

7 PM COMPILATION

15th - 28th 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
- ❖ Out of the box thinking for value edition
- ❖ Best cost-benefit ratio according to successful aspirants

ISSUE OF INTERFAITH MARRIAGES AND LAWS IN INDIA

Topics: Society

Subtopics: Salient features of Indian Society, Diversity of India, communalism, regionalism & secularism

Article 32 of Indian Constitution

Topics: Polity & Constitution

Subtopics: Indian Constitution—historical underpinnings, evolution, features, amendments, significant provisions and basic structure

Draft rules for the Code on Social Security, 2020

Topics: Social issues

Subtopics: Issues relating to development and management of Social Sector/Services relating to Health, Education, Human Resources

India and East Asia Relations

Topics: International Relations

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OPTING OUT OF RCEP: A RIGHT MOVE FOR INDIA?

Topics: International Relations

Subtopics: Bilateral, regional and global groupings and agreements involving India and their effects

PRISON REFORMS IN INDIA

Topics: Social Issues

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Strategic autonomy in a multipolar world order

Topics: International Relations

Subtopics: Effect of policies and politics of developed and developing countries on India's interests

Corporates as Bankers: Bane or boon for economy?

Topics: Indian Economy

Subtopics: Indian Economy and issues relating to planning, mobilization, of resources, growth, development and employment

Cyclone Nivar: All about tropical cyclones

Topics: Disaster management

Subtopics: Disaster and disaster management.

Initiative to boost domestic manufacturing in India

Topics: Indian Economy

Subtopics: changes in industrial policy and their effects on industrial growth

Issue of Lakshmi Vilas Bank

Topics: Indian Economy

Subtopics: Indian Economy and issues relating to planning, mobilization, of resources, growth, development

Social and Digital media regulations in India

Topics: Internal Security

Subtopics: Role of external state and non-state actors in creating challenges to internal security.

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ISSUE OF INTERFAITH MARRIAGES AND LAWS IN INDIA

The article is based on The Big Picture: Special Marriage Act and Indian Express Explained, Roll it back appeared in the month of November.

Context: The Uttar Pradesh government has cleared an ordinance that enables the state to police and punish inter-faith marriages with “the sole intention of changing a girl’s religion”.

Important provisions of Prohibition of Unlawful Conversion of Religious Ordinance, 2020:

- Law **prohibits conversion** from one religion to another by “misrepresentation, force, fraud, undue influence, coercion, allurement or marriage”.
- **Marriage will be declared “shunya”** (null and void) if the “sole intention” was to “change a girl’s religion”
- The **persons** forced the girl to change religious conversion may **face jail term of up to 10 years** if the girl is minor, a woman from the Scheduled Caste or Scheduled Tribe, if the person involved religious conversion on mass scale. For the rest of the cases, the jail term ranges from 1 to 5 years.
- The law also provides for the way to conversion. The **person willing to convert to other religion would have to give it in writing to the District Magistrate at least two months in advance.**
- The **burden to prove** would be on the **person who caused the conversion or the person who facilitated it.** If any violation is found under this provision, then she/he will face a jail term from 6 months to 3 year
- If any person **reconverts to his immediate previous religion, then it shall not be deemed to be a violation** of the ordinance.

Why Uttar Pradesh drafted such an ordinance?

- In the past few months, cases of alleged “love jihad” have been reported from different parts of the state, especially eastern and central UP especially Lakhimpurkheri.
- a group of parents from a particular locality in Kanpur had complained that their daughters are being allegedly trapped by Muslim men
- In some cases, girls refused to accept that they were tempted into marriage.

Criticisms against the law

Many critics of the law have put forward a few issues regarding the law:

- Allowing the police to examine subjective “intentions” of men and women entering a marriage veers into thought control — and sets the law up for rampant abuse.
- Law against fundamental rights: By clearing the ordinance, the state government has trespassed the fundamental right to marry guaranteed under Article 21 of the Constitution.

What is the term ‘Love Jihad’ or ‘Romeo Jihad’?

- The term itself is based on a conspiracy Theory. It simply means that the Islamic men target non-Islamic women for religious conversion by feigning their love.
- This theory is completely unproven. The theory got national attention with the alleged conversions first in Kerala and later in Karnataka in 2009.
- In 2010, the speech of then CM of Kerala creates widespread allegation ([Source](#))

Anti-conversion law at central level:

Central government proposed various bills but none of them passed and became a law. They are:

- Indian Conversion (Regulation and Registration) Bill 1954
- Backward Communities (Religious Protection) Bill 1960
- Freedom of Religion Bill in 1979

In 2015, the Law Ministry said passing of any law on religious conversion is purely a “**State subject**” and Central government has no role in it.

Is Uttar Pradesh being the only state to initiate law for forceful conversion?

- **No**, after the central government failed to pass 1960 bill, **Odisha** government moved on and passed the **first anti-conversion law in 1968**
- After that so far **10 states** have had **passed anti-conversion laws in India**.
- The **Himachal Pradesh Freedom of Religion Act, 2019**, and the **Uttarakhand Freedom of Religion Act, 2018**, both prohibit conversion by misrepresentation, force, fraud, undue influence, inducement, allurement and ‘by marriage’.

But **Uttar Pradesh** has become one of the **first State to pass forcible conversion only during Interfaith marriages as special legislation**. States such as Haryana, Madhya Pradesh, and Karnataka have also sought to bring such legislation.

Interfaith Marriages:

- It simply means the matrimonial relation between individuals who follow different religious faiths.
- Marriage between the same faiths has been governed by the Hindu Marriage Act 1955, Muslim personal Law. But to rectify and include interfaith marriages Centre passed the **Special Marriage Act 1954**.
- **Special Marriage Act** considers **Interfaith Marriages as secular**.

Few important provisions of the Special Marriage Act of 1954:

- The law **allows the solemnization of marriages without any religious customs or rituals**. The law solemnizes marriages **by the way of registration**.
- The consenting couple (Men above 21 years and women above 18 years) who were going to get married have to **provide 30-day Notice at the Marriage Registrar’s office**.
- After 30 days they can get married. If there are any **objections** raised then the **Marriage Registrar will investigate** the objection
- The Act is **applicable to all Indian citizens and Indian nationals** who live **in abroad**.
- Allahabad High Court observed the Special Marriage Act as ‘**one of the earliest endeavors towards Uniform Civil Code**. ([Source](#))’

Judicial pronouncement regarding interfaith marriages and forcible conversions:

- **The Rev Stanislaus vs Madhya Pradesh case:** Supreme Court said Article 25 does provide freedom of religion in matters related to practice, profess and propagate, but the word **propagate does not give the right to convert and upheld the laws prohibiting Conversion through force, fraud, or allurement**.
- Based on the above case it is clear that **forcible conversion or conversion through fraud and allurement is against the Right to Freedom of Religion**.
- **SarlaMudgal case:** The court had held that the **religious conversion** into Islam by a person from non-Islamic faith **is not valid if the conversion is done for the purpose of polygamy**.
- **Lily Thomas case:** In this case Court observed that **marrying another woman after converting to Islam is punishable** under the bigamy laws.

