China Policy are primary drivers of Chinese engagement with the region, there are other factors at play.

China is going strategic in the guise of agriculture

- Increasingly critical to China's global aspirations, its engagement in African agriculture is taking on a strategic quality.
- Chinese-built industrial parks and economic zones in Africa are attracting low-cost, labour-intensive manufacturing units that are relocating from China.
- Chinese engineers interviewed spoke of how their operations in Africa are important to accumulate global experience in management, risk and capital investments.
- Not only are they willing to overlook short-term profits in order to build a brand China, but they want to dominate the market in the long term, which includes pushing Chinese standards in host countries.
- Chinese tech companies are laying critical telecommunications infrastructure, venture capital funds are investing in African fintech firms, while other smaller enterprises are expanding across the region.

Agricultural landscape

- While many Chinese entities have been active in Africa's agriculture for decades now, the nature, form and actors involved have undergone substantial change.
- In Zambia, Chinese firms are introducing agri-tech to combat traditional challenges, such as using drone technology to control the fall armyworm infestation.
- They have set up over Agricultural Technology Demonstration Centers (ATDCS) in the continent where Chinese agronomists work on developing new crop varieties and increasing crop yields.
- These ATDCs partner with local universities, conduct workshops and classes for officials and provide training and lease equipment to small holder farmers.
- Chinese companies with no prior experience in agriculture are setting out to build futuristic ecological parks while others are purchasing large-scale commercial farms.

Inducing their soft power

- The exponential growth in the China-Africa economic ties and the emergence of Beijing as an alternative to traditional western powers have motivated change in perceptions across groups.
- Governments and heads of state are recalibrating approaches, media houses are investing more resources for on-the-ground reporting.

Dark Side of the Sino-Africa ties

- Simultaneously, Africa-China relations are becoming complex with a growing, insular diaspora, lopsided trade, looming debt, competition with local businesses and a negative perception accompanied by greater political and socioeconomic interlinkages.
- On occasion, there seems to be a gap between skills transferred in China and the ground realities in Africa.
- In some cases, the technology taught in China is not available locally and in others, there is inability to implement lessons learnt due to the absence of supporting resources.
- Larger commercial farms run by Mandarin-speaking managers and the presence of small-scale Chinese farmers in local markets aggravates socio-cultural stresses.

India's agricultural engagement

- **Diverse portfolios:** India-Africa agricultural cooperation currently includes institutional and individual capacity-building initiatives, an extension of soft loans, supply of machinery, acquisition of farmlands and the presence of Indian entrepreneurs in the African agricultural ecosystem.
- **Land acquisition:** Indian farmers have purchased over 6,00,000 hectares of land for commercial farming in Africa.
- **States cooperation:** Sub-national actors are providing another model of cooperation in agriculture. Consider the case of the Kerala government trying to meet its requirement for cashew nuts with imports from countries in Africa.

- **Civil society:** Similar ideas could encourage State governments and civil society organizations to identify opportunities and invest directly.
- **Agri-business:** There is also promise in incentivizing Indian industries to tap into African agri-business value chains and connecting Indian technology firms and startups with partners in Africa.
- **Investment:** In the past year, despite the pandemic, the sector witnessed a record increase in investments.

Way forward

- A thorough impact assessment needs to be conducted of the existing capacity-building initiatives in agriculture for India to stand in good stead.
- This could include detailed surveys of participants who have returned to their home countries.

- Country-specific and localized curriculum can be drawn up, making skill development demand-led.
- In all senses, India has consistently chosen well to underline the development partnership to be in line with African priorities.
- It is pertinent, therefore, that we collectively craft a unique modern partnership with Africa.

Conclusion

- While India's Africa strategy exists independently, it is important to be cognizant of China's increasing footprint in the region.
- Beijing's model, if successful here, could be heralded as a replica for the larger global south.
- It is important to note, however, that prominent African voices have emphasized that their own agency is often overlooked in the global discourse on the subject.

FOREIGN POLICY WATCH: INDIA-JAPAN

Strategic cooperation between India, Italy and Japan can ensure a free Indo-Pacific

International Relations | GS2: Bilateral, Regional and Global Groupings and agreements involving India

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- India-Japan-Italy partnership

Context

Recently, Mr. Draghi, Italy's Prime Minister described Chinese competitive practices as unfair and invited the EU to be franker and more courageous in confronting Beijing on various issues. Against this backdrop, a trilateral partnership between India-Japan-Italy could play important role in the Indo-Pacific region.

India's growing centrality in Indo-Pacific strategic architecture

- Countries that share **similar values and face similar challenges** are coming together to create **purpose-oriented partnerships**.
- In the context of the Indo-Pacific, the challenges posed by China's assertive initiatives clash with a region lacking multilateral organisations capable of solving problems effectively.
- But as a new pushback against China takes shape and as Indian foreign policy becomes strategically clearer, there is new momentum to initiatives such as the Quad.

India-Italy-Japan trilateral partnership

- Recently, Italy has also begun to signal its intention to enter the Indo-Pacific geography.
- It has done so by seeking to join India and Japan in a **trilateral partnership**.
- Italy has become more vocal on the risks emanating from **China's strategic competitive initiatives**.

- On the Indian side, there is great interest in forging new partnerships with **like-minded countries** interested in preserving **peace and stability in the Indo-Pacific**.
- The responsibility of keeping the Indo-Pacific free and open, and working for the welfare of its inhabitants falls on like-minded countries within and beyond the region.

Potential of trilateral partnership

- Their compatible economic systems can contribute to the reorganisation of the global supply chains that is now being reviewed by many players as a natural result of the Chinese mismanagement of the COVID-19 pandemic.
- At the security level, the well-defined India-Japan Indo-Pacific partnership can easily be complemented by Italy.
- At the multilateral level, the three countries share the same values and the same rules-based world view.

The way forward for trilateral cooperation

- The Italian government must formulate a clear Indo-Pacific strategy that must indicate its objectives.
- But Rome must go beyond that in defining and implementing, at the margins of the EU's common initiatives, its own policy with respect to the Indo-Pacific.
- The India, Italy and Japan trilateral initiative can be a forum to foster and consolidate a strategic relationship between these three countries, and specifically expand India-Italy bilateral relations.

- A trilateral cooperation can be the right forum for India and Italy to learn more from each others practices and interests and consolidate a strategic dialogue that should include the **economic, the security and the political dimensions**.
- To consolidate the trilateral cooperation in this field, the three countries need to define a **common economic and strategic agenda**.

Conclusion

A clear political will is needed from all sides, and Italy, in particular, should recognise its interests in playing a larger role towards the maintenance of a free and open Indo-Pacific. Robust India-Italy strategic ties can be the first step towards the realisation of this goal.

FOREIGN POLICY WATCH: INDIA-AFGHANISTAN

Regional powers and the Afghanistan question

International Relations | GS2: Bilateral, Regional and Global Groupings and agreements involving India

Note4Students | From UPSC perspective, the following things are important :

Prelims level : SCO members

Mains level : Paper 2- Afghanistan after the US withdrawal

Context

A regional conclave of foreign ministers taking place in Dushanbe this week under the banner of the **Shanghai Cooperation Organisation (SCO)** should give us a sense of the unfolding regional dynamic on Afghanistan.

SCO addressing challenges in Afghanistan

- Geography, membership and capabilities make the SCO an important forum to address the post-American challenges in Afghanistan.
- The SCO was launched 20 years ago by China and Russia to **promote inner Asia stability**.
- The current members of the SCO are China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, and India.
- The SCO has four observer states Iran, Afghanistan, Mongolia and Belarus.
- The idea of a **regional solution to Afghanistan** has always had much political appeal.
- But **divergent regional strategic perspectives** limit the prospects for a sustainable consensus on Afghanistan.

Implications of the US exit for the region

- The quiet satisfaction in Moscow, Beijing, Tehran and Rawalpindi at the US's exit from Afghanistan, however, is tinged by worries about **the long-term implications of Washingtons retreat**
- Regional players have to cope with the consequences of the US withdrawal and the **resurgence of the Taliban**.
- Neither Moscow nor Beijing would want to see Afghanistan becoming the hub of international terror again under the Taliban.
- For China, potential Taliban **support to the Xinjiang separatist groups** is a major concern.
- Iran cant ignore the Sunni extremism of the Taliban and its oppressive record in dealing with the Shia, and Persian-speaking minorities.

- Pakistan worries about the danger of the conflict spilling over to the east of the Durand Line, and hostile groups gaining sanctuaries in Afghanistan.

Three factors that drive India's Afghan policy

- The US exit means a new constraint on Delhis ability to operate inside Afghanistan.
- There is also the danger that Afghanistan under the Taliban could also **begin to nurture anti-India terror groups**.
- If India remains active but patient, **many opportunities could open up in the new Afghan phase**.
- Three structural conditions will continue to shape India's Afghan policy.
- **One** is India's **lack of direct physical access to Afghanistan**.
- This underlines the importance of India having **effective regional partners**.
- **Second**, it remains to be seen if Pakistans partnership with China and the extension of the China Pakistan Economic Corridor into Afghanistan can address Pakistans inability to construct a stable and legitimate order in Afghanistan.
- **Third**, the contradiction between the interests of Afghanistan and Pakistan is an enduring one.
- While many in Pakistan would like to turn Afghanistan into a protectorate, Afghans deeply value their independence.
- All Afghan sovereigns, including the Taliban, will inevitably **look for partners to balance Pakistan**.

Way forward for India

- India must actively contribute to the SCO deliberations on Afghanistan, but must temper its hopes for a collective regional solution.
- At the same time, Delhi should focus on **intensifying its engagement with various Afghan groups**, including the Taliban, and **finding effective regional partners** to secure its interests in a changing Afghanistan.

Conclusion

India should pursue the regional solution to Afghanistan challenge after the US exit while increasing the engagement with the various players in Afghanistan including the Taliban.

China's role in stabilising Afghanistan

International Relations | GS2: India & Its Neighborhood - Relations

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Limits on China's role in Afghanistan

Context

Amid the gloom that has enveloped Afghanistan, one hope for many countries has been China's potential role in stabilising it.

Factors that call for China to play role in Afghanistan

- **Scope for India-China cooperation:** In the past, even India thought that Afghanistan would be a **natural area for India and China to work together**.
- But little came out of the understanding after the Wuhan summit in 2018.
- **Northern neighbours:** Afghanistan's northern neighbours, **Turkmenistan, Uzbekistan, and Tajikistan** all have expanding political and economic ties with China but have traditionally relied on Russia for their security.
- They might support a larger role for Beijing in Afghanistan in partnership with Russia.
- **Iran**, Kabul's western neighbour, also has deepening ties with China.
- **Bilateral cooperation with the U.S.:** Washington, now locked in an escalating confrontation with Beijing, sees Afghanistan as a **potential area of bilateral cooperation**.
- **Role of Pakistan:** Beijing is indeed critical in Pakistan's plans for Afghanistan.
- Afghan leaders have also been eager to draw China's BRI into their plans for economic modernisation.
- China was also important for Kabul's political calculus in **limiting Pakistan's quest for dominance**.

Two challenges in China playing role in stabilising Afghanistan

1) Caution in Chinese policy

- The first relates to the **deep sources of caution in Chinese policy**.
- Neither the prospect of mining Afghanistan's natural resources nor the vanity of being the newest superpower will compel China to rush into the Afghan vacuum.
- China has deep concerns about Taliban's ideology and its potential role in fomenting **instability in its restive Muslim-majority province, Xinjiang**.
- Beijing cannot depend on its special relationship with the Pakistan army to ensure the security of China's frontiers as well as its investments in Afghanistan.
- The growing attacks on CPEC projects in Pakistan, underline the **difficulty of pursuing economic development amid endemic violence**.

2) Priorities of Taliban

- The second set of problems relate to the priorities of Taliban.
- It remains to be seen whether the economic development of Afghanistan is a top priority for the Taliban or not.
- Also, is it open to let in foreign capital and all the baggage that comes with it?
- More fundamentally, there is no clarity on the **role of economic modernisation** in Taliban's fierce insistence on the creation of an Islamic emirate in Afghanistan.

Conclusion

It is against this backdrop that the chances of China playing a major role in stabilising Afghanistan remain slim.

'Open talks' with the Taliban is India's strategic necessity

International Relations | GS2: India & Its Neighborhood - Relations

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Mazar-e-Sharif, Kandahar

Mains level : Paper 2- Engaging the Taliban

Context

With over a third of Afghanistans more than 400 districts under Taliban control, the talk-to-the-Taliban option is indeed the best of the many less than perfect options available to India.

India need a reset in its Afghanistan policy

- India has temporarily closed its consulate in Kandahar.
- This follows the decision to suspend operations in the Indian consulates in Jalalabad and Herat.
- India's decision to partially withdraw from Afghanistan shows that **betting only on the government in Kabul** was a big mistake,
- It also shows that India realises the threat the Taliban poses to Indian assets and presence in Afghanistan.
- To safeguard its civilian assets there as well as to stay relevant in the unfolding great game in and around Afghanistan, **India must fundamentally reset its Afghanistan policy.**
- India must, in its own national interest, begin open talks with the Taliban before it is too late.
- Open dialogue with the Taliban should no longer be a taboo; it is a strategic necessity.

Reason for avoiding open talks with Taliban

- There are at least five possible reasons why India appears to want to keep the Taliban engagement slow and behind closed doors.
- First, if India chooses to engage the Taliban directly, it could make Afghanistan President Ashraf Ghani, **to look towards China and the Shanghai Cooperation Organisation (SCO)** for national security and personal political survival.
- Second, India is also faced with the dilemma of **who to talk to within the Taliban** given that it is hardly a monolith.
- Third, given the global opprobrium that Taliban faced in its earlier avatar and the lack of evidence about whether the outfit is a changed lot today, New Delhi might not want to court the Taliban so soon.
- Fourth, there is little clarity about **what the Taliban's real intentions are going forward** and what they would do after ascending to power in Kabul.
- Fifth, it would not be totally unreasonable to consider the possibility of **Pakistan acting out against India in Kashmir** if India were to establish deeper links with the Taliban.

Reasons India should engage with the Taliban openly

- **Wide international recognition:** Whether we like it or not, the Taliban, is going to be part of the political scheme of things in Afghanistan, and unlike in 1996, a **large number of players in the international community** are going to recognise/negotiate/do business with the Taliban.
- **Countering Pakistan:** The Taliban today is **looking for regional and global partners** for recognition and legitimacy especially in the neighbourhood.

- So the less proactive the Indian engagement with the Taliban, the stronger Pakistan-Taliban relations would become.
- A worldly-wise and internationally-exposed Taliban 2.0 would develop its own agency and sovereign claims including perhaps calling into question the legitimacy of the Durand Line separating Pakistan and Afghanistan, something Pakistan was always concerned about. T
- The Taliban would want to hedge their bets on how far to listen to Pakistan.
- That is precisely when New Delhi should engage the Taliban.
- **Security of civilian assets:** India needs to court all parties in Afghanistan, including the Taliban if it wants to ensure its security of its civilian assets there.
- It makes neither strategic nor economic sense to withdraw from Afghanistan **after spending over \$3 billion**, something the Government seems to be prepared to do
- **Being a part of Afghanistan's future course:** If India is not proactive in Afghanistan at least now, late as it is, Russia, Iran, Pakistan and China will emerge as the shapers of Afghanistans political and geopolitical destiny, which for sure will be detrimental to Indian interests there.
- **Continental grand strategy:** Backchannel talks with Pakistan and a consequent ceasefire on the Line of Control, political dialogue with the mainstream Kashmiri leadership, secret parleys with Taliban all indicate that India is opening up its congested north-western frontier.
- Except for the strategic foray into the Indo-Pacific, India today is **strategically boxed in the region** and it must break out of it. Afghanistan could provide, if not immediately, India with such a way out.

Consider the question "India's Afghan policy is at a major crossroads; to safeguard its civilian assets there as well as to stay relevant in the unfolding great game in and around Afghanistan, New Delhi must fundamentally reset its Afghanistan policy. Comment."

Conclusion

In the end, India's engagement with the Taliban may or may not achieve much, but non-engagement will definitely hurt Indian interests.

Back2Basics: Durand Line

- Durand Line, boundary established in the Hindu Kush in 1893 running through the tribal lands between Afghanistan and British India, marking their respective spheres of influence.
- In modern times it has marked the border between Afghanistan and Pakistan.
- The acceptance of this line which was named for **Sir Mortimer Durand, who induced Abdor Ramn Khn, amir of Afghanistan, to agree to a boundary** may be said to have settled the Indo-Afghan frontier problem for the rest of the British period.

SAARC

International Relations | GS2: Bilateral, Regional and Global Groupings and agreements involving India

Note4Students | From UPSC perspective, the following things are important :

Prelims level : SAARC countries

Mains level : Paper 2- Relevance of SAARC

Context

Despite the framework SAARC provides for cooperation amongst South Asian nations, it has remained sidelined and dormant since its 18th summit of 2014 in Kathmandu. No alternative capable of bringing together South Asian countries for mutually beneficial diplomacy has emerged.



The South Asian Association for Regional Cooperation (SAARC) was established with the signing of the **SAARC Charter** in Dhaka on 8 December 1985.

- The idea of regional cooperation in South Asia was first raised in November 1980. After consultations, the foreign secretaries of the seven founding countries—Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka—met for the first time in Colombo in April 1981.

- Afghanistan became the newest member of SAARC at the 13th annual summit in 2005.
- The **Headquarters and Secretariat** of the Association are at **Kathmandu, Nepal**.

Principles

- Cooperation within the framework of the SAARC shall be based on:

- Respect for the principles of **sovereign equality, territorial integrity, political independence, non-interference** in the internal affairs of other States and mutual benefit.
- Such cooperation shall not be a substitute for bilateral and multilateral cooperation but shall complement them.
- Such cooperation shall not be inconsistent with bilateral and multilateral obligations.

Common challenges facing South Asia

- The region is beset with **unsettled territorial disputes**, as well as trans-border criminal and subversive activities and **cross-border terrorism**.
- The region also remains a theatre for **ethnic, cultural, and religious tensions** and rivalries besides a current rise in ultra-nationalism
- Nuclear-armed neighbours India and Pakistan are at loggerheads.
- US military withdrawal from Afghanistan has fuelled fears of intensification of these trends.

SAARC and its Importance

- SAARC comprises **3% of the world's area, 21% of the world's population and 3.8% (US\$2.9 trillion) of the global economy**.
- **Creating synergies:** It is the world's most densely populated region and one of the most fertile areas. SAARC countries have common tradition, dress, food and culture and political aspects thereby synergizing their actions.
- **Common solutions:** All the SAARC countries have common problems and issues like poverty, illiteracy, malnutrition, natural disasters, internal conflicts, industrial and technological backwardness, low GDP and poor socio-economic condition and uplift their living standards thereby creating common areas of development and progress having common solutions.

SAARC Achievements

- **Free Trade Area (FTA):** SAARC is comparatively a new organization in the global arena. The member countries have established a **Free Trade Area (FTA)** which will increase their internal trade and lessen the trade gap of some states considerably.
- **SAPTA: South Asia Preferential Trading Agreement** for promoting trade amongst the member countries came into effect in 1995.
- **SAFTA: A Free Trade Agreement** confined to goods, but excluding all services like information technology. Agreement was signed to reduce customs duties of all traded goods to zero by the year 2016.
- **SAARC Agreement on Trade in Services (SATIS):** SATIS is following the GATS-plus 'positive list' approach for trade in services liberalization.
- **SAARC University:** Establish a SAARC university in India, a food bank and also an energy reserve in Pakistan.

Significance for India

- **Neighbourhood first:** Primacy to the country's immediate neighbours.
- **Geostrategic significance:** Can counter China (OBOR initiative) through engaging Nepal, Bhutan, the Maldives and Sri Lanka in development process and economic cooperation.
- **Regional stability:** SAARC can help in creation of mutual trust and peace within the region.
- **Global leadership role:** It offers India a platform to showcase its leadership in the region by taking up extra responsibilities.

- **Game changer for India's Act East Policy:** by linking South Asian economies with South East Asian will bring further economic integration and prosperity to India mainly in the Services Sector.

Challenges

- **Low frequency of meetings:** More engagement is required by the member states and instead of meeting biennial meetings should be held annually.
- **Broad area of cooperation** leads to diversion of energy and resources.
- **Limitation in SAFTA:** The implementation of SAFTA has not been satisfactory a Free Trade Agreement confined to goods, excluding all services like information technology.
- **Indo-Pak Relations:** Escalated tension and conflict between India and Pakistan have severely hampered the prospects of SAARC.
- **Inter-state Disputes in South Asia:** One of the major hurdles in the way of cooperation among the SAARC members is the mistrust, mutual security perceptions and hostility. All the members of this organization feel in one way or another threat to their political, economic and territorial stability from the neighbouring countries.
- **Colonial mindset:** They are still entrapped in the historical conflicts of colonial rule and the disputed environment after the departure of Colonial Masters i.e. loss of property, lives, identities and communal violence. There are always high risks that any time the efforts for cooperation can suffer due to communal and terrorist threats.
- **Fear of Indian Domination:** Another most important cause of SAARC failure is that there is a fear of India's hegemonic role in the region. The political, diplomatic and economic concerns felt by the member countries of SAARC in South Asia has obstructed any positive development among the member countries.
- **Unstable Financial Positions:** The SAARC members are financially and economically not very much developed. The weak financial position of the member countries has also created an uncertain future for this organization. This is not conducive for the economic integration of South Asia.
- **Trade issues:** The member countries of SAARC are not complementing each other but they are competing in fact. Mutual trade is very low. The lower level of intra-region trade in South Asia has made the objective of this organization a failure.
- **Exclusion of Contentious Issues from SAARC Charter:** The charter of SAARC itself has some self-imposed anomalies as its charter has the provision of not discussing the contentious and bilateral disputes. On the one hand, it asks for increased cooperation and exchanges and on the other hand, avoids negotiations on bilateral disputes.
- **Lack of Strong Infrastructure:** South Asian countries share some common features like cheap labour, low incomes, low value added commodities and comparative advantage in the same commodities like tea and garments etc. The intraregional trade cannot be successful in such conditions where the trade and economic structure and industrial infrastructure is similar.

What role SAARC can play in Afghanistan

- **Commitment to get rid of terrorism:** The third SAARC summit in 1987 adopted a **Regional Convention on Suppression of Terrorism** and updated it in 2004 with the signing of an additional protocol.

- These instruments demonstrate the collective commitment to rid the region of terror and promote regional peace, stability, and prosperity.
- **Using the network of institutions** : In 36 years of existence, SAARC has developed a dense network of institutions, linkages, and mechanisms.
- SAARC members are among the top troop-contributing countries to **UN peacekeeping missions**.
- **Joint peacekeeping force**: With the US withdrawal from Afghanistan, a **joint peacekeeping force** from the SAARC region under the UN aegis could be explored to fill the power vacuum that would otherwise be filled by terrorist and extremist forces.

Consider the question “What role SAARC can play in stabilising the region after the US withdrawal from Afghanistan? Is SAARC still relevant for the region?”

Need For Reviving SAARC

- **Regional Disconnect**: Over the past year, India-Pakistan issues have impacted other meetings of SAARC. This makes it easier for member countries and international agencies, to deal with South Asia as a fragmented group rather than a collective one.
- No other regional power is as disconnected from its immediate neighbourhood as India.
- This disconnect is a challenge to India's economic and security interests.
- **Impact of Covid-19**: The impact of Covid-19, is a growing distaste for globalisation and growing preference for nativism, self-dependence and localising supply chains.
- While it will be impossible for countries to entirely cut themselves off from the global market, regional initiatives will become the golden mean between globalisation and hyper-nationalism.
- Moreover, reviving SAARC is crucial to countering the common challenges brought about by the pandemic.
- According to a World Bank report, the South Asian countries are expected to lose nearly about 10.77 million jobs and \$52.32 billion in GDP alone from the impact of the pandemic.
- **Dealing With China**: It is clear that tensions with Pakistan and Nepal amplify the threat perception from China, while other SAARC members (minus Bhutan), all of whom are **Belt and Road Initiative (BRI)** partners of China will be hard placed to help individually.
- Also, in the current pandemic, China is sending medicines, personal protective equipment kits, and promising vaccines to most SAARC countries as part of its **Health Silk Road** initiative.
- Therefore, in dealing with Chinas challenge, both at India's borders and in its neighbourhood, a unified South Asian platform remains India's most potent countermeasure.

Way forward

- Regardless of the tensions, SAARC has survived and neither India nor Pakistan can afford to leave the organization.

- **Economic prosperity** : Pakistan is India's gateway to the West and North and its only means of geographical access to Afghanistan and Central Asia. The South Asian Free Trade Agreement (SAFTA), if implemented, will lead to economic prosperity for the entire Subcontinent.
- Young Population South Asia is a vibrant part of the world. With its huge, young population, is in a position to shape the future of the global economy.
- **Cultural ties**: Stronger cultural ties will result in regional integration in spite of political differences based on security concerns and ideological paradigms
- **Keeping differences aside**: SAARC is not just an Indo-Pak one-upmanship club. The lives of millions of people in the smaller member states can be improved if the two big brothers decide to put their differences aside and concentrate on helping their younger siblings
- Deeper regional economic integration will create greater interdependence with India acquiring the central role, which, in turn, would serve India's strategic interests too.
- **Engaging With Pakistan**: Chinas incursions in Ladakh doesnt stop India to attend meetings with the Chinese leadership at the SCO, the Russia-India-China trilateral, the G-20.
- Therefore, it is misplaced that India applies the same logic, for not engaging with Pakistan. India must understand that engagement with Pakistan is very crucial for the revival of SAARC.
- **Application of Gujral Doctrine**: India's conduct of foreign relations with immediate neighbours should be guided by the **Gujral Doctrine**.
- In this present context of Covid-19 pandemic, India can apply Gujral doctrine by pursuing Vaccine diplomacy with SAARC countries, whereby India can supply vaccines either free or at affordable costs and counter future pandemics.
- **All-of South Asia Approach**: South Asian countries need to work as a collective to set common standards and promote a more intra-regional, transnational approach towards health security, food security, and job security.
- In this context, India can follow the European model of regional integration.
- Moreover, India can strengthen its position as an education hub for students from its neighbourhood. This will help to form closer political ties and spread its cultural influence and values to the surrounding region.
- **Regional Development**: Being the biggest economy in South Asia, India can carry out infrastructure projects to improve connectivity, including the laying of new pipelines, building electricity networks, upgrading port, rail, and airport infrastructure, and reinvigorating people-to-people exchanges.

Conclusion

Allowing SAARC to become dysfunctional and irrelevant greatly distorts our ability to address the realities and mounting challenges facing SAARC nations.

The convergence and lag in Indo-US partnership

International Relations | GS2: Bilateral, Regional and Global Groupings and agreements involving India

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Not much

Mains level : Paper 2- Paradox in debate over relations with the US

Context

As the Indian leadership reviews US ties this week with the visiting Secretary of State, Antony Blinken, a paradox stands out.

Deepening Indo-US ties

- India and the US have come a long way since the 1990s.
- There is growing **political and security cooperation**, expanding economic engagement, widening interface between the two societies, and the intensifying footprint of the Indian diaspora in the US.
- **Convergence of interests**: That ambition, in turn, is based on the unprecedented convergence of Indian and American national interests.
- **Agenda for cooperation**: The two countries have already agreed on an ambitious agenda for **bilateral, regional and global cooperation**.

Debate in India over Indo-US relation: A paradox

- The discourse within India's strategic community continues to be anxious.
- Some of the questions that animate the media and political classes have not changed since the 1990s.
- **Issues in the debate**: Debate focuses on US's stand on the Kashmir issue, democracy and human rights and its impact on India-US relations.
- **Contradictory fears**: There are also contradictory fears such as whether the US extend full support in coping with China.
- While we expect the US to give guarantees on supporting us, we insist that India **will never enter into an alliance with the US**.
- **Small state syndrome in India**: As India's relative weight in the international system continues to grow, it creates much room for give and take between India and the US.
- Yet, a small state syndrome continues to **grip the foreign policy elite**.
- The situation is similar on the economic front.
- Although India is now **the sixth-largest economy in the world**, there is unending concern about the US imposing globalisation on India.
- Even as India's salience for solutions to climate change has increased, India's debate remains deeply defensive.

Factors responsible paradox

- **Missing the big picture**: The **narrow focus** on the bilateral precludes an assessment of the **larger forces** shaping American domestic and international politics.
- That, in turn, limits the appreciation of **new possibilities** for the bilateral relationship.
- **Underinvestment in American studies** : The problem is reinforced by India's under-investment in public understanding of American society.

- Russia and China have put large resources in American studies at their universities and think tanks.
- The Indian government and private sector will hopefully address this gap in the not-too-distant future.

Policy shifts unfolding in the US

- **Domestic economic policies**: If the economic policy drift in the last four decades was to the right, Biden is moving left on the **relationship between the state and the market** on raising taxes, increasing public spending and addressing the problem of sharp economic inequality.
- **Economic policy and globalisation**: Biden has also joined Trump in questioning Americas uncritical economic globalisation of the past.
- If Trump talked of putting America First, Biden wants to make sure that Americas foreign and economic policies serve the US middle class.
- **Foreign policy**: Biden has concluded that four decades of Americas uncritical engagement with China must be reconstituted into a policy that faces up to the many challenges that Beijing presents to the US.
- Biden is also focused on renewing the traditional US alliances to present a united front against China.
- He is also seeking to overcome **Washingtons hostility to Russia** by resetting ties with Moscow.

Question of democracy and human rights

- Democracy is very much part of Americas founding ideology.
- But living up to that ideal at home and abroad has not been easy for the United States over the last two centuries.
- Delhi and Washington will also have much to discuss on the challenges that new **surveillance technologies and big tech monopolies** pose to democratic governance.
- The exclusive American focus on democracy promotion has been rare, costly and unsuccessful.
- India's own experience at **spreading democracy in its neighbourhood is quite similar**.
- But that discussion is only one part of the expansive new agenda from **Afghanistan to Indo-Pacific**, reforming global economic institutions to addressing climate change, and **vaccine diplomacy** to governing new technologies that beckon India and the United States.

Conclusion

As they intensify the bilateral cooperation, the two sides will hopefully turn the Indo-US partnership from a perennial curiosity to a quotidian affair.

SECURITY ISSUES

The problem now with the military synergy plan

Security Issues | GS3: Various Security Forces, Agencies & Their Mandates

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Integrated Theatre Commands

Mains level : Issues over the constitution of ITC

The recent controversy over the alleged marginalization of the Indian Air Force (IAF) in the proposed 'theaterisation' of the national security landscape has led to some debates.

IAF concerned over ITC

- The Indian military continues to work in silos, like all governmental agencies in India, and a need was rightly felt and directions issued by PM to bring about jointness.
- The aim is to bring about synergy in operations while economizing through the elimination of duplication and wasteful practices or processes.
- IAF is keen to bring in the requisite reforms to improve the war-fighting capabilities of the Indian military as a whole while also economizing.

Reservations of IAF

- In the current formulation of theatres, the objections from the IAF have essentially been due to air power being seen as an adjunct to the two surface forces.
- IAF veterans feel that the IAF is being divided into penny packets which would seriously degrade the effectiveness of air operations in any future conflict or contingency.
- They feel that the use of air power is found to be sub-optimal under the military ethos of an order is an order.

Hurry by the CDS

- Concurrently, such an intellectual exercise would identify duplication, wasteful resources and practices.
- This is what the CDS should have been pursuing before first freezing the structure and then trying to glue the pieces together or hammer square pegs in round holes.
- Only such a strategy can define the types of contingencies the military is expected to address, leading to appropriate military strategies, doctrines and required capabilities.

Why is the IAF right?

- Airpower is the lead element, particularly since the Indian political aim, even in the foreseeable future, is unlikely to be the occupation of new territories.
- A large, manpower-intensive army with unusable armour formations would then also come into focus.
- Even the proposed air defence command conflicts with the domain command in the seamless employment of airpower.
- It is due to the absence of such an intellectual exercise that the IAF does not wish to see its limited resources scattered away in fighting defensive battles by a land force commander with little expertise.
- The Army fails to realise that offensive air power is best not seen, busy keeping the enemy air force pinned down elsewhere as shown in 1971.

The Army-Air Force silo

- Historically, the Indian Army has always kept the IAF out of the information loop and demonstrated a penchant to go it alone.
- The charge that the IAF joined the party late during Kargil (1999) is also totally baseless and shows a lack of knowledge of events and a failure to learn from historical facts.
- Recorded facts and a dispassionate view would clearly show that the IAF began conducting reconnaissance missions as soon as the Army just made a request for attack helicopters.
- This despite the IAF pointing out the unsuitability of armed helicopters at these altitudes and their vulnerability.
- The use of offensive air power close to the Line of Control also required that the political leadership be kept informed due to possibilities of escalation, something that the Army was unwilling to do.

Echoes from Kargil

- Seen in this light, the Chinese incursion into Eastern Ladakh last year is reminiscent of Kargil.
- While the response has been swift, it is evident that a clear intent to use combat air power, as against 1962, has significantly contributed in deterring China.
- However, such intent and a joint strategy would have been forcefully signalled by the presence of air force representatives in the ongoing negotiations to restore status quo ante.
- The continuing build-up of the infrastructure for the PLA Air Force in Tibet further emphasizes the need for an air-land strategy, with air power as the lead element to deter or defeat the Chinese designs at coercion.

National security strategy should be at the centerstage

- If war is the continuation of politics by other means, then it is essential to first define the political objectives flowing into a national security strategy before any effective use of force can be truly contemplated.
- The failures of the mightiest militaries in Vietnam, Afghanistan, and even our own Indian misadventure in Sri Lanka bear testimony to the lack of clear political objectives and appropriate military strategies.
- It is, therefore, unfortunate that even after over seven decades after Independence, India still does not have a clearly articulated national security strategy.

Address the structural gaps

- Finally, theatre or any lower structure requires an institutionalized higher defence organization, which has been sadly missing.
- This has led to little regular dialogue between the political and military leadership, except in crises resulting in knee-jerk responses.
- This led to a remark from a scholar-warrior that, it is ironic that the Cabinet has an Accommodation Committee but not a Defence Committee.

- In the current proposal, it appears that the CDS, as the permanent chairman of the Chiefs of Staff Committee (CoSC), would also exercise operational control of the theatre/functional commands.

Way forward

- Prudence demands that instead of ramming down such structures without adequate deliberations and discussions with all stakeholders.
- We need to first evolve appropriate military strategies in a nuclear backdrop in concert with the political objectives.

- Thereafter, joint planning and training for all foreseen contingencies, with war-gaming, would automatically indicate the required structures with suitable command, control and communications.

Conclusion

- We must remember that in war there is no prize for the runner-up.
- It is better that such objections and dissenting opinions come out now before the structure is formalized than once it is set in stone.
- The nation would then end up paying a heavy price, with the Air Force carrying the burden and blame for the failures.

NEED FOR COORDINATED DATABASE FOR TRACKING FUGITIVES

Need for coordinated database for tracking fugitives

Security Issues | GS3: External State & Non-State Actors: Challenges To Internal Security.

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Crime and Criminal Tracking Network and Systems and the National Intelligence Grid

Mains level : Paper 2- Need for a coordinated database of fugitives

Context

India lacks a domestic tracking system for fugitives. That makes it easier for them to evade the criminal justice system.

Challenges at investigation and prosecution level

- Central agencies have developed reasonable expertise in **investigation and prosecution** because they **are focussed only on investigation and prosecution work**.
- On the other hand, State police forces (except specialised wings) are **engaged in law-and-order work** as well as investigations.
- The bulk of the investigation and prosecution work happens at police stations in the States.
- There is a tendency to **close investigations once the accused have absconded**.
- Some police stations do initiate **proceedings for attachment of property** and declaration of the accused as proclaimed offenders, but the number of cases where coordinated efforts are made **to pursue fugitives domestically or internationally** are hardly documented.

No system for tracking criminals domestically

- Through **Interpol Notices** and the sharing of immigration databases of different countries, there exists a system of tracking criminals worldwide.
- However, there is **no coordinated system or database for tracking criminals** or wanted persons domestically in India.
- In the absence of such a system, it is relatively easy for criminals from one police station/jurisdiction to melt into the population in any other area, almost undetected.

Way forward

- The creation of a **nationwide database of wanted persons**, which could be accessible for police agencies, the public and others is needed.
- A **nation-wide system of Wanted Persons Notices**, similar to Interpol Notices, is required, to help track fugitives domestically.
- The **Crime and Criminal Tracking Network and Systems** and the **National Intelligence Grid** are efforts in the right direction/
- Countries like the U.S. have functional **inter-State extradition** and fugitive tracking systems.
- India needs to set up such dedicated **fugitive tracking units**.
- There needs to be **enhanced integration** between immigration agencies, **State police agencies, Interpol-New Delhi, the External Affairs Ministry and Home Ministry** and central investigation agencies.
- Sharing India's wanted database or providing access to it to foreign embassies on a **reciprocal basis** or through treaties or arrangements would also be helpful.
- **Signing of more bilateral and multilateral conventions** on criminal matters would help plug legal infirmities.
- Signing bilateral agreements on **cooperation in policing matters** would also help.
- All relevant legal processes and requirements should be **incorporated into one consolidated law** on international cooperation.
- The entire gamut of activities pertaining to fugitives, from investigation to extradition, needs to be incorporated into a specialised set-up.

Conclusion

In the absence of a coordinated database, criminals can go undetected. What we need is an airtight system that would deter criminals from hoodwinking the law.

Back2Basics: Crime and Criminal Tracking

Network and Systems (CCTNS)

- CCTNS aims at creating a comprehensive and integrated system for enhancing the efficiency and effective policing at all levels and especially at the Police Station level.
- It aims at adoption of principles of e-Governance, and creation of a nationwide networked infrastructure for evolution of IT-enabled state-of-the-art tracking system around "investigation of crime and detection of criminals" in real time.
- It is a critical requirement in the context of the present day internal security scenario.
- The scope of CCTNS spans all 35 States and Union Territories and covers all Police Stations (15,000+ in number) and all Higher Police Offices (6,000+ in number) in the country.

- The CCTNS project includes **vertical connectivity of police units** (linking police units at various levels within the States - police stations, district police offices, state headquarters, SCRB and other police formations and States, through state headquarters and SCRB, to NCRB at GOI level) as well as **horizontal connectivity**, linking police functions at State and Central level to external entities.

National Intelligence Grid (NATGRID)

- First conceptualised in 2009, NATGRID seeks to become the one-stop destination for security and intelligence agencies to access database related to immigration entry and exit, banking and telephone details of a suspect on a secured platform.
- All State police are mandated to file First Information Reports (FIR) in the CCTNS.
- It is only a repository and the data pertaining to FIRs of a particular police station are a State subject.

INDIAN ARMY UPDATES

Challenging China

Security Issues | GS3: Various Security Forces, Agencies & Their Mandates

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Gulf of Hormuz

Mains level : Paper 3- Leveraging advantageous geography to counter China

Context

The Chinese are about to extend their geographical advantage by building a new high-speed rail from Chengdu, running close by and parallel to the Arunachal border, up to Lhasa.

Manpower and Defence Budget: Comparison with China

- The Indian army, according to diverse sources, numbers between **12,50,000 and 14,00,000 officers and men**.
- Chinese PLA actually has only 9,75,000 officers and men.
- They have **downsized their army**.
- China is an aspiring world power that spends **\$252 billion** on its defence budget, as compared to **\$72.9 billion that India spends**.
- Both countries limit their budget to around **2 per cent of their GDP**, which in China's case is five times our size.

Why does India need to reduce manpower in defense?

- **Expensive:** A major portion of the budget is spent on manpower, 81 percent of the army budget goes into manpower and maintenance. Gradually, manpower is going to get increasingly expensive.
- Also, our strategic options get constrained because the **army gets 61 percent of the defense budget**.

- We need to downsize the army by 2,00,000 men over five years through retirement and reduced recruitment.
- The reduction in manpower will save approximately Rs 30,000 crore, which can be equally divided between the three services.

Way forward: Bigger role to navy and air force

- We can achieve better **conventional deterrence** against China by giving bigger roles to the navy and air force.
- The first step is to accept that we are an asymmetric power and leverage the **RMA (Revolution in Military Affairs)** so that numerical inferiority is of no consequence.
- They are invulnerable on land, and their only strategic weakness is their reliance on the Indian Ocean **SLOCs** (sea lines of communications) for **70 percent of their imported oil**.
- India can also leverage the QUAD resources in various ways such as information.
- Build up the Car Nicobar airfield into a full-fledged airbase.
- We could negotiate with Oman for the use of the old RAF airbase at Masirah to dominate the Gulf of Hormuz and threaten the **Chinese base at Djibouti**.

Conclusion

China cannot be countered by throwing expensive manpower at the problem, but only by shifting the battlespace to advantageous geography, by a united navy and air force effort, while a technically advanced army holds the Himalayan border.

Getting India's military jointness formula right

Security Issues | GS3: Various Security Forces, Agencies & Their Mandates

Note4Students | From UPSC perspective, the following things are important :

Prelims level : The Andaman and Nicobar Command

Mains level : Paper 3- Jointness in armed forces

Context

The Chief of Defence Staff General Bipin Rawat's recent description of the Indian Air Force (IAF) as a supporting arm and the IAF chief Air Chief Marshal R.K.S. Bhadauria's rebuttal highlights a turbulent journey marking the reorganisation process of the armed forces.

Issues before IAF

- The IAF is warning against splitting it into packets.
- Reports suggest that counting even ageing aircraft, the IAF is 25% short on fighter squadrons.
- A pan service shortage of about 400 pilots, almost 10% of their authorised strength, further aggravates this.
- Therefore, the IAF has a point when it warns against splitting assets, for, there may be nothing much to split.

Way forward

- **Confidence building**: A common understanding of the nuances of military airpower is the key.
- With the experience of operating almost every kind of aircraft the IAF operates, the naval leadership **understands air power**.
- This applies to the Indian Army too, in its own way.
- **Confidence needs to be developed** that rightly staffed apex joint organisations can draw up professional operational plans for air power.
- **Enhancing military education**: Confidence building will need some effort in the short term towards enhancing **professional military education** though, at the staff level.
- **Analysis before implementation**: Major reorganisations must strictly follow the sequence of written concepts, their refinement through consultation, simulation or table top war gaming, field evaluation and final analysis before implementation.
- This would help **address command and control**, asset adequacy, individual service roles, operational planning under new circumstances and the adequacy of joint structures.
- Who gets to lead what also matters.
- The Western Command between the Indian Army and the IAF, the Northern Command with the Indian Army, Maritime Command with the Indian Navy and the Air Defence Command with the IAF may be an acceptable formula.

Why jointness?

- With dwindling budgets, a steadily deteriorating security situation and the march of technology, **the armed forces understand the need to synergise**.

Challenges

- **Challenges in co-existence**: Different services do not co-exist well where they are colocated.
- Bitter fights over land, buildings, facilities, etc. harms **optimal operational synergising**.
- **Allocation challenge**: Then there is the issue of giving each other the best, or of wanting to be with each other.
- **Lack of operational charter** : The Andaman and Nicobar Command suffered from the lack of a **substantial operational charter**, and the services not positioning appropriate personnel or resources there.
- **Lack of interest in joint tenure**: As a joint tenure did not benefit career, **no one strove for it**.
- The U.S., when faced with the same problem, **made joint tenures mandatory for promotions**.

Steps to be taken

- **Security strategy**: We need a comprehensive **National Security Strategy** to guide the services develop capacities required in their respective domains.
- **Professional education**: We need to transform **professional education** and inter-service employment to nurture genuine respect for others.
- **Mutual resolution of difference**: The armed forces must **resolve their differences among themselves**, as the politicians or bureaucrats cannot do it.
- **Quality staff**: **Good quality staff, in adequate numbers**, at apex joint organisations, will help to reassure individual services and those in the field that they are in safe hands.
- **Tailored approach**: There is need for the acceptance of the fact that what works for other countries need not work for us.

Conclusion

We may need tailor-made solutions which may need more genuine thinking. For genuine military jointness, a genuine convergence of minds is critical

Theatre Command under Chief of Defence Staff is not a good idea

Security Issues | GS3: Various Security Forces, Agencies & Their Mandates

Note4Students | From UPSC perspective, the following things are important :

Prelims level : CDS

Mains level : Paper 3- Issues with creation of theatre commands

Context

The government is reportedly planning to re-organise the military into a theatre command under the chief of defence staff (CDS) in which the assets of the Air Force will be split into four and distributed among four operational theatres.

Background of the creation of CDS

- In 2012, the **Naresh Chandra Committee** suggested the creation of a CDS, which would take on overall functions of the chairman, chiefs of committee as well as the responsibilities pertaining to **centralised planning, induction, training, intelligence and logistics**.
- Operations, according to the committee's suggestion, would continue to be managed by the respective chiefs of staff.
- However, sometime in 2016-17, this idea was modified to **organise the operational assets of the three services into four theatre commands**, all of which are now proposed to be brought under the CDS.

Issues with creating theatre command by dividing Air Force

- **Professional leadership is critical in support elements:** The Air Chiefs professional leadership of the Air Force is crucial to orchestrate a variety of support elements like aerial tankers, AWACS (Airborne Warning And Control Systems), AEW, Heliborne support and UAVs in an offensive operation.
- **Lack of in-dept understanding:** A land theatre command, if given power over the air elements, may not have the confidence to launch such a mission because of the **lack of in-depth understanding** of the organisational complexity and the risks involved.
- **Dilution of assets may harm effectiveness:** Dilution of the combat assets of the Air Force, a 30-squadron force consisting of five or six types of aircraft, might severely affect mission-effectiveness.

- **Role of CDS:** It is extremely doubtful if the CDS can cope with the enhanced responsibilities that include operations, albeit through the theatre commanders.
- That would leave only training, maintenance, and support under the chiefs of staff a gross **under-utilisation of the operational leadership** built over 40 years.
- **Resource limitations** : Forming a separate air defence command for the air defence of the entire nation seems an impractical idea considering our **resource limitations**.
- **Current arrangement functioned effortlessly:** The current arrangement of a decentralised air defence organisation managed by Air Force geographical commands has **functioned faultlessly**.
- **Flexibility:** The existing structures afford **better flexibility**.
- There will be **significant expenditure** to construct the operational infrastructure of the theatre commands.
- **Timing:** We are trying to effect changes at a time the military is deployed actively.
- The Chinese have dug in hard, and we do not yet know their strategy.
- To divide the Air Force into four units at this moment is inadvisable.

Way forward

- **White paper:** There is **no white paper** on the advantages of the theatre commands or one listing the merits of the CDS donning the mantle of the operational head of the entire military operation.
- So, a white paper on these aspects could clear the air over the utilities of such moves.
- **Joint planning is a must**, but operations are best undertaken by individual services who know what other services are doing and when.

Conclusion

Splitting the asset of the Air Force would result in dilution of its power and is not advisable at the current juncture.

SCIENCE TECH
ART CULTURE

The epoch of cyberweapons

Science Tech Art Culture | GS3: Cyber Security

Note4Students | From UPSC perspective, the following things are important :

Prelims level : Zero day vulnerability

Mains level : Paper 3- Cyberwarfare-Fifth dimension

Context

The controversy over the use of Pegasus spyware for snooping highlights the threats posed by cyber-weapons.

The emergence of cyber weapons epoch

- Cyberattacks on institutions such as banks and on critical infrastructure have proliferated to an alarming extent, signalling the emergence of the cyber weapon epoch.
- **Privacy has been eroded** and the Internet has become a **powerful weapon** in the hands of those seeking to exploit its various facets.
- **Fifth dimension of warfare**: Cyber is often touted as the fifth dimension of warfare in addition to land, sea, air and space.

The domain of everyday life

- Cyber, as the **domain of military and national security**, also co-exists with **cyber as a domain of everyday life**.
- The war is no longer out there.
- It is now directly inside ones drawing-room, with cyberweapons becoming the weapon of choice.
- Israelis today dominate the cyber domain along with the Chinese, Russians, Koreans and, of course, the Americans.
- The linkage between **sabotage and intrusive surveillance** is but a short step.

Cyberattacks during the past decades

- Beginning with the 2007 devastating cyberattack on Estonias critical infrastructure, this was followed by the **Stuxnet worm attack** a few years later on **Irans nuclear facility**.
- The Shamoon virus attack on Saudi Aramco occurred in 2012.
- In 2016, a cyberattack occurred on Ukraines State power grid; in 2017 there was a Ransomware attack (**NotPetya**) which **affected machines in as many as 64 countries**.
- United Kingdoms National Health Service fell prey to **Wannacry** attack the same year/
- The series of attacks happened this year on Irelands Health Care System and in the United States such as SolarWinds, the cyber attack on Colonial Pipeline and JBS, etc.

What are the threats posed by cyberattacks?

- Cyberweapons carry untold capacity to **distort systems and structures** civilian or military.
- Cyberweapons also interfere with **democratic processes**, aggravate domestic divisions and, above all, unleash forces over which established institutions or even governments have little control.

- As more and more devices are **connected to networks**, the cyber threat is only bound to intensify, both in the short and the medium term.
- What is especially terrifying is that instruments of everyday use can be **infected or infiltrated without any direct involvement of the target**.
- The possibilities for misuse are immense and involve far graver consequences to **an individual, an establishment, or the nation**.
- It is not difficult to envisage that from wholesale espionage, this would become something far more sinister **such as sabotage**.

Way forward

- **Deeper understanding**: Dealing with **zero day vulnerabilities** require far more thought and introspection than merely creating special firewalls or special phones that are detached from the Internet.
- **Recognising the mindset**: What is needed is a deeper understanding of not only cyber technologies, but also **recognising the mindsets** of those who employ spyware of the Pegasus variety, and those at the helm of companies such as the NSO.
- Short-term remedies are **unlikely to achieve desired results**.
- **No use of AI: Artificial Intelligence (AI)** is often seen as a kind of panacea for many of the current problems and ills, but all advances in technology tend to be a double-edged sword.
- If truth be told, AI could in turn make all information warfare including cyber related **almost impossible to detect, deflect or prevent**, at least at the current stage of development of AI tools.

Conclusion

All this suggests that security in the era of ever-expanding cyberweapons could become an ever-receding horizon.

Back2Basics: Zero-day vulnerability

- The term zero-day refers to a **newly discovered software vulnerability**.
- Because the developer has just learned of the flaw, it also means an **official patch or update to fix the issue hasnt been released**.
- So, zero-day refers to the fact that the developers have zero days to fix the problem that has just been exposed and perhaps already exploited by hackers.