



7 PM COMPILATION

1st - 14th November, 2020

Features of 7 PM compilation

- ❖ Comprehensive coverage of a given current topic
- ❖ Provide you all the information you need to frame a good answer
- ❖ Critical analysis, comparative analysis, legal/constitutional provisions, current issues and challenges and best practices around the world
- ❖ Written in lucid language and point format
- ❖ Wide use of charts, diagrams and info graphics
- ❖ Best-in class coverage, critically acclaimed by aspirants
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The issue of Demographic Dividend in India | Nov. 10th, 2020

In News: India can achieve the goal of self-reliance (AtmaNirbharta) by enhancing the capability of youth.

About Demographic Dividend:

- According to the United Nations Population Fund (UNFPA), demographic dividend means the economic growth potential that can result from shifts in a population's age structure. The change in age structure is typically brought on by a decline in fertility and mortality rates.
- India has one of the youngest populations (62.5% of its population in the age group 15-59) in an aging world.
- The demographic dividend leads to an increased labor supply that will increase the production of goods and boost savings and investment on the other.
- **The first demographic dividend occurs** during the demographic transition process, when the working-age population increases as a share of the total population, and the percentage of both young and old dependents decreases.
- **The second demographic dividend results** from an increase in adult longevity, which causes individuals to save more in preparation for old age. This increase in savings can thus contribute to capital accumulation and economic growth.

Major findings of the United Nations Population Fund (UNFPA) on demographic dividend:

- **Demographic dividend phase in India:** Report says the availability of demographic dividend in India, started in 2005-06 and will last till 2055-56 based on the following facts:
 - **India's Population structure:** Close to 30% of India's population is in the age group 0-14 years. The elderly in the 60-plus age group is still a small proportion (8%) of the country's population. The working-age group 15-59 years accounts for 62.5% of India's population. The working-age population will reach the highest proportion of approximately 65% in 2036.
 - **Regional variations in the degrees and timings of fertility decline:** Reports also highlight that demographic dividend is not available in all the states at the same time because Northern states are predominantly youthful whereas southern and western states are maturing.

Steps to be taken

- India has just a decade's time to realize the youth demographic dividend. So, the country **should launch an Indian Youth Guarantee (IYG) program.**
- **The European Union Youth Guarantee (EU-YG) launched a similar programme** in 2010 at a time when youth unemployment rates were soaring above 20%.
- In order to **ensure the gainful and productive engagement of youth**, the functioning of an Indian youth Guarantee (IYG) initiative as an implementing framework with legal backing could help.
- **Youth Component Plan:** the plan could help in allocating budgetary resources under a separate head on the lines of the **Special Component Plan for the Scheduled Castes and the Tribal Sub-Plan.**
- **IYG's goal:** young people graduating from college or losing a job either find a good quality job suited to their education and experience or acquire skills required to find a job through an internship within a fixed time period.
- The district administration and local bodies should be incorporated by IYG for more effective outcomes.

- Existing youth schemes and skilling infrastructure need to be merged and modernised.
- The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)** has been very effective in providing rural livelihood security and social protection yet only about 4% of youth in the labour force have been impacted by it.

Dissatisfactory status of Indian youth

- According to the 2018 State of Working India Report the youth unemployment rate is at least 18.3% (3.47 crore youths)
- About 30% of youth fall under the 'neither in employment nor in education' category and 33% of India's skilled youth are unemployed
- The CMIE estimated a loss of 14 crore jobs in April alone of which 2.7 crores concerned youth.
- 50 lakh youth are expected to be entering the workforce annually.

- Implementation of rural youth employment program alongside MGNREGA:** Even though an urban youth employment program will be a new involvement, the rural youth employment should be instituted alongside MGNREGA.

Demographic dividend can be a demographic disaster:

- The growth benefit of a demographic dividend is not automatic. Much depends on whether the increase in working population can be trained, and enough jobs created to employ the 10 million more people who will join the labour force every year.
- Substitute existing jobs:** While digital technologies may enable the creation of new products and more productive jobs, they may also substitute existing jobs.
- Lack of skills:** India may not be able to take advantage of these opportunities, due to a low human capital base and lack of skills.

The youth development Index

- The Youth Development Index (YDI) in India serves as an advisory and monitory tool for youth development and helps recognize priority areas, gaps, and alternative approaches specific to each State.
- YDI can be revisited and deployed to play a vital role in crafting a region-specific IYG.
- Lack of jobs combined** with a demographic dividend will increase the share of the population that is dependent on the working population increasing the economic insecurity of the elderly, as there will be fewer people generating wealth.

Why India should focus on demographic dividend?

- Economic growth:** Better economic growth brought about by increased economic activities due to a higher working-age population and lower dependent population. The demographic dividend has historically contributed up to 15 % of the overall growth in advanced economies.
- To become a super power globally:** Demographic dividend has historically contributed up to 15% of the overall growth in advanced economies. For instance, Japan was among the first major economies to experience rapid growth because of the changing population structure and emerge as an economic superpower.
- Effective policymaking:** Fine-tuning of the planning and implementation of schemes and programs by factoring in population dynamics is likely to yield greater socio-economic impact and larger benefits for people.

- **Human capital of the world:** With more than 65% of the working-age population, India will rise as an economic superpower, supplying more than half of Asia's potential workforce over the coming decades.

Various opportunities related to the demographic dividend in India:

- **Labour supply:** The first benefit of the young population is the increased labour supply, as more people reach working age. However, the magnitude of this benefit depends on the ability of the economy to absorb and productively employ the extra workers.
- **Capital formation:** As the number of dependents decreases individuals save more. This increase in national savings rates increases the stock of capital in developing countries and provides an opportunity to create the country's capital through investment.
- **Female Human capital:** A decrease in fertility rates result in healthier women and fewer economic pressures at home. This provides an opportunity to engage more women in the workforce and enhance human capital.
- **Economic growth:** Another opportunity is produced by increased domestic demand brought about by the increasing GDP per capita and the decreasing dependency ratio. This leads to demand-driven economic growth. Growth, education, better economic security, and a desire for more durable goods are the cause and consequence of young demographics.
- **Infrastructure:** Increased fiscal space created by the demographic dividend enables the government to divert resources from spending on children to investing in physical and human infrastructure.
- **Skilled workforce:** Most sectors of the Indian economy would require a more skilled workforce than the present. It would be both a challenge and an opportunity for India to provide its workforce with the required skill sets and knowledge to enable them to contribute substantially to its economic growth.
- **Migration:** It presents some opportunities that can arise from having demographic changes, particularly the demographic dividend and interstate migration to overcome labor shortage in some parts.

Challenges of demographic dividend in India:

- **Enhancing human capital:** According to ASSOCHAM, only 20-30 % of engineers find a job suited to their skills. Thus, a low human capital base and lack of skills is a big challenge.
- **Low human development:** India ranks 130 out of 189 countries in UNDP's Human Development Index, which is shocking. Life expectancy at birth in India (68 years) is much lower than in other developing countries.
- **Informal economy:** Informal nature of the economy in India is another challenge in reaping the benefits of demographic transition in India.
 - Nearly 216 million people are engaged in the agriculture sector, are in the informal economy where not only they earn lower wages, but with little social security and few days of employment in a year.
- **Jobless growth:** There is a mounting concern that future growth could turn out to be jobless due to deindustrialization, de-globalization, the fourth industrial revolution, and technological progress. As per the NSSO Periodic, Labour Force Survey 2017-18, India's labour force participation rate for the age-group 15-59 years is around 53%, that is around half of the working-age population is jobless.
- **Asymmetric demography:** The growth in the working-age ratio is likely to be concentrated in some of India's poorest states and the demographic dividend will be

fully realized only if India is able to create gainful employment opportunities for this working-age population.

- **Issue of tilted sex ratio:** Declining female labour force participation: According to data from the International Labour Organization and World Bank, India's female labor force participation rates have fallen from 34.8% in 1990 to 27% in 2013. Without women's participation, India can't dream of reaping the demographic dividends.

Way Forward:

- **For states with less scope:**
 - UNFPA backs a differential approach in forward-looking policymaking and program planning to join the demographic dividend opportunity in those states where the windows for opportunity are closing soon.
 - The focus in the states where the demographic dividend window is yet to open will have to be threefold such as addressing harmful practices such as child marriage, access to quality sexual and reproductive health services and family planning services to all, and provisioning of health, education, life, and vocational skills to all the young people.
- **Good governance:** Effective avenues for citizen input, well-functioning institutions, respect for the rule of law, low level of corruption, respect for property rights, the sanctity of contracts, etc. are important aspects of good governance that enable the equal opportunity to all.
- **Building human capital:** Investing in people through healthcare, quality education, jobs, and skills helps build human capital, which is key to supporting economic growth, ending extreme poverty, and creating a more inclusive society.
- **Skilling:** India's labour force needs to be empowered with the right skills for the modern economy. Government has established the National Skill Development Corporation (NSDC) with the overall target of skilling/ up-skilling 500 million people in India by 2022.
- **Academic-industry collaboration:** Will help to synchronize modern industry demands and learning levels in academics.
- **Education:** Enhancing educational levels by properly investing in primary, secondary, and higher education. India, which has almost 41% of the population below the age of 20 years, can reap the demographic dividend only if with a better education system.
- **Health:** Improvement in healthcare infrastructure would ensure a higher number of productive days for the young labor-force, thus increasing the productivity of the economy. The success of schemes like Ayushman Bharat and the National Health Protection Scheme (NHPS) is necessary. Also, the nutrition level in women and children needs special care with effective implementation of the Integrated Child Development (ICDS) program.
- **Job Creation:** The nation needs to create ten million jobs per year to absorb the addition of young people into the workforce. Promoting businesses' interests and entrepreneurship would help in job creation to provide employment to the large labor force.
- **Urbanisation:** Schemes such as Smart City Mission and AMRUT needs to be effectively and carefully implemented.

SC stayed the EC decision on the Star Campaigner | Nov. 3rd, 2020

Supreme Court stayed EC decision on Star Campaigner Status.

Supreme Court in a recent judgment **stayed the Election Commission's October 30 order**, canceling the 'star campaigner' status of former Madhya Pradesh Chief Minister Kamal Nath.

Before cancellation of the status Election Commission had issued a written warning to the former CM for his remarks on an opposition leader.

About the SC judgment

SC in its judgment said the **Election Commission had no power to determine who should be 'star campaigner' of a political party.**

As per the petition, Section 77(1) of the Representation of People Act, 1951 read with Guidelines for Star Campaigners issued by the Election Commission, from time to time, makes selection/revocation of 'star campaigners the sole prerogative of the political party.

Who is a star campaigner?

A star campaigner is a famous personality campaigning in an election for a political party, who can be a politician, or even a film star, and is famous among the general public. There is no law governing who can or cannot be made a star campaigner.

They are nominated by the concerned political parties specifying their constituencies and duration of the status.

Is there any law or guidelines governing star campaigners?

There is neither any strict law governing who can or cannot be made a star campaigner nor the definition of 'star campaigner'. However, EC after the announcement of polls issues guidelines for the Model Code of Conduct that regulate poll campaigns by candidates.

Under **Section 77 of the Representation of the People Act, 1951**, the word '**leaders of a political party**' has been used for the same.

As per guidelines:

- A 'recognized' party declared as such by the Election Commission – can nominate a maximum of 40-star campaigners.
- An unrecognized political party can nominate a maximum of 20 star campaigners.

Recently EC **revised the guidelines for star campaigners** in view of COVID safety norms.

As per the revision:

- The maximum limit on the number of star campaigners for recognized National/State political parties has been **reduced to 30 in place of 40.**
- For unrecognized registered political parties, the number has been **limited to 15 from 20.**

Read the Official EC document here**Model Code of Conduct (MCC)**

- The model code refers to a set of norms laid down by the Election Commission of India, with the consensus of political parties.
- MCC bears no statutory backing and remains unenforceable.
- It spells out the dos and don'ts for elections. Political parties, candidates, and polling agents are expected to observe the norms, on matters ranging from the content of election manifestos, speeches, and processions, to general conduct, so that free and fair elections take place.
- The MCC is operational from the date that the election schedule is announced till the date that results are announced.

Why political parties appoint star campaigners?

As per the popular belief, star campaigners attract a large no. of voters compared to ordinary campaigners, but **it has more to do with the poll expenses than the fame of star campaigners.**

The Election Commission keeps a **tab on expenditure** incurred by individual candidates during campaign **Rs 70 lakh** for most states in one constituency by each candidate.

As per **Section 10A of the Representation of the People Act, 1951**, An incorrect account or expenditure beyond the cap can lead to disqualification for up to three years.

Expenditure incurred on electioneering by the star campaigner is not added to a candidate's poll expenditure giving him/her more leeway.

According to the Representation of People's Act, **these expenses will be borne by the political parties.** But there are few guidelines that are required to be followed:

- The star campaigner has to **stick oneself to general campaigning** for the political party.
- Entire campaign cost except expenditure incurred on traveling will be added to the candidate's election expenses **if star campaigner shares the stage with a candidate.** This applies even if the star campaigner seeks vote for the candidate taking his or her name.
- The expenditure incurred on the rally will be shared equally by the contestants **if more than one candidates share the stage with the star campaigner**
- If the candidates are not present but their posters or photographs have been displayed in their constituencies where a star campaigner holds a poll rally, the entire expense will be added to the election expenses of the contestants.

Guidelines for PM acting as a 'star campaigner'

- The MCC guidelines say when a **prime minister or a former prime minister** is a star campaigner, the expenditure incurred on security including on the bullet-proof vehicles **will be borne by the government** and will not be added to the election expenses of the party or the individual candidate.
- However, if **another campaigner travels with the prime minister** or a former minister, the **individual candidate will have to bear 50 percent** of the expenditure incurred on the security arrangements.

Reservation for locals in private jobs | 9th Nov. 2020

News: Haryana government has passed the bill for 75 percent reservation in private sector jobs for locals having Haryana domicile.

About Haryana State Employment of Local Candidates Bill, 2020

- Bill provides for a **75 per cent job quota for local people** in private sector jobs which offer a salary of less than Rs. 50,000 a month.
- It applies to private companies, societies, trusts, and partnership firms, among others, located in the state.
- It will be applicable to the new job openings only and won't affect the outsiders already working on the affected jobs.
- An exemption can be claimed by employers in the situation where an adequate number of local candidates with the desired skills, qualifications, and proficiency are not available.
- Penalty for non-compliance ranges from Rs. 10,000 to Rs. 50,000.
- Domicile certificate would be mandatory for the candidate seeking benefit under the law.

However, since the bill is against Article 14 and 19 of the Indian Constitution, it will require presidential assent.

Blue Collar jobs: The term 'blue-collar job' is used for the people involving a working-class person who performs manual labor that may involve skilled or unskilled labor.

White-Collar jobs: The term 'white-collar job' is used for tasks involving an office environment and may involve sitting at a computer or desk.

Pink Collar Jobs: It involved service workers whose labor is related to customer interaction, entertainment, sales, or other service-oriented work.

Other states with reservation for locals in private jobs

- **MP government** in 2018 made it mandatory to give 70% of jobs to locals. But this law was not implemented on the private companies as a whole. It provided for the reservation in companies availing financial and other facilities from the government.
- **Andhra Pradesh** became the first state to pass such a law in 2019. It reserved 75% private jobs across all categories in industrial units, factories, joint Ventures as well as Public-Private Projects.
- **Karnataka government** also approved a new industrial policy (2020-2025) in 2020. This policy to ensure jobs for locals with a minimum employment of 70 percent to Kannadigas on an overall basis and 100 percent in the case of Group D employees.

How states are providing reservation to locals?

States Reserving Jobs for Locals: Some states have been using the loopholes in the laws to reserve government jobs for locals:

- **Public Employment (Requirement as to Residence) Act:** Exercising the powers under Article 16(3), Parliament enacted the act aimed at abolishing all existing residence requirements in the states and enacting exceptions only in the case of the special instances of Andhra Pradesh, Manipur, Tripura, and Himachal Pradesh.
- **Language:** States have gone around the mandate of Article 16(2) by using language. States that conduct official business in their regional languages prescribe knowledge of the language as a criterion.
- This ensures that local citizens are preferred for jobs. For example, states including Maharashtra, West Bengal and Tamil Nadu require a language test.

- **Special protections under Article 371:** Some states have special protections under Article 371. Andhra Pradesh under Section 371(d) has powers to have “direct recruitment of local cadre” in specified areas.
- Regarding the violation of fundamental rights, the Haryana government states that while Article 16 talks about “public employment”, the Bill only pertains to “private sector employment”.

Implications of reservation in private jobs

Although recently many state governments have passed such laws, many states have tried implementing the quotas previously as well. But laws remained on papers only.

- In 1995, Gujarat introduced an 85% reservation for locals but could not enforce it.
- In 2008, Maharashtra introduced an 80% reservation for locals in industries that seek state incentives and tax subsidies.

However, all these steps proved to be unsuccessful due to various reasons:

Companies: Industry bodies such as Assocham have questioned the effectiveness of such steps due to the absence of talent pool required for skilled jobs.

- Moreover, companies look at their profits more than the welfare of locals, there is a likelihood that if such steps result in a reduction of profit of a company, it might consider moving out of that state.
- Ultimately, this step would discourage capital investment in the implementing state.

Threat to unity: This step would create friction among locals and non-locals in the implementing states and against the residents of that state in the other states.

Against constitutional provisions: As mentioned above, these laws are against the spirit of constitutional provisions (Article 16 and 19) that provide fundamental rights to Indian citizens to work anywhere in the country.

Constitution and judgments concerning reservation for locals

What does the Constitution say? Article 16 in the Constitution of India refers to equality of opportunity in government jobs.

- **Article 16(1):** It provides for equality of opportunity for all citizens in matters relating to ‘employment or appointment’ to any office under the State.
- **Article 16(2):** It provides that there cannot be any discrimination on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them.
- **Article 16(3):** It provides an exception by saying that Parliament may make a law “prescribing” a requirement of residence for jobs in a particular state. This power vests solely in the Parliament, not state legislatures.
- **Article 19(g):** Article provides the freedom to practise any profession, or to carry on any occupation, trade, or business.

Supreme Court Judgements:

- **Dr. Pradeep Jain v Union of India (1984):** The Supreme Court discussed the issue of legislation for “sons of the soil”. It expressed an opinion that such policies would be unconstitutional but did not expressly rule on it as the case was on different aspects of the right to equality.
- **Sunanda Reddy v State of Andhra Pradesh (1995):** The Supreme Court affirmed the observation in Pradeep Jain to strike down a state government policy that gave 5% extra weightage to candidates who had studied with Telugu as the medium of instruction.
- **In 2002, the Supreme Court invalidated** appointment of government teachers in Rajasthan in which the state selection board gave preference to “applicants belonging to the district or the rural areas of the district concerned”

- **In 2019, the Allahabad High Court** struck down a recruitment notification issued by the Uttar Pradesh Subordinate Service Selection Commission which prescribed preference for women who were original residents of the state.

Way forward

Encouraging employment and thinking of the betterment of the state is the job of state government in power, but it should not be at the cost of the economic development of the state. A country like the US has become a superpower by allowing migrants and talents from other countries to work with equal opportunity, the same rule applies to the states of any country. A state, attracting and encouraging talent from other state, is on the better position to become developed and promote welfare of its people, compared to the one making the process difficult.

Haryana government must look at the implications of such law on the thriving economy of the state and contribution of the outsiders in it and try to bring an alternative in the form of incentives to companies on skill development of locals.

SC/ST (Prevention of Atrocities) Act: New developments and Evolution

SC judgment on SC/ST (PoA) act

In this latest judgment related to the SC/ST Act, the Supreme Court has said:

- All types of intimidations or insults to persons belonging to Dalit or tribal communities will not be categorized as an offense under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
- **Only insults specifically intended to humiliate the victim for his caste should be tried under the SC/ST act.**

What was the case?

- Judgment was delivered in response to the hearing of an appeal filed by a person, booked under the Act for allegedly abusing a Dalit woman in her house.
- The court found that allegations against persons do not fulfill the basic ingredient under the Act that such humiliation should have happened in public view.
- Since the incident occurred within four walls in the absence of the public, he can be tried under ordinary criminal law but not under the SC/ST act.

Evolution of SC/ST (Prevention of Atrocities) Act, 1989

Constitutional Provisions

Article 17 of the constitution abolished the practice of untouchability. In line with the constitutional provisions under article 17 and Articles 14, 15, the untouchability (offenses) Act, 1955 was passed in parliament. In 1976, the act was renamed as protection of the civil rights act.

But due to the ineffectiveness of previous acts, 'Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989' was enacted.

SC/ST Act, 1989

Scheduled Castes and Tribes (Prevention of Atrocities) Act 1989, also known as the SC/ST Act, was enacted to protect the marginalized communities against discrimination and atrocities.

- The Act lists various offenses relating to various patterns or behaviors inflicting criminal offenses and breaking the self-respect and esteem of the scheduled castes and tribes community, which includes denial of economic, democratic, and social rights, discrimination, exploitation, and abuse of the legal process.
- Under section 18 of the act, provision for **anticipatory bail is not available to the offenders.**
- Any **public servant, who deliberately neglects his duties** under this act, is liable to punishment with imprisonment for up to 6 months.
-

SC/ST Prevention of Atrocities (Amendment) Act, 2015

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 was introduced to make the act more stringent with the following provisions:

- It **recognized more instances of "atrocities" as crimes** against SCs and STs.
- It provided for the establishment of exclusive special courts and special public prosecutors to try offenses under the PoA Act.
- Act **defined the term 'wilful negligence'** in the context of public servants at all levels, starting from the registration of the complaint to dereliction of duty under this Act.

- **If the accused was acquainted** with the victim or his family, the court will presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise.

2018 SC judgment

Supreme Court in its Kashinath Mahajan judgment, introduced the following safeguards to the accused under SC/ST act.

Key guidelines

- The bar on anticipatory bail under the Act need not prevent courts from granting advance bail if there is no merit in a complaint
- **“Preliminary enquiry” to be conducted in all cases before registration of FIRs.**
- The person can be arrested by an investigating officer, **only if the “appointing authority”** (in the case of a public servant) or **the SP** (in the case of others) approves such arrest.

2018 amendment to the Act

In 2018, in response to this dilution of the act and public uproar against it, Parliament introduced Section 18A to overturn safeguards introduced by the Supreme Court.

- Preliminary inquiry shall not be required for registration of a First Information Report against any person.
- No approval is required before the arrest of the accused under this act.
- It rules out any provision (Section 438 of the CrPC that deals with anticipatory bail) for anticipatory bail for the accused.

Prathvi Raj Chauhan case, 2020

In this case, the constitutional validity of section 18-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018 was challenged.

- In this case, a three-judge bench of the Supreme Court of India has upheld the Constitutional validity of section 18-A.
- pre-arrest bail should be granted **only in extraordinary situations** where a denial of bail would mean a miscarriage of justice
- Anticipatory bail can only be given in exceptional cases by Courts and not in every case.

How effective has been SC/ST act?

Following are some of the figures that raise questions over the effectiveness of the SC/ST PoA Act:

- **Increase in crimes:** As per the NCRB report, 2019, Crimes against members of Scheduled Castes and Scheduled Tribes communities increased by 7.3% and 26.5% respectively in 2019.
- **State-wise:** Uttar Pradesh has the most number of cases of crime against SCs – 11,829 cases, which is 25.8% of the total such cases in the country followed by Rajasthan with 6,794 cases (14.8% of all cases), Bihar (14.2%), and Madhya Pradesh (11.5%).
- **Conviction rate:** According to a status report on the implementation of the PoA Act, released by the National Dalit Movement for Justice (NDMJ), over the decade prior to 2018, the average conviction rate under (Prevention of Atrocities) Act for cases of atrocities against Dalits and Adivasis remained at 25.2% and 22.8% respectively.

What more should be done?

- **Registration of Cases:** Standard Operating Procedure (SoP) should be developed for filing and investigating cases so that there is no confusion or doubt among the investigators about the procedure to be followed.
- **Training and Capacity building** of judges, lawyers, and policemen is required in these types of cases
- **Prosecution:** Successful prosecution of genuine cases by the lawyers must be rewarded.
- **Research:** There is a requirement for research into the types of punishment, as an alternative to imprisonment that can prevent future crimes by individuals or communities.

Way forward

As signified in the figures above, Laws alone cannot realize the vision of our constitution-makers to make India a country where everyone has equal rights, opportunities, and access to justice, it is only one of the steps required.

It requires the educational and economic advancement of the backward communities like SCs and STs in India and educational reforms all over the country so that root cause of the discrimination can be dealt with.

NEW FCRA RULES AND ITS BACKGROUND | 12th NOV., 2020

Context: *Foreign Contribution Regulation rules, 2011 have been amended* by the Ministry of Home Affairs (MHA) with the notification of new FCRA rules.

- New rules require any organization that wants to register itself under the FCRA to have existed for at least three years.
- should have spent a minimum of Rs. 15 lakh on its core activities during the last three financial years for the benefit of society.
- Office bearers of the NGOs seeking registration under the Foreign Contribution (Regulation) Act must submit a specific commitment letter from the donor indicating the amount of foreign contribution and the purpose for which it is proposed to be given.
- Any NGO or person making an application for obtaining prior permission to receive foreign funds shall have an FCRA Account.

What is FCRA (Foreign Contribution Regulation Act)?

- **Foreign Contribution (Regulation) Act:** It is an act of Parliament enacted in 1976 and amended in 2010 to regulate foreign donations and to ensure that such contributions do not adversely affect internal security.
- **Coverage:** It is applicable to all associations, groups, and NGOs which intend to receive foreign donations.
- **Who cannot receive foreign donations?**
 - Members of the legislature and political parties, government officials, judges, and media persons are prohibited from receiving any foreign contribution.
 - However, in 2017 the FCRA was amended through the Finance Bill to allow political parties to receive funds from the Indian subsidiary of a foreign company or a foreign company in which an Indian holds 50% or more shares.
- **Registration:** It is mandatory for all such NGOs to register themselves under the FCRA. The registration is initially valid for five years and it can be renewed subsequently if they comply with all norms.
- **Purpose of Foreign contribution:** Registered associations can receive foreign contributions for social, educational, religious, economic, and cultural purposes. The filing of annual returns on the lines of Income Tax is compulsory.
- **Ministry of Home Affairs (MHA) New Rules:**
 - In 2015, the MHA notified new rules which required NGOs to give an undertaking that the acceptance of foreign funds is not likely to prejudicially affect the sovereignty and integrity of India or impact friendly relations with any foreign state and does not disrupt communal harmony.
 - It also said all such NGOs would have to operate accounts in either nationalized or private banks which have core banking facilities to allow security agencies access on a real-time basis.

Key provisions of FCR(Amendment), Act 2020:

- **Prohibition to accept foreign contribution:**
 - Include certain public servants in the prohibited category for accepting foreign contribution: These include: election candidates, editor or publisher of a newspaper, judges, government servants, members of any legislature, and political parties.
 - The Bill adds public servants to this list. Public servant includes any person who is in service or pay of the government or remunerated by the government for the performance of any public duty.

- **Transfer of foreign contribution:** Under the Act, foreign contribution cannot be transferred to any other person unless such person is also registered to accept foreign contribution.
- **FCRA account:** The Bill states that foreign contribution must be received only in an account designated by the bank as FCRA account in such branches of the State Bank of India, New Delhi. No funds other than the foreign contribution should be received or deposited in this account.
- **Definition of persons:** The FCRA 2010 allows the transfer of foreign contributions to persons registered to accept foreign contributions. The term 'person' under the Bill includes an individual, an association, or a registered company.
- **Regulation:** The Act states that a person may accept foreign contributions if they have obtained a certificate of registration from the central government or obtained prior permission from the government to accept foreign contribution. **The bill makes Aadhaar mandatory for registration.**
- **Restriction in utilisation of foreign contribution:** The Bill gives government powers to stop utilisation of foreign funds by an organization through a "summary enquiry".
- **Reduction in use of foreign contribution for administrative purposes:** The bill decreases administrative expenses through foreign funds by an organisation to 20% from 50% earlier.
- **Surrender of certificate:** The Bill allows the central government to permit a person to surrender their registration certificate.

Need for such amendments:

- **To monitor Misuse of funds:** In Parliament, the government alleged that foreign money was being used for religious conversions. For instance, in 2017, the government barred American Christian charity, Compassion International.
- **To prevent loss to the GDP:** An official report quantifying the GDP losses allegedly caused by environmental NGOs was prepared during the NPA period, indicating a foreign conspiracy against India.
- **To enhance transparency and accountability:** The annual inflow of foreign contribution has almost doubled between the years 2010 and 2019, but many recipients of foreign contribution have not utilised the same for the purpose for which they were registered or granted prior permission under the said Act.
- **To regulate NGO's:** Many persons were not adhering to statutory compliances such as submission of annual returns and maintenance of proper accounts.

Concerns associated with the recent amendments

- **Over-regulation of NGO:** New regulations put excessive conditions on civil society organizations, and educational and research institutions that have partnerships with foreign entities.
- **Lack of Consensus:** The amendments were not discussed with the stakeholder and passed with limited discussion in Parliament.
- **Against Constitutional rights:** According to the International Commission of Jurists, the new law is incompatible with international obligations and India's own constitutional provisions on rights.
- **Incompatible with international laws:** The United Nations Human Rights Council resolution on protecting human rights defenders says that no law should criminalize or delegitimize activities in defense of human rights on account of the origin of funding.

- **Discourage social work:** Thousands of NGOs serve extremely disadvantaged sections. Only presumption of guilt against them all, followed by control, restricts their scope of voluntary actions.
- **Selective barriers:** The over-regulation appears to be towards selected categories of global ideas and ideals such as environmentalism, human rights, and civil liberties.
- **Reduce investments and technology flow:** As a growing economy, India has been proactive in seeking global capital and technology. Strict rules governing FCRA will impact investments.
- **Against Indian cultural ethos:** Prime Minister has often cited the ancient Indian ethos of VasudhaivaKutumbakam as the framework for its global engagement. New rules do not go well with India's legitimate ambitions to be a global player.
- **Additional cost of compliance:** Every FCRA-registered NGO will have to open an FCRA-marked bank account with a designated branch of State Bank of India in New Delhi. Around 93% of FCRA NGOs are registered outside Delhi, and will now have to open a bank account in the capital.
- **Lowering the cap on administrative expenses:** The micro-management and cost structures vary from project to project. It is difficult for NGOs whose work revolves around advocacy rather than projects. In 2018-19, there were 1,328 NGOs whose administrative expenses exceeded 20% of their total foreign funds.

What can be the way forward?

- Delink religious propagation and conversions from the question of foreign funding.
- There are adequate laws against conversion by inducement. It cannot be decided against the touchstone of the source of funds, native or foreign.
- Seamless sharing of ideas and resources across national boundaries is essential to the functioning of a global community.
- The government must commit itself to the ancient Indian ethos of VasudhaivaKutumbakam as the framework for its global engagement and should not be hostile against the NGOs who criticize the government for their work.

Civil society's supplements government works and works at the grass-root level. Civil societies should not be discouraged unless there is reason to believe the funds are being used to aid illegal activities.

Indo-Pacific and India | 7th Nov. 2020

Although, the term Indo-Pacific has been used previously as well, “Indo-Pacific” is a fairly recent addition to the geopolitical lexicon. For almost a century, the term Asia-Pacific region was used for constructing policies and strategies of the west. This has changed in the second decade of the 21st century.

India’s concept of the Indo-Pacific region stretches from the western coast of North America to the eastern shores of Africa.

Evolution of Indo-Pacific Concept

With the rise of China and its efforts to dominate the region, the term has found its way into official documents such as national security strategies or defense white papers as well as into the rhetoric of the elite countries.

1. In 2007 the term found mention in the speech of **Japanese Prime Minister Shinzo Abe** in Delhi, where he called the Indian and Pacific Oceans as one common space.
2. In 2011, the term found mention in the speech **Hillary Clinton, the then US Secretary of State**, in the context of US ‘Pivot to Asia’, but not found mention in official documents.
3. In 2016, **Japanese PM Shinzo Abe, declared his Free and Open Indo-Pacific strategy**, to be the core of Japan’s foreign policy doctrine.
4. In November 2017, **US President presented his “vision” of a Free and Open Indo-Pacific (FOIP)** at the Asia-Pacific Economic Cooperation (APEC) summit. Since then the term “FOIP” has been enshrined in official documents of the US.
5. In 2018, French President Emanuel Macron speaks about France’s strategy for the Indo-Pacific.
6. **In June 2018**, India’s PM Modi presented **India’s concept of the Indo-Pacific region** at Shangri-La dialogue.

Although the geographical definition of the Indo-Pacific region is a bit different for these countries, all countries are on common ground with reference to the importance of a rules-based international order.

India’s concept of Indo-Pacific

The term “Indo-Pacific” is gradually replacing the previously common term, “Asia-Pacific”, which excluded India from its geographical extent.

The concept of Indo-Pacific for India was cleared by India’s PM Modi during the speech in 2018, in Shangri La Dialogue, Singapore.

India’s concept of Indo-Pacific includes: “inclusiveness”, “openness”, “ASEAN centrality” that is not directed against any country:

- **Openness:** A free, open, and inclusive order in the Indo-Pacific, based upon respect for sovereignty and territorial integrity of all nations, peaceful resolution of disputes through dialogue and adherence to international rules and laws.
- **Inclusiveness:** India’s concept of the Indo-Pacific is inclusive in nature, and supports an approach that respects the right to freedom of navigation and overflight for all in the international seas.
- **ASEAN-Centrality:** India’s Indo-Pacific vision is premised upon the principle of ‘ASEAN-Centrality’.

India’s approach is based on cooperation and collaboration, given the need for shared responses to shared challenges in the region.

Divergence in the conceptualisation of Indo-Pacific region and India-US concepts

The Indo-Pacific construct means different things to different people.

The divergences involve, among other things,

1. the extension of the Indo-Pacific as a geographical area,
2. the objectives associated with each respective concept,
3. the focus on or weighting of different policy fields within each respective concept,
4. the question of China's inclusion or exclusion

US concept of Indo-Pacific aims to contain China and is thus an expression of the growing strategic rivalry between Washington and Beijing. Whereas for India

For India, Indo-Pacific is the vast maritime space stretching from the western coast of North America to the eastern shores of Africa as highlighted by Prime Minister Narendra Modi at his keynote speech at the Shangri-La Dialogue in 2018. Whereas for US, it extends up to the west coast of India which is also the geographic boundary of the US Indo-Pacific command whereas

While the US does not consider China a part of its Indo-Pacific construct, India has gone to great length to highlight it as an inclusive construct for the whole region.

Importance of Indo-Pacific region

- **Growing Importance of India:** The popularity of the term Indo-Pacific over Asia-Pacific reflects the growing importance of India for the western developed countries in the region.
- **Maritime advantage against China:** It can be considered a reaction to the militarization of waters in the Indo-Pacific, the South China Sea (SCS) in particular, and the growing heft of the Chinese economy across Asia and Africa.
 - For India, growing maritime power in the Indo-Pacific region will provide it with a new weapon against China's misadventures on India's borders.
- **International Trade:** The Indo-Pacific ocean system carries an estimated 65 per cent of world trade and contributes 60 percent of global GDP. Ninety per cent of India's international trade travels on its waters.
 - The two-third container trade of the world passes through this region. The economies of many countries are dependent upon the Indo-Pacific sea routes for their trade and energy supply.
 - Many western countries including US are concerned due to shifting in the economic trajectory from the Atlantic to the Indo-Pacific and the rise of China has added to it.
 - That is why a country like Germany, physically distant but an economic stakeholder in the Indo-Pacific, has released a strategy for the region. After France and the Netherlands, it is the third European country to do so.
- **Natural Resources:** Maritime territories have emerged as depositories of vital resources ranging from fish stocks to minerals and offshore oil and gas. The South China Sea, for instance, is estimated to hold some 10% of the global fish resources as well as 11 billion barrels of oil and 190 trillion cubic feet of gas.

Steps taken by India to promote Indo-Pacific vision

Indo-Pacific Division: Ministry has recently set up an Indo-Pacific Division as well as an Oceania Division, and placed them under the same Additional Secretary level officer, which is a sign of India's commitment to this critical geography.

SAGAR: India's policy on maritime cooperation in the Indian Ocean Region (IOR) is based on the approach of SAGAR (Security And Growth for All in the Region). Under this doctrine,

India believes in an Indo-Pacific that is free, open, and inclusive, and one that is founded upon a cooperative and collaborative rules-based order.

Indo-Pacific Regional Dialogue (IPRD): IPRDs are being held for engaging the global strategic community in an annual review of India's opportunities and challenges in the Indo-Pacific region.

Indo-Pacific Oceans' Initiative (IPOI): Initiative was launched at the East Asia Summit held in Bangkok in 2019. IPOI draws on existing regional cooperation architecture and mechanisms to focus on seven central pillars conceived around

1. Maritime Security;
2. Maritime Ecology;
3. Maritime Resources;
4. Capacity Building and Resource Sharing;
5. Disaster Risk Reduction and Management;
6. Science, Technology and Academic Cooperation; and
7. Trade Connectivity and Maritime Transport.

The context of ASEAN centrality as envisaged in IPOI perfectly synergizes with India's Act East Policy, East Asia Summit, and Quad configuration.

Maritime exercises: India has taken part in many military exercises like Malabar naval exercises in the region. In the Malabar exercise, India, Australia, Japan, and the US naval forces participated.

Participation at international platforms: India has been an active participant in mechanisms like the Indian Ocean Rim Association (IORA), the East Asia Summit, and ASEAN Defense Ministers Meeting Plus.

All these engagements portray India's increasing involvement in the Indo-Pacific.

Challenges for India

- **Definition of the concept:** While the Indo-Pacific construct is the US-led maritime initiative and is yet to find the right direction amongst its partners, government change in the US, might prove fatal to this initiative.
- US concept of the Indo-Pacific region is not at all-inclusive, unlike India. US concept is based on its regional rivalry with China, whereas India won't like to present this concept as a mere China-centric, as clarified in its Indo-Pacific vision.
- It has actually been taken to heart by China which, in the meantime, has extended its naval footprint from Djibouti at the western extremity of the Indian Ocean where it has established a base to the eastern extreme of the western Pacific where it stakes a claim to the land and sea features.
- **India's weak economic presence:** For a politico-economic construct such as the Indo-Pacific to survive, there must be strong economic partnerships and linkages among its members. Merely focusing on strategic talk and possible military cooperation will not work because, at some point, the unavoidable economic logic will kick in.
 - India's economic engagements with the countries of the Indo-Pacific region remained insufficient due to domestic political considerations. Exiting from RCEP is one such example. On the other side, China has major economic relations with all the states except the US.
 - India's role in the Indo-Pacific will remain limited if it does not prove to be a major economic partner to the States in the region.
- **China's defense partnership:** China has become a major defence supplier to several of the region's states including Bangladesh, Myanmar, Sri Lanka, Indonesia, Malaysia, the Philippines, and Thailand.

Conclusion

India should not let the Indo-Pacific concept turn into a US-led concept directed against China, it has more long-term potential to become a strong regional economic alliance that will promote prosperity and peace in the region. Thus, rather than focusing on China's containment, the focus of the Indo Pacific initiative should be on connectivity, enhancing maritime security, counterterrorism, non-proliferation, and cyber issues.

ForumIAS

Custodial Violence in India | 13th Nov. 2020**What is Custodial Violence?**

- Custodial violence primarily refers to violence in police custody and judicial custody. It may be mental or physical in nature.

Types of Custodial Violence:

- *Physical:* This includes methods of physical torture on the victim
 - *Physiological:* It includes mental torture. For instance, depriving a person of food. It also includes threat and humiliation of the victim
 - *Sexual:* It is employed through rape/sodomy. It is directed towards the social and psychological harassment of the victims.
- Rape and torture are the two common manifestations of custodial violence which may turn out to be fatal and cause death.

State of custodial violence in India:

- According to the data published by The National Crime Records Bureau (NCRB), between 2001 and 2018, a total of 1,727 persons have died in police custody including those in judicial remand and those who have been arrested but not yet produced before the court.
- 75% of the people who died in police custody were tortured.
- Low conviction rate: Apart from custodial deaths, more than 2,000 human rights violation cases were also recorded against the police between 2000 and 2018. And only 344 policemen were convicted in those cases.

Challenges in curbing custodial violence

- **Absence of strong legislation:** India is yet to criminalize custodial violence. The available safeguards have proved insufficient to deal with issues of custodial violence.

State of prisons:

- There is a lack of facilities for medical, sanitation, security, and food in the prison.
- Further, a disproportionate ratio between crime rate and manpower makes the enforcement of laws difficult.
- India has failed to bring adequate prison reforms to curb the existence of police subculture and punitive violence.

Non-ratification of UN Convention against torture:

- The United Nations convention against torture in 1997 was signed by India but the country did not ratify it.
- While signing only indicates the country's intention to meet the obligations set out in the treaty, Ratification, on the other hand, entails bringing in-laws and mechanisms to fulfill the commitments.
- **Politicization of police:** The Police Act, 1861 which governs the Indian police system has no explicit provisions on the superintendence and general control and directions of police. This leaves the executive with a lot of power to control the law enforcement authorities as per vested interests.

Police brutalities: The instances of custodial violence point to the mindset of police authorities who believe in a sense of impunity by conducting such types of acts. This is further corroborated by the following facts revealed by NCRB:

- *Underreporting:* Only 810 of the 1700 cases of custodial violence were registered as

torture and the rest were put as suicide and death category.

- **Low conviction rate:** Between 2001 and 2018, no policeman was convicted for custodial deaths across the country except in the states of Madhya Pradesh, Chhattisgarh, Uttar Pradesh, and Odisha.

- **Provisions available to deal with custodial violence. Lack of police accountability:** The Prakash Singh guidelines of 2006 had recommended the constitution of an independent complaints authority to inquire into police misconduct. However, this has not been implemented by many states.

Poor witness protection regime:

- Investigations related to custodial killings often run into delays due to a lack of witnesses.
- The lack of strength in the institutional system to protect the witnesses result in the intimidation of the families of witnesses and thus, they turn hostile.
- Though a witness protection bill was introduced in 2015, it's yet to get a place in the statute books.

Constitutional safeguards:

- Article 20: Right to protection against the conviction of offenses.
- Article 21: Right to life and liberty.
- Article 22: Right to protection against arrest and detention in certain circumstances:
 - Being informed of the grounds of arrest.
 - To be defended by a legal practitioner of his choice.
 - Production in the nearest magistrate within 24 hours of the arrest.

Statutory safeguards :

- **Indian evidence act, 1872:** Section 25 mentions that a confession to a police officer cannot be proved as against a person accused of any offense.
- **Code of criminal procedure, 1973 (amendment in 2008):** Section 46 and 49 of the code protect those under custody, from torture, who are not accused of an offense punishable with death or life imprisonment.
- **Indian police act, 1861:** Section 7 and 29 of the Act provide for dismissal, penalty, or suspension of police officers who are negligent in the discharge of their duties or unfit to perform the same.
- **Indian penal code:** Section 330, 331, and 348 were enacted to curb the tendency of policemen to resort to torture to extract confessions.
- Judicial Pronouncements regarding custodial violence
- **K. Basu v. State of West Bengal, 1987:** Under this case, the Supreme Court of India observed that using torture is impermissible and offensive to Article 21.
- **Munshi Singh Gautam and others vs the State of Madhya Pradesh:** The Supreme Court ruled that the dehumanizing torture, assault in alarming proportions raise serious questions about the credibility of the rule of law and administration of the criminal justice system.
- **Rama Murthy v. State of Karnataka (1996):** The SC while upholding fundamental rights of prisoners identified 'Torture and ill-treatment' in prisons as an area that needs reform.
- **Nilabati Behera v. State of Orissa:** It ensured that the state could no longer escape liability in public law and had to be compelled to pay compensation.

Way forward

- Death due to custodial violence is a heinous act. India, being a flourishing democracy can undertake the following measures to address the issue:
- **DkBasu guidelines:** Implementing the 11-point guidelines mentioned in the DK Basu case by the Supreme Court.
- **Implementation of Law Commission of India's 273rd Report:** The report recommends that those accused of committing custodial torture – be it policemen, military and paramilitary personnel – should be criminally prosecuted instead of facing mere administrative action establishing an effective deterrent.
- **Implementing Prison reforms:** Prison reforms are required for ensuring humane conditions and security for the people in custody.
- **CCTV** cameras should be installed in police stations and in interrogation rooms.
- Introduction of a monetary body to keep an eye on the activities in the prison.

Police reforms:

- The adoption of an effective mechanism for police will enable police supervisory structures to reduce torture.
- Police reforms to include ethical policing.
- Implementing the recommendations of the Prakash Singh guidelines in letter and spirit.
- The need for the hour is that the government should ratify the United Nations Convention against Torture, which was also recommended by the Law Commission in its 273rd report.

Effectiveness of Monetary Policy in India | Nov. 11th, 2020

What is Monetary Policy?

- Monetary policy is the process by which the RBI controls the supply of money, often targeting an inflation rate or interest rate to ensure price stability.
- *Quantitative Instruments:* General or indirect (Cash Reserve Ratio, Statutory Liquidity Ratio, Open Market Operations, Bank Rate, Repo Rate, Reverse Repo Rate, Marginal standing facility and Liquidity Adjustment Facility (LAF))
- *Qualitative Instruments:* Selective or direct (change in the margin money, direct action, moral suasion).

Recent trends: RBI a few ago released its monetary policy report (MPR)

- **The repo rate** (the rate at which the RBI lends short-term funds to commercial banks) stands at 4.0 percent and the **reverse repo rate** (the rate at which the RBI borrows) stood at 3.35 percent.
- As per RBI, transmission to bank lending rates has improved as evident from the decline in the lending rate of banks on fresh loans.
- Rise in food Inflation owing to floods in eastern India, lockdown-related disruptions and cost-push pressure, etc.
- Global financial market volatility caused by the **impact of the COVID-19** is most likely to exert pressure on the Indian rupee.
- Real Gross Domestic growth will remain negative for the whole 2020-21 period.

Monetary Policy Committee:

The idea of MPC was mooted by **Urjit Patel Committee**.

Objective:

- To maintain price stability and accelerate the growth rate of the economy.
- Inflation targeting: RBI is supposed to ensure that retail inflation — measured by Consumer Price Index — stays at 4% level. However, the RBI has a margin of 2 percentage points either way.

Composition:

- The Monetary Policy Committee (MPC) is constituted by the Central Government as per Section 45ZB of the amended RBI Act, 1934.
- Monetary Policy Committee (MPC) is a 6-member committee. Three members are from RBI while three other members are nominated by the Government of India.
- Members from the RBI are the Governor who is the chairman of the MPC, a Deputy Governor and one officer of the RBI
- The government members are appointed by the Centre on the recommendations of a search-cum-selection committee.

- *Informal Indian economy:* The monetary policy affects only around 60% of loans/credit in the Indian economy which are sourced from formal channels (Banks and NBFCs).
- *Challenges to Monetary policy functions of RBI:*
- *Supply chain disruptions:* The MPC uses CPI inflation to adjust its policy rates. However, the CPI doesn't factor the rise in inflation driven by supply-chain dislocations. For example, restriction on movement resulted into a shortage of essentials.
- *Weak policy transmission:* Both the government and the RBI are concerned that the cumulative easing has not yet been reflected in the lowering of their lending rates by banks.

- *Limitation of Inflation targeting:* Inflation has been accompanied by declining borrowing in the formal sector likely affecting investment leading to rise in unemployment (according to NSSO, unemployment in India has been highest in the last 45 years).
- *Triangular balance-sheet:* In the aftermath of the IL&FS default in 2018, an additional dimension of liquidity and solvency of the NBFC sector has been added to the prevailing twin balance-sheet problem. Borrowing easy money cannot solve governance issues.
- *Gold economy:* The Indian household saves in gold/jewelry rather than financial instruments. This curtails RBI from effectively circulating money in the economy.

Is Inflation targeting a good policy?

Inflation targeting:

- It is a monetary policy strategy used by central banks to maintain inflation within a specific range.
- Narasimham (2000) and Rajan (2007) Committees recommended the implementation of inflation targeting in India.

Inflation targeting as a good policy

- It increases the transparency and credibility of the central bank consequently allowing it to carry out its monetary policy more effectively.
- It helps to stabilize inflationary expectations in an uncertain future.
- Increases the focus on domestic considerations and enables quick response to domestic economy shocks.

Limitations of Inflation targeting policy

- The policy doesn't address the sudden shocks in the economy and inefficient transmission mechanisms.
- Too much weight to inflation stabilization might prove detrimental to the stability of real economy and other growth objectives.
- Requirement of Number of preconditions like well-developed technical infrastructure for forecasting, modelling and data availability etc.
- India lacks suitable conditions for successful implementation of inflation targeting. For example, lack of adequately developed financial markets, confidence of global capital markets is low, independence of the RBI etc.
- Policy of inflation targeting will lead to highly unstable and inappropriate exchange rate.

Need for independent MPC:

- *To form credible governance policy:* RBI should be independent to decide on the precise corrective action for banks with high NPAs, the desirable state of liquidity and the prudential norms to be observed by banks.
- *To ensure low and stable inflation:* For instance, Governments use pro populist policy before elections to provide a short-term boost to growth. This often leads to long-term inflation.
- *Sustain Credit availability:* To ensure adequate flow of money and credit to required areas.
- *To prevent sudden appreciation and depreciation of currency.* For example, In Turkey lira had depreciated over 80% against the dollar in the 12 months due to government interference.
- *Sustainable Investments:* Independent MPC will boost the investors' confidence and will enhance credit ratings there by attracting more investments.

- *To avert crisis:* Mismanagement between fiscal and monetary policy led to increased Sovereign debt in developing economies. For Example, Greek Crisis.

Way forward:

- Develop a *legal process to ascertain RBI's responsibilities* and accountability.
- *Ensuring RBI's autonomy:* The governor should be made responsible and accountable to Parliament. The RBI act should be amended to provide a guaranteed tenure of the governor and deputy governors for their effective functioning.
- *Change in policy:* There is need to look at an indicator of inflation that **excludes** food and fuel and include structural factors responsible for price rise.
- *Cooperation between Government and RBI:* There should be mutual cooperation and coordination between RBI and Government in large at public interests for an efficient and sustainable economy.

Gig and platform workers under labor laws in India | November 2nd, 2020

What is the Gig Economy and platform work economy?

- It is characterized by short-term contracts or freelance work as opposed to permanent jobs. It often involves connecting with customers through an online platform. Example: Delivery boys of app-based food, consultants, bloggers.
- The platform work economy is sometimes referred to as the gig worker economy, but Gig economy is a broader term that includes platforms
- In India, there are about 3 million gig workers that include temporary workers including independent contractors, online platform workers, contract firm workers, and on-call workers.

Provisions for gig and platform workers in labour laws of India

Code on Wages, 2019 expands the definition of an employee by using 'wages' as the primary definition to define who an 'employee' is. But it doesn't explicitly mention or cover the gig workers, platform workers under this definition.

IMPORTANT FEATURES OF LABOUR CODE ON SOCIAL SECURITY & WELFARE, 2017

- **Platform workers:** For the 1st time Code on Social Security bill attempted to define platform workers in the following words;

"Platform work means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment."

- **Universalizes social security:** Social security has been extended to those working in the unorganized sector, such as migrant workers, gig workers, and platform workers.
- **National Social Security Board:** It proposes a National Social Security Board which shall recommend to the central government for formulating suitable schemes for different sections of unorganized workers, gig workers, and platform workers.
- **Gig Workers:** The bill states that the central or state government may notify specific schemes for gig workers, platform workers, and unorganised workers to provide various benefits, such as life and disability cover.
- **Social Security Fund:** Government will establish a social security fund that will be funded by central or state governments, gig worker and aggregator contributions, the corporate social responsibility fund, or other sources.
 - Contribution of Gig/platform companies has been capped at 1-2% of their annual turnover but contribution should not be more than 5% of the amount payable to gig workers.

Need for providing benefits to the gig workers

UNEMPLOYMENT AND LOW CONSUMPTION:

- Periodic Labour Force Survey released in 2019 from the Ministry of Statistics and Programme Implementation shows the unemployment rate at a 45-year high, at 6.1%; the highest levels of joblessness is among urban youth.
- It also reported that domestic consumption has reduced, industrial growth has flatlined, private investments are lower, and market volatility has hit drivers of employment. Thus, many undergraduates and diploma holders are looking towards the gig economy as a solution to get employment.

HIGH EMPLOYMENT PROVIDER

- As per Human resources firm TeamLease estimates, in the 2nd half of 2018-19, 13 lakh Indians joined the gig economy.
- Despite becoming the biggest job provider, Most of these workers don't see the gig economy as a full-time option due to job insecurity, amplified by complex contracts, the changing rates of incentives, and the lack of control over impossible targets.
- Gig economies work outside the traditional employment structures excluding them from minimum-wage protection and social security.

IMPORTANT ROLE PLAYED BY GIG WORKERS DURING A PANDEMIC

- Platform workers were responsible for the delivery of essential services during the pandemic at great personal risk to themselves. They have also been responsible for keeping platform companies afloat despite the pandemic-induced financial crisis.
- This has cemented their role as public infrastructures that also sustain demand-driven aggregators. The dependence of companies on platform workers merits a jointly assumed responsibility by public and private institutions to deliver welfare measures.
- Despite all this, gig workers faced a continuous dip in pay and no rewards for being essential workers. The base pay of Swiggy workers was reduced from Rs. 35 to Rs. 10 per delivery order. All India Gig Workers Union formed to protest against this discrimination.

FINANCIAL DEPENDENCIES OF WORKERS ON THE GIG ECONOMY

Workers require existing assets like vehicular assets for entry into the platform economy, thus they have to rely on **intensive loan schemes** provided by workers rely on intensive loan schemes. It creates a dependency of workers on Platform Company.

It removes the flexibility benefit provided by the economy to its workers and make him liable to work under their terms and conditions.

Issues in Labour laws coverage for gig workers

- Even though platforms are part of the idea of how work will evolve in the future, the current laws do not see them as future industrial workers.
- Due to the absence of clear provisions in the labour codes, Platform delivery people can claim benefits, but not labour rights. The terms 'gig worker', 'platform worker' and 'gig economy' only appears in the Code on Social Security but not in other labour codes.
- This makes them the beneficiary of the programs released by the state, but not of labor rights.
 - It doesn't provide them a right to move the court to demand better and stable pay or regulate the algorithms that assign the tasks.
 - This also means that the government or courts cannot pull up platform companies for their choice of pay, or how long they ask people to work.
- Though gig workers are covered under social security schemes none of these benefits are secure, which means, the Central government, from time to time, can formulate welfare schemes that cover these aspects of personal and work security, but they are not guaranteed. All these benefits will be dependent upon the will of the state government.
 - For Ex; in some states like Karnataka, where a platform-focused social security scheme was in the making last year, will possibly offer some financial assistance by the Centre.

- The Social Security Code states the provision of basic welfare measures is a joint responsibility of the Central government, platform aggregators, and workers. But doesn't mention which measures will be provided by which stakeholder.

What should be done?

- Amendments to labor laws in Ontario and California have shown a move towards granting employee status to platform workers, thus guaranteeing minimum wage and welfare benefits.
- This is the view propagated by international agencies in the EU, including the European Trade Union.
- The government in India should also consider granting the gig workers the status of employees of the aggregators. That would automatically provide them all the labor benefits like PF and ESI.
- The government should consider providing a loan scheme to the platform workers, to end their dependency on the platform aggregator companies.
- To mitigate operational breakdowns in providing welfare services, a tripartite effort by the State, companies, and workers to identify where workers fall on the spectrum of flexibility and dependence on platform companies is critical.