- **Hadiya Case:** Supreme Court said that the **right to marry** a person of one's choice is **integral to Article 21** (right to life and liberty) of the Constitution
- Allahabad High Court, in the case, **Noor Jahan Begum @ Anjali Mishra and another vs. State of U.P. and Others** observed that **one shouldn't change one's faith** just for the sake of matrimony. As two persons professing different religions **can marry under the Special Marriage Act.**
- **But in the most recent judgment,** Allahabad High Court itself overturned its previous judgment, calling the decision "bad in law". The division bench of the Allahabad high court said on November 11, that judgment **does not take into account the right to life and personal liberty of mature adults.**

Way forward:

Based on the judicial pronouncements it is clear that the Right to marry a person belongs to another faith is a Fundamental Right but that does not have to be associated only with personal laws or religious conversions. It is the Right of the individual's personal liberty to involve in Interfaith Marriage either by the Special Marriage Act of 1954 or by Personal laws (after getting himself converted).

Article 32 of Indian Constitution

What is the Issue of application of Article 32

Dr B.R. Ambedkar had once said,

'If I was asked to name any particular article in this Constitution as the most important – an article without which this Constitution would be a nullity, I could not refer to any other article except this one (Article 32). It is the very soul of the Constitution and the very heart of it.'

News: Recently a Supreme Court Bench headed by Chief Justice of India S. A. Bobde observed that it is “trying to discourage” individuals from filing petitions under Article 32 of the Constitution.

What was the case?

- Kerala-based Siddique Kappan was arrested on 5 October when he was on his way to Hathras to report on the alleged gang rape and murder of a 20-year-old Dalit woman.
- Initially, he along with 3 others was arrested under Section 151 of the Code of Criminal Procedure (CrPC), later he was booked on charges of sedition and sections of the Unlawful Activities Prevention Act (UAPA).
- A habeas corpus petition seeking release of Kerala-based Siddique Kappan was filed in the Supreme Court.
- However, it is not the sole case that has met the same fate, in an another case, Article 32 petition filed on behalf of Nagpur resident Sameet Thakkar (arrested for allegedly making objectionable comments against Maharashtra CM) was also declined.

What is the issue all about?

- As per Faizan Mustafa, vice chancellor of the NALSAR University, ideally, cases must first go to the high court. However, SC should also be consistent in the matters, then only the desired results can be achieved.

Decisions in the similar cases

- In a recent matter, the Bench of CJI Bobde, Justice A S Bopanna and Justice V Ramasubramanian had **issued a contempt notice** to the Assistant Secretary of the Maharashtra Assembly who, in a letter to Republic TV editor-in-chief ArnabGoswami, had questioned him for approaching the top court against the breach-of-privilege notice.
- The court had then said that the right to approach the Supreme Court under Article 32 is itself a fundamental right and that

“there is no doubt that if a citizen of India is deterred in any case from approaching this Court in exercise of his right under Article 32 of the Constitution of India, it would amount to a serious and direct interference in the administration of justice in the country”.

- Even as the Supreme Court underlines the powers of the high courts, it has in the past transferred cases to itself from the high courts.

Transfer of Cases

- Even though SC underlines the powers of the high courts, there are past examples of transferring cases Suo Moto, to itself from the high courts.
- Most recently, the Supreme Court transferred the case involving land use for the national capital's Central Vista project to itself from the Delhi High Court.

- In 2018, the SC had transferred the case seeking probe into the death of judge B H Loya from the Bombay High Court to itself.
- When such transfers take place petitioners lose a stage of appeal that would otherwise have been available had the High Court heard and decided the case.

Fundamental rights under article 32

- Article 32 of the constitution is a Fundamental Right that falls under Part III of the Constitution that includes the fundamental rights of individuals.
- It provides individuals, seeking enforcement of other fundamental rights recognized by the Constitution, the right to approach the Supreme Court directly.
- Under Article 32 the Supreme Court have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari.
- The right guaranteed by this Article 'shall not be suspended except as otherwise provided for by this Constitution'.
 - Under Article 226 of the Constitution, similar powers have been conferred on high courts, to enforce the fundamental rights of citizens. However, article 226 is not a fundamental right like Article 32.
 - The two provisions are not mutually exclusive and allow a citizen to either approach the high court that has jurisdiction over the case or the Supreme Court.
 - However, scope of Article 226 is wider than that of Article 32, as it covers issues other than fundamental rights as well.

Both the High Courts and the Supreme Court can be approached for violation or enactment of fundamental rights through five kinds of writs:

1. **Habeas corpus:** It is issued against the illegal detentions and wrongful arrests to ensure personal liberty and considered as one of the most important writs for personal liberty.
2. **Mandamus:** It is issued against public officials, governments, courts to perform a statutory duty
3. **Certiorari:** Issued for re-examination of an order or decision by judicial, quasi-judicial or administrative authorities.
4. **Prohibition:** Issued for directing judicial or quasi-judicial authorities to stop from going ahead with certain proceedings to ensure that it does not exceed its jurisdiction.
5. **Quo warranto:** It is issued to prevent people from assuming positions in public office when she or he is not entitled to it.

Previous judgments related to article 32

- In *Romesh Thappar vs State of Madras (1950)*, the Supreme Court observed that Article 32 provides a "guaranteed" remedy for the enforcement of fundamental rights. "This Court is thus constituted the protector and guarantor of fundamental rights, and it cannot, consistently with the responsibility so laid upon it, refuse to entertain applications seeking protection against infringements of such rights," the court observed.
- In *Additional District Magistrate, Jabalpur vs S S Shukla (1976)*, During the Emergency, the Supreme Court had ruled that the right to constitutional remedies under Article 32 would remain suspended during a national emergency.
- 44th Constitutional amendment provided that president could issue orders suspending the right to move any court for the enforcement of fundamental rights,

under Article 32, during a national emergency, with the exception of Article 20 and 21.

Conclusion

Constitutional experts say that it is eventually at the discretion of the Supreme Court and each individual judge to decide whether an intervention is warranted in a case, which could also be heard by the High Court first. There is need to bring in more clarity by judiciary on the matter of article 32 so that people do not lose their hope in the justice system as the ultimate remedy for the violation of their rights.

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Draft rules for the Code on Social Security, 2020

Context: Draft rules for the Code on Social Security, 2020 have been released by Ministry of Labour and Employment for comments.

Salient features of Draft rules for the Code on Social Security, 2020

Beneficiaries of the rules will be Unorganised Workers, Gig Workers, Platform Workers, and BOCWs.

For workers

- Unorganised workers, gig workers, and platform workers would require to be registered on a central government portal for availing any benefit under any of the social security schemes framed under the Code.
- The rules also provide for the Aadhaar-based registration of BOCW (Building and Other Construction Workers) on a portal of the Centre, State government or the BOCW welfare board of the State.
- Draft rules operationalize the benefits of Code for Social Security i.e.
 - Employees' Provident Fund, Employees' State Insurance Corporation, Gratuity, Maternity Benefit, Social Security and Cess in respect of Building and Other Construction Workers
 - Social Security for Unorganised Workers, Gig Workers, and Platform Workers.
- Where a building worker migrates from one State to another he shall be entitled to get benefits in the State where he is currently working and it shall be the responsibility of the Building Workers Welfare Board of that State to provide benefits to such a worker.
- Provision has also been made in the rules regarding gratuity to an employee who is on fixed term employment.

For establishment,

- Rules provide single electronic registration or cancellation.
- Procedures for self-assessment and payment of cess has been defined with regard to building and other construction workers
- The rate of Interest for delayed payment of such cess has been reduced from 2% every month or part of a month to 1%.
- Assessing officer can visit the construction site only with prior approval of the secretary of the Building and Other Construction Workers Board.

Labour Code on Social Security 2020

Key Features

- **Consolidation of multiple laws:** It will replace nine social security laws, including Maternity Benefit Act, Employees' Provident Fund Act, Employees' Pension Scheme, Employees' Compensation Act, among others.
- **Universalizes social security:** Social security has been extended to those working in the unorganised sector, such as migrant workers, gig workers, and platform workers.
- **Covers Agricultural workers:** For the first time, provisions of social security will also be extended to agricultural workers also.
- **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 unorganised workers, gig workers, and platform workers.
- **Social security organisations:** The Bill provides for the establishment of several bodies to administer the schemes. These include a Central Board to administer the

provident fund schemes and national and state-level Social Security Boards to administer schemes for unorganised workers.

- **Social security fund:** The Bill proposes setting up a social security fund using a corpus available under corporate social responsibility.
- **Reducing employee PF contribution:** The bill provides for an option for reducing provident fund contribution (currently at 12% of basic salary) to increase workers' disposable income.
- **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.
- **Exemption:** Under the bill, the central government is empowered to exempt selected establishments from all or any of the provisions of the code and makes Aadhaar mandatory for availing benefits under various social security schemes

Concerns related to Code on Social Security, 2020

Following are the concerns that are associated with the Labour Code for Social Security and welfare:

- It does not provide for a uniform definition of "social security".
- There is no dedicated central fund. The proposed corpus will be split into numerous small funds creating a multiplicity of authorities and confusion.
- There is no clarity on how the proposed dismantling of the existing and functional structures, such as the Employees' Provident Fund Organisation (EPFO) with its corpus of ₹10 lakh crore will be handed over to a government.
- 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.
- Following recommendations of the National Commission on Labour (2002) have not implemented:
 - Removal of thresholds based on the size of establishment for making certain benefits mandatory and application of social security system to all establishments.
 - the existing wage ceilings for coverage should be removed
 - Mandatory linking with Aadhaar may violate Supreme Court judgment

Way forward

- 2nd National Commission on Labour (2002) had recommended a separate law for small scale units (having less than 20 workers) with less stringent provisions for conditions such as payment of wages, welfare facilities, social security, retrenchment and closure, and resolution of disputes.
- 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.
- All important recommendations of the National Commission on Labour (2002) and the standing committee on labor 2020 must be incorporated in the bills.

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India and East Asia Relations

The ASEAN region along with India together comprises a combined population of 1.85 billion people, which is one-fourth of the global population and their combined GDP has been estimated at over USD 3.8 trillion. So the East Asia Region is most important for India and vice versa.

About 15th East Asia Summit

15th East Asia Summit was held recently with VietNam as a chair and concluded with the adoption of the Hanoi Declaration. External Affairs Minister Dr. S. Jaishankar represented India at the 15th East Asia Summit (EAS).

Highlights of Ha Noi Declaration

- Regional issues unique to ASEAN like the meeting with the ambassadors at Jakarta, regional connectivity, and the narrowing of development gaps within ASEAN were included.
- Leaders had documents for the regional economy, marine sustainability, dealing with epidemics, and the role of women.
- The entire document only has mere 12 paragraphs. This is because China, backed by Russia, introduced several ideas at the drafting stage which queered the pitch. To remove these, other substantive ideas were dropped.

Besides the Hanoi Declaration, the summit also adopted four other leaders' statements on Marine Sustainability; Epidemics Prevention and Response; Women, Peace and Security; and Steady Growth of Regional Economy.

About East Asia Summit:

It was established in 2005. It is a premier forum in the Asia-Pacific region dealing with issues relating to security and defense with the following features;

- **Members:** It comprises the ten member states of the ASEAN countries along with 8 members Australia, China, Japan, India, New Zealand, the Republic of Korea, Russia, and the United States. India is a founding member of the East Asia Summit. (In short ASEAN Plus Six, USA, and Russia).
- **Priority Areas:** There are six priority areas of regional cooperation within the framework of the EAS which are a) Environment and Energy b) Education c) Finance d) Global Health Issues and Pandemic Diseases e) Natural Disaster Management and f) ASEAN Connectivity.
- **Significance:**
 - The members of the EAS together represent 54% of the world population and account for 58% of the global GDP.
 - It is usually held just after the second ASEAN summit of the year when the ASEAN also meets its dialogue partners.
 - They also meet for ASEAN Defence Ministers Meeting (ADMM) Plus meet.

Importance of East Asia to India:

India has always considered East Asia as a region of a high economic and strategic priority since the time of Jawaharlal Nehru. India's linkages with Southeast Asia encompass numerous aspects including culture, diaspora, defence cooperation, economic ties, and India's own developmental and security concerns. Each of these factors contributes to the strategic significance of countries in the region for India:

- India's Indo-Pacific vision is premised upon the principle of 'ASEAN-Centrality', which signifies the importance of East Asian countries for India.
- Vietnam has traditionally been a close friend on defense issues, Singapore is an equally important partner.
- By virtue of being a maritime neighbor and the biggest country in terms of size, population, and economy, Indonesia has always been a priority country.
- India has also maintained cordial relations with Malaysia and the Philippines. Cambodia, Laos, Myanmar, Thailand, and Vietnam are critically important for the development and security of India's north-eastern states.
- Transport linkages and religious tourism have further enhanced their importance.
- Access to the South China Sea directly improves the Freedom of navigation on the seas and its resources including petroleum products, Polymetallic nodules, etc.

Initiatives taken to improve the relationship

- We Shifted our policy from Look East Policy to **Act East policy** in 2014 with more active engagement in the region. Act East Policy includes the following features:
 - To promote economic cooperation, develop a strategic relationship and cultural ties with ASEAN and East Asian Countries
 - To increase the interaction of the North-Eastern states with other neighboring countries.
 - Focussing on 4 C's (Culture, Commerce, Connectivity and Capacity Building)
- **Delhi Dialogue** is a premier annual event to discuss politico-security, the economic and socio-cultural engagement between India and ASEAN.
- Joint Naval and Military exercises between East Asian countries Ex. India and Vietnam held a joint naval exercise
- **India - Myanmar - Thailand trilateral highway project** which connects Moreh, India with Mae Sot, Thailand via Myanmar.
- Kaladan project connects **Sittwe Port in Myanmar to the India-Myanmar border. It will reduce the distance from Kolkata to Sittwe by approximately 1328 km and will reduce the need to transport goods through the narrow Siliguri corridor.**
- India is developing its maiden deep-sea port in a strategically-located **Sabang port** in Indonesia.
- India is also trying to establish a **Maritime Transportation Agreement** with ASEAN and also Plans for a **railway link** between New Delhi in India to Hanoi in Vietnam.

Importance of India to East Asia:

- India's long trustworthy relationship and reliability in relationships can help in countering the Chinese Influence in the region and can act as a counterweight in the issues like South China Sea Disputes etc.
- Since VietNam and other countries are getting improved in merchandise trade, India is a good market for those countries
- India's strategic location links the East Asian Countries with the Central Asian Countries.
- India's ability to provide Humanitarian and Disaster Relief (HADR)
- India's Service sector, growing Tourism market, etc all are important for East Asian Countries.

Challenges in India and East Asia Relations:

- **Trade imbalance** between India and ASEAN, which remains skewed in ASEAN's favor. India's **trade deficit with ASEAN** increased from a mere USD\$0.5 billion in 2005-2006 to USD\$14.6 billion in 2015-2016.
- India has not **signed RCEP** for various reasons like non-transparency in RCEP, RCEP's non-accounting of India's service sector relaxations, etc. By not signing the RCEP India also lose access to new market opportunities created in East Asia.

RCEP(Regional Comprehensive Economic Partnership):

- It is a trade deal that is currently signed by ASEAN Plus Six Countries except for India. Negotiations on the details of the RCEP have been on since 2013.
 - RCEP is viewed as an alternative to the Trans-Pacific Partnership (TPP), a proposed trade agreement that includes several Asian and American nations but excludes China and India.
- India **recently notified Country of Origin regulations** which is one of the issues for the East Asian Countries as they reroute many products from China and sell them to India.
 - India is working on revising the FTA's between India- Japan and India-South Korea relationships bilaterally which divert the focus of India towards Japan and South Korea.
 - Despite the geopolitical rivalry and consistent trouble in the South China Sea, China is a dominant player because there is no other credible alternative, so China is the largest trading partner and investor for ASEAN.
 - As the ASEAN and other countries except India signed the RCEP agreement the position of China can be strengthened in the near future.
 - China's constant undermining of ASEAN countries is evident by Cambodia and Laos have become a much closer ally to China because of its Cheque Book Diplomacy
 - The relevance of ASEAN itself is at stake
 - ASEAN countries themselves are not taking a stand and being in a paralyzed state. This is evident by the mere 12 paragraph Hanoi Declaration.
 - There is a regionalization present in the ASEAN itself. For Ex – Cambodia, and Laos almost supports China but at the same time VietNam, the Philippines, and Indonesia opposes China for their authoritarianism.

Way forward

- The revival of the US-led TPP can provide an alternative to China-dominated RCEP, which may improve India's relationship with the East Asian Countries.
- The concept of QUAD must be expanded to include the ASEAN countries and become a QUAD+ arrangement. Vietnam and Indonesia were expressing a positive note on QUAD in the region.
- India and Japan together have few initiatives like **Asia – Africa Growth Corridor** which is going through the ASEAN region has the ability to become an alternative to Belt and Road Initiative
- Australia-Japan-India together announced the **SCRI(Supply Chain Resilience Initiative)** to diversify the supply chain instead of relying on one or few countries. ASEAN can play a major role in that.
- Indo Pacific policies have to improve with the active cooperation from the USA along with India, Japan, and Australia.

- ASEAN cannot retain its centrality if it becomes a Chinese orbit so the ASEAN itself has to improve the balance between them.
- Role of India in improving ties:
 - Giving more focus to India's Act East Policy.
 - Though East Asian countries depend on China for trade relations they never trusted China for their military alliance. This is evident as no country from ASEAN has close military ties with China so far. India can become the military partner after our AtmaNirbar Bharat, Make In India projects successfully implemented.
 - Faster completion of projects. For ex. India – Myanmar – Thailand highway is under construction for more than a decade now. Similar can be said to Kaladan Multimodal transport corridor.

To make East Asian Countries especially ASEAN more relevant, the only way is to put together coherent alternatives for connectivity, supply chain, and economic well-being. This makes East Asian Economies assert their sovereignty and not fall for China's ambitions. Then together the relations between the nations can reach cloud nine.

OPTING OUT OF RCEP: A RIGHT MOVE FOR INDIA?

News: Regional Comprehensive Economic Partnership (RCEP) has been signed by 15 countries, without India.

About RCEP (Regional Comprehensive Economic Partnership)

RCEP is a trade deal that was originally being negotiated between 16 countries including India, after exit of India, now has been signed by 15 countries.

Members:

- 10 Association of Southeast Asian Nations (ASEAN) members: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam
- 5 other FTA partner countries of ASEAN: Australia, China, Korea, Japan, and New Zealand.

Aim: To strengthen economic linkages and to enhance trade and investment related activities between participating countries.

Coverage Areas: RCEP will cover the following areas:

Trade in goods and services, investment, economic and technical cooperation, intellectual property, competition, dispute settlement, e-commerce, small and medium enterprises (SMEs) and other issues.

In its original format, RCEP was touted as the “largest” regional trading agreement to this day.

Why India decided not to join RCEP?

In November 2019, External Affairs Minister S Jaishankar, delivering the Fourth RamnathGoenka Memorial Lecture on November 14, had said, *India’s stance was based on a “clear-eyed calculation” of the gains and costs of entering a new arrangement, and that no pact was better than a “bad agreement”.*

Following are the issues that India faced in signing the RCEP:

- **Market access to India:** RCEP also lacked clear assurance over market access issues in countries such as China and non-tariff barriers on Indian companies.
- **Trade Deficit:** In financial year 2019, India registered trade deficit with 11 out of the 16 RCEP countries.
 - India’s trade deficit with these countries has almost doubled in the last five-six years – from \$54 billion in 2013-14 to \$105 billion in 2018-19.
 - India’s trade deficit with RCEP countries stood at \$105 billion, out of which China alone accounted for \$52 billion.
- **Auto-trigger mechanism:** India was unable to ensure countermeasures like an auto-trigger mechanism to raise tariffs on products when their imports crossed a certain threshold.
- **MFN clause:** It also wanted RCEP to exclude most-favored-nation (MFN) obligations from the investment chapter, as it did not want to hand out, especially to countries with which it has border disputes, the benefits it was giving to strategic allies or for geopolitical reasons.
- **Opening up of sensitive sectors:** India felt the agreement would force it to extend benefits given to other countries for sensitive sectors like defense to all RCEP members.
- **Country of Origin:** Signing of RCEP deal would have meant dumping of unwanted products by routing them through other countries i.e. possible circumvention of rules of origin criterion set by India to determine the national source of products.

- **Tariff reductions:** The RCEP deal format required India to abolish tariffs on more than 70% of goods from China, Australia, and New Zealand, and nearly 90% goods from Japan, South Korea, and ASEAN. This would have made imports to India, cheaper.
- **Past Experience:** The NITI Aayog, in 2017, had published a report that pointed out that free trade agreements have not worked well for India.
 - It analyzed multiple free trade agreements that India signed in the past decade. Among those were FTA with Sri Lanka, Malaysia, Singapore, and South Korea.
 - The NitiAayog analysis showed that imports from FTA countries increased while export to these destinations did not match up.
 - The NitiAayog found that FTA utilization by India has been abysmally low between 5 and 25 percent.
- **Plantation products like rubber:** Vietnam and Indonesia have very cheap rubber to export.
- **Dairy Sector:** New Zealand is the second-largest exporter of milk and milk products. New Zealand's milk producers are more efficient than India's small producers. Both Australia and New Zealand are waiting for free access to India for their dairy products.
- **Services trade:** India has "long pushed for other countries to allow greater movement of labor and services" in return for opening up its own market. Any agreement on trade in goods without simultaneous agreement on services trade and investment will only harm India's interests.

Why not joining RCEP is the right decision for India?

- **China Factor:** In the backdrop of rising tensions at India-China borders and the strong presence of China as a center of RCEP trade deal, it would have been difficult for India to reduce its exposure to China's products, at a time when India is striving hard to find alternatives for China-made products.
- **Made in India:** As India is pursuing its objective to become an Atmanirbhar Bharat, domestic industries are required to be shielded by the use of Tariffs. By joining RCEP, India could have to compromise on this front.
- **Recession in India:** At a time, when India is gripped under 'Technical Recession' and unemployment is on rise, giving a boost to domestic industries becomes of utmost importance.
- **Existing FTAs:** As per a few experts, RCEP hardly makes a difference as it has FTAs with ASEAN, and CEPAs (Comprehensive Economic Partnership Agreements) with Japan and South Korea already.
- **Clarity of India's strategic vision:** India's strategic vision seems clear by not joining the China-centric RCEP, whereas it raises questions regarding the strategic vision of other Indo-Pacific countries whether China is seen as a threat or as a partner by them. This step will have implications for the Indo-Pacific concept and the Quad.

What are the possible downsides of not joining RCEP?

- **Bilateral trade:** India's decision of not joining RCEP would also negatively impact India's bilateral trade ties with RCEP member nations, as they may find strengthening economic ties within the bloc, more profitable.
- **Supply chain in Indo-Pacific:** Japan's failed efforts to bring India back into the deal may also impact the Australia-India-Japan informal talks to promote a Supply Chain Resilience Initiative in the Indo-Pacific.

- **China's dominance:** RCEP shows that China can pursue its aggressive political and economic policies without cost, that it cannot be isolated, and that the world cannot delink itself from the Chinese market.

Way forward

India, as an original negotiating participant of RCEP, has the option of joining the agreement without having to wait 18 months as stipulated for new members in the terms of the pact.

- India required to make its domestic industries competitive and strong enough to compete in any international market. It will make negotiating any international agreement easy and profitable.
- Conclusion of 17th ASEAN-India Virtual Summit and adoption of ASEAN-India Plan of Action for 2021-2025 proves that despite conclusion of RCEP, ASEAN countries are welcoming towards India. India must try to find out possibilities of increasing trade with ASEAN countries.
- India currently has agreements with members like the ASEAN bloc, South Korea and Japan and is negotiating agreements with members like Australia and New Zealand.
- Reviews of its existing bilateral FTAs with some of these RCEP members as well as newer agreements with other markets with potential for Indian exports.
- India should invest strongly in negotiating bilateral agreements with the US and the EU.

PRISON REFORMS IN INDIA

The Bureau of Police Research and Development (BPR&D) had invited research proposals from academics and legal experts in 2018. Among those two topics were shortlisted for further research by the Ministry of Home Affairs recently. The topics were

- “Status of radicalisation in India: an exploratory study of prevention and remedies”
- “Functioning and impact of open prisons on the rehabilitation of prisoners”

Bureau of Police Research and Development (BPR&D)

Bureau of Police Research and Development (BPR&D), the police think tank formed in 1970, under the Ministry of Home Affairs to give a new orientation to the then existing Police Research and Advisory Council formed in 1966.

Bureau was established with two divisions initially

1. Research, Statistics and Publication
2. Development.

In 2008, the Government further decided to create the **National Police Mission (NPM)** under the administrative control of BPR&D

PRISON REFORMS:

Criminal Justice reforms include reforms in Judiciary and the justice system, Police reforms and prison reforms. Though all 3 reforms are equally important to society at large, prison reforms get the low level of attention in most of the countries including India. This is why it is said **Prison is a recruitment centre for the army of crime.**

Present condition of Prison in India:

NCRB 2019 data says there are **1350 functional jails in India, with a total capacity of approx. 4 Lakh prisoners but actual strength exceeds 4.78lakh. In that 4.3% are women and 69.05% (approx. 3.3 lakh) were under trials and only 30.11% are convicted for crime.** Occupation rate in all prison is on an average 118.5%. In general, under trials spend three months to five years in jail before getting bail.

Need for prison reforms:

- Indian prisons face three long-standing structural constraints: **overcrowding, understaffing and underfunding.** The inevitable outcome is subhuman living conditions, poor hygiene, and violent clashes etc.
- Extradition of fugitive under UN Convention directly depends on prison reforms
 1. g.: India lost the case of bringing KIM DEVY from Denmark who is accused of PURILA ARMS DROP CASE.
- under trials lose **four of their fundamental rights:** the right to liberty, freedom of movement, freedom of occupation, and freedom of dignity. **And the legal right** to vote as well.
- NHRC figures show that prisoners cut off from family and friends had a 50% more chance of committing suicide than those outside.
- While 33% of the total requirement of prison officials still lies vacant. **Police personnel in India is 181/lakh population which is much less than the UN prescribed 222/lakh.**

Challenges in prison reforms:

- Prison is a State subject.
- Prison Act 1894, which governs prisons with modifications is more than a century old and focus more on keeping them alive (headcount) not reform and rehabilitation.

- No separation between hard hand criminals and petty under trails.

Committees on Prison reforms:

Justice Mulla Committee 1983:

- All India cadre for prison staff and Bringing prison under the concurrent list
- Government should form a National Policy on Prisons
- Government to use alternatives to imprisonment such as community service, etc.

Justice V. R. Krishna Iyer committee on women prisoners 1987:

- Separate institutions with women employees alone for women offenders.
- Necessary provisions to restore the dignity of women even if convicted.

Committee under the chairmanship of Director General, Bureau of Police Research and Development (BPR&D) 2005:

- Used the reports of Justice Mulla Committee Report & Justice Krishna Iyer Committee and made several additional and new recommendations. It also **drafted a National Policy on Prison Reforms and Correctional Administration, 2007.**

Draft National Policy on Prison Reforms and Correctional Administration

- Amending the constitution to include principles of prison management and treatment of undertrials under DPSP, and including prisons in the concurrent list.
- Enactment of uniform and comprehensive law on matters related to prisons.
- A department of Prisons and Correctional Services to be opened in each state and UT.

Justice Amaitava Roy panel on prison reforms:

In 2018, the Supreme Court appointed this panel. The committee submitted its report on February 2020 with major recommendations includes

- For overcrowding
 - **Special fast-track courts** should be set up to deal with petty offences.
 - **Lawyers – prisoners ratio:** there should be **at least one lawyer for every 30 prisoners.**
- For Understaffing
 - The Supreme Court should pass directions to start the recruitment process against vacancies
 - There should be use of video-conferencing for trial.
- For Prisoners
 - Every new prisoner should be allowed a **free phone call a day to his family members** to see him through his first week in jail.
 - Alternative punishments should be explored.

Solutions:

- Government should frame a National Policy on prison and form a National Commission on prisons to look into matters more seriously.
- Ensure the holistic development of prisoners like stress management, Yoga, etc.
- Ratifying the UN Convention against torture and sensitizing the staffs about the need to treat prisoners as humanely as possible.
- Changing the people's attitude that "Everyone inside the jail is not a criminal, he is either an offender nor an under trail".
- Increasing the budgetary allocation of the Criminal Justice System.

- Encourage Interactive and community policing in all possible ways.
- Open prison or semi open prison has to be encouraged like that in UP and Rajasthan.

Open or Semi open prisons

Semi-open prisons or open prisons allow convicts to work outside the jail premises and earn a livelihood and return in the evening.

BENEFITS:

- Reduce overcrowding and operational costs in prison administration.
 - Reduce the psychological pressure and lack of confidence when they assimilate into society.
 - Develops a humane attitude about the offenders in society.
-
- Utilizing the first-of-its-kind advanced **DNA FORENSIC LAB in CHANDIGARH** and pass **The DNA Technology (Use and Application) Regulation Bill, 2018** to reduce the overcrowding by the faster conviction of offenders.
 - Extending Legal **Right to Vote** prisoners and free legal aid (Directive Principle entrusted in **Article 39a** of our Constitution).

Way ahead:

Indian jails dubbed as a **university for grooming criminals** structural changes are needed to address the key issues. Else, prisons will continue to be heaven for politically connected criminals and hell for socio-economically disadvantaged undertrials.

Strategic autonomy in a multipolar world order

In News: India has adopted Self Reliance as an objective in the post covid world. While it is seen primarily in economic terms (reducing imports, shifting value chains), self-reliance also means strategic autonomy in foreign policy.

Strategic autonomy: Strategic autonomy is the ability of a state to pursue its own national interest and preferred foreign policy without being constrained by other states. It has to be formulated as per the security environment to ensure India's sovereignty and territorial integrity are maintained.

Evolution of Strategic Autonomy in India

1st phase- Non-Alignment (1947-1961): During Bipolar world (USA and USSR as power centres)

- **Non-alignment:** India played a critical role in the establishment of the Non-Alignment Movement (NAM) (1961), which marked the peak of Third World solidarity.
- Five-point agreement or the Panchsheel policy of PM Nehru.
- **Preservation of autonomy:** India's objectives were to resist from joining any military blocs while rebuilding its economy and consolidated its territorial integrity.

2nd phase- Realism (1962-71)

- India made pragmatic choices on security and political challenges after the 1962 war.
- India looked beyond non-alignment in the interest of national security. for example, a defense arrangement with the United States in 1964.

3rd phase- Regional Assertion (1971-91):

- **Tilt towards USSR:** signing of the India-Soviet Treaty of Peace, Friendship and Cooperation
- Getting involved in 1971 war, resulting in the creation of Bangladesh.
- India conducted peaceful nuclear explosion test in 1974 (Pokhran I) for which it faced sanctions from the USA.
- Indian peacekeeping operation in Sri Lanka.
- The creation of the US-China-Pakistan axis threatened India's prospects as a regional power.

4th phase-Strategic autonomy (1991-2005)

- Economic reforms and high economic growth led to an evolution in the country's strategic outlook.
- **Multi alignment:** India reached out to engage the US, Israel, and ASEAN countries more intensively.

5th phase: India's strategic autonomy approach in a multipolar world (after 2005)

- **Multi-alignment approach:**
- India has moved from a P2 (US and China) mindset to a P5+2 approach to positioning itself as a global power. e.g.: membership of **ASEAN, SCO, Quad**.
- India's preference towards a '**free, open, and inclusive Indo-Pacific**' refers to a multipolar regional order within which Delhi can maintain its strategic autonomy.
- Balancing diplomacy manifested in the Russia-India- China (RIC) meeting and Japan- America -India (JAI) meeting on the sidelines of G20.
- **De-hyphenation policy of India:**
- De-hyphenated Look West Policy, which means India's relationship with Israel would stand on its merits, independent and separate from India's relationship with the Palestinians.
- **Issue-based cooperation:**

- In the Middle East, India has reached out to Saudi Arabia, Israel, and Iran. India invited to the **Organisation of Islamic Cooperation** (OIC) for the first time.
- Recently India overlooked USA's sanctions and decided to go ahead with the **S-400 deal** with Russia.
- Intensified cooperation with middle powers like UK, EU, Japan, and ASEAN countries to accomplish collective goals.
- India pulled out of the **Regional Comprehensive Economic Partnership** and concluded that a China-led economic order in Asia will permanently ruin India's economic prospects.
- **Use of Hard power and expanding military cooperation:**
- India's responded strongly to the terror strikes in Pulwama and Balakot airstrikes.
- India has also signed military logistics support agreements with partner countries such as the USA, France, Singapore, Australia, South Korea.
- *India's soft power:* International yoga day, south Asian satellite, International solar alliance, and SAARC COVID-19 Emergency Fund.

Changing the world from unipolar to bipolar multipolar:

- **Bipolar (1945-1991):** Bipolar world can be defined as a system in which the majority of global economic, military and cultural influence is held between two countries – the USA and USSR. This resulted in Cold War characterized by geopolitical tension between the Soviet Union and the United States.
- **Unipolar (1991-2008):** After the disintegration of USSR, the United States became the only superpower and the international system has become unipolar. Assuming the role of global policeman, the USA was able to impose its will on other countries. For Example, the invasion of Iraq in 2003, the war in Afghanistan, and the policy of regime change during President Bush.
- **Multi power (2008-till now):** Multipolarity is the emergence of many regional powers along with the withdrawal of the USA as a global policeman.
- **Rise of China:** Aggression in the South China Sea, US-China trade war, Clashes with India at LAC (Line of Actual Control) and heavy investment in developing countries through Belt and Road initiative.
- **Rise of BRICS and other major power:** BRICS is committed to democratization of international life. It accounts for almost a third of global GDP at purchasing power parity. E.g.; creation of the New Development Bank (NDB) and Contingent Reserve Arrangement (CRA).
- **Creation of international/regional groupings:** For example, ASEAN (Association of southeast Asian Nations), APEC (Asia Pacific Economic Cooperation)
- **Russia reasserting its bipolar status:** meddling in Syria against US, growing Sino-Russia relations, Russia's annexation of Crimea
- **Rise of India:** India's participation in Shanghai Co-operation Organization, G-20 Summit, the Mekong-Ganga Co-operation, the International Solar Alliance, etc. India is also recasting its approach. e.g., Quad, SAGAR, Blue dot network, etc.

Recent Trends: Increasing India- US co-operation

Strategic partnership

- The US has designated India as an integral part of the **Indo-pacific narrative** by the conception of
- **India becoming a non-NATO Ally of the USA** in line with countries such as Israel and South Korea for increasing defense cooperation.
- USA has supported India's membership in the **Australia Group** and **Wassenaar Arrangement**.

- USA has recently unveiled its **New Security strategy (NSS)** to promote deeper partnership with India.
- **The 2+2 dialogue:** It is the dialogue between Indian External Affairs and Defence Ministers, and their US counterparts to provide a vision for strategic partnership.
- **Security agreements** like Logistics Exchange Memorandum of Agreement, Communications Compatibility and Security Agreement (COMCASA)

Challenges to strategic autonomy:

- **Fear of becoming a US ally:** India is actively seeking the cooperation of the US but it has to protect its core national interests from the threats of US intervention. For example- USA threatening India of CAATSA (Countering America's Adversaries Through Sanctions Act) in relation with Chahbahar port and S-400 deal with Russia.
- **Assertive rise of China:** It may result in security threat like Doklam standoff, clashes in Galwan valley across LAC. A possibility of China, Pakistan, Russia, Iran axis.
- **Assertion of Power:** Regional assertion of power may lead to arms races and rise in geopolitical uncertainty. For example, arms race between India and China.
- **Dependence on other developed countries for economic growth:** India needs technology, capital, markets, skills, defence equipment, international networking, and global cooperation to resolve global issues. Sensitive technology can come only at the behest of compromising strategic autonomy.
- **Impact of US tilt:** Complete dependence on US will impact ties with Russia, Iran as well as defense indigenization.

Way forward:

- **A multi vector foreign policy approach:** India's potential has to be maximized by multi alignment rather than isolation or alliance.
- **Practice creative diplomacy and flexibility:** In the destabilised world, there is need to adjust to the fast-changing balance of power and correlate with the countries around us.
- **Cooperate and Compete:** India must work with other powers to ensure that its region stays multi-polar (preventing dominance of one country of the region)
- **Active Engagement with middle powers:** Intensified cooperation with middle powers like UK, EU, Japan and ASEAN countries to accomplish collective goals.
- **Utilising multilateral institutions:** Strategic relationships with multilateral institutions and multiple partners including developing countries, least developed countries.

Corporates as Bankers: Bane or boon for economy?

A recent report by an Internal Working Group (IWG) of the Reserve Bank of India has attracted a lot of attention as well as criticism for its recommendations including the one that suggests corporate houses be given bank licences.

Rationale to constitute IWG by RBI:

The IWG was constituted to “review extant ownership guidelines and corporate structure for Indian private sector banks” for important reasons like

- The **total balance sheet of banks** in India still constitutes **less than 70 per cent of the GDP**, which is much less compared to global peers such as China, where this ratio is closer to 175%.
- The **domestic bank credit to the private sector is just 50% of GDP**. But in economies such as China, Japan, the US and Korea it is upwards of 150 per cent.
- India’s **banking system** has been **struggling to meet the credit demands** of a growing economy.

There is only one Indian bank in the top 100 banks globally by size. Further, Indian banks are also one of the least cost-efficient. So, RBI Constituted a IWG to look into the ownership guidelines and corporate structure for Indian private banks.

The committee submitted its report last week.

Key recommendations of the IWG:

- The **cap on promoters’ stake** in the long run (15 years) may be raised from the current level of 15 per cent to 26 per cent of the paid-up voting equity share capital of the bank.
- **Large corporate/industrial houses** may be **allowed as promoters of banks** only after necessary amendments to the Banking Regulation Act, 1949
- Well run **large Non-banking Financial Companies (NBFCs)**, with an asset size of ₹50,000 crores and above, may be **considered for conversion into banks** subject to completion of 10 years of operations and additional conditions prescribed.
- **Payments Banks** can be allowed to **convert to a Small Finance Bank**, after 3 years of experience as Payments Bank.
- Reserve Bank may take steps to ensure harmonisation and uniformity in different licensing guidelines, to the extent possible.

Positives of committee report:

For Banking Sector:

- **Dilute the Impact of COVID pandemic:** The reforms can Fast track the credit disbursement and distribution to businesses in short term to revive the economy, impacted by the COVID Pandemic.
- **Transformation of banking sector in India:** If implemented the banks can help in India’s ambition to be a trillion-dollar economy by acceleration of credit to MSME Sector that will also compliment Atmanirbhar Bharat mission.
- **Bank for all:** In rural India Co-operatives is still the major banker with no other alternative. If payments banks are allowed to convert in to small finance banks, this could potentially increase competition, especially in the micro lending space, leading to increasing efficiency.
- **Ensuring robust banking system in India:** Since India has very less banks **in present**, even a smallest bank failure is causing ripples in the entire banking system. To avoid such **every time RBI and Government is stepping in to rescue**. This can be avoided if recommendations are implemented.

- **Can get rid of NPA's in the long run:** The reforms can create a ripple effect and reduce India's one of long-standing problem in the banking sector. Opening up of more banks will ensure that the underperforming banks either amalgamated or weed out in the long run.
- **Digital banking is feasible:** At present due to less competition and capital, banks are investing less in the technology in terms of payment, credit behaviour etc. Reforms can ensure private invest in technology and push the Public Sector Banks also.
- Corporate houses will bring capital and expertise to banking.
- **Government can focus on other problems** instead of rescuing banks frequently with taxpayer's money. Apart from that Government finances were already strained before the Covid crisis and worsened during the pandemic.

Why the corporate as a promoter of bank being criticized?

One of the most severe criticisms of the report was the recommendation of allowing the large corporate/industrial houses as a promoter of banks. Former RBI Governor Raghuram Rajan and former RBI Deputy Governor Viral Acharya **severely criticised** the suggestion for various reasons like,

- **Poor governance under the present structure** is the major problem of Indian banking sector. Ex Despite spotting the fault at early stage in IL&FS, RBI did not step up its governance activities and that resulted in the defaulting of the IL&FS.
- **Bank for elites:** In the past, Banks were nationalized because their ownership by the private sector was leading to "large concentration of resources in the hands of a few business families". The allowing of corporate might revive that.
- **Financial crisis in India:** 2008 Global Financial crisis was a proof of how risky that the private sector banks are? Trusting them to operate at large scale instead of trust worthy and financially stable government-owned banking system might create a financial crisis in long run.
- **Issue of Connected Lending:** 1997 Asian Financial Crisis was a grave example of mingling of big companies and banks. If we allow corporate as a promoter of banks then the connected lending consequence is unavoidable in India. IWG report itself mentions, "it will be difficult to ring fence the non-financial activities of the promoters with that of the bank".

Connected Lending:

Connected lending refers to a situation where the promoter of a bank is also a borrower. There is a possibility promoter to channel the depositor's money into their own ventures. Connected lending was the key factor behind 1997 Asian Financial crisis. The recent episodes in ICICI Bank, Yes Bank, DHFL etc. were all examples of connected lending.

- **Inadequate to track:** Corporate houses are adept at routing funds through a maze of entities in India and abroad. So, they can bypass the checks and balances and flout the norms.
- **Can Increase Crony Capitalism:** There is a high possibility that few corporates control the lending process and influence the lending process. Thereby **reduce the competition** and can create a **Chakravayuhatype of challenge** in Indian Economy.

Is Corporate as Banks is new to India?

In February 2013, the RBI had issued guidelines that permitted corporate and industrial houses to apply for a banking licence. Some houses applied, although a few withdrew their applications subsequently.

Only two entities qualified for a licence, IDFC and Bandhan Financial Services. No corporate was ultimately given a bank licence.

The RBI maintained that it was open to letting in corporate companies to open banks. However, none of the applicants had met 'fit and proper' criteria.

In 2014, the RBI restored the prohibition on the entry of corporate houses into banking

Solutions:

- **Improve private governance and regulatory capacity:** The **Committee on Financial Sector Reforms (2008)** headed by then RBI Governor observed that it is premature to allow industrial houses to own banks. Though necessary, the reform can wait till private governance and regulatory capacities improve.
- **Regulator side:**
 - Regulator has to enhance the credibility of the system by ensuring every deposit is safe especially with better governance.
 - RBI should ensure the checks and balances before allowing corporates to become promoters.
 - Instead of debating with the allowing of corporate is good or bad? RBI can **move ahead with the other recommendations** which are really beneficial for the banking sector and economy as whole.
- **From Government side**
 - **Better Legal framework:** If permitting corporates as bank promoters than the government not only need to amend the Banking Regulation Act, 1949 but also needs to amend various Acts to curb crony capitalism, liberal whistle blowing policies etc., but they all need strong political commitment.

Way forward:

Though allowing corporate is one of the recommendations of IWG report, there are many other necessary recommendations for reforming the banking sector. RBI needs to reconsider the step to allow corporates, as the report is open for public review till January.

Cyclone Nivar: All about tropical cyclones

This article has been created based on The Hindu Editorials: Storm warnings: On weather forecast and Cyclone Nivar appeared on 27th November 2020.

Introduction

According to the India Meteorological Department (IMD), Cyclone Nivar, which crossed the TN coast as a very severe cyclonic storm with wind speeds of 120 kmph and rain-filled, further weakened as it moved inland.

The storm system is likely to move northwestwards and weaken into low pressure. Subsequently, Cyclone Nivar weakened into a cyclonic storm and further into a deep depression, centered about 50 km west-southwest of Tirupati.

Cyclone Nivar is the second cyclone to form over the Bay of Bengal this year after Super Cyclone Amphan.

Read about Amphan and few basics in ForumIAS blog by clicking here

India Meteorological Department (IMD)

- IMD is the principal agency for all matters relating to meteorology and allied subjects such as weather forecasting and seismology etc.
- In the year 1875, the Government of India established the India Meteorological Department, bringing all meteorological work in the country under a central authority.
- Mr. H. F. Blanford was appointed Meteorological Reporter to the Government of India. The **first Director-General** of Observatories was **Sir John Eliot**.
- The **Headquarters** of the IMD was **initially Calcutta** but **now** headquarters located in **New Delhi**.
- The administrative responsibilities of the Department are under the supervision of the **Ministry of Earth Sciences**

What are Tropical Cyclones?

They are violent storms that originate over oceans in tropical areas and move over to the coastal areas bringing about large-scale destruction caused by violent winds, very heavy rainfall and storm surges.

- **Conditions:** The conditions favourable for the formation and intensification of tropical cyclones are:
 - Large sea surface with temperature higher than 27° C;
 - Presence of the Coriolis force enough to create a cyclonic vortex
 - Small variations in the vertical wind speed;
 - A pre-existing weak low-pressure area or low-level-cyclonic circulation is must for cyclone formation in tropics
 - Upper divergence above the sea level system.

Vulnerability of India to Cyclone:

- Indian sub-continent is the **worst affected region of the world**, having a **coast line of 7516 kms**. (5400 kms along the mainland, 132 kms in Lakshadweep and 1900 kms in Andaman and Nicobar Islands) is **exposed to nearly 10% of the world's Tropical Cyclones**.
- **40% of the total population lives within 100 km of coastline.**

- **Four States** (Andhra Pradesh, Odisha, Tamil Nadu, and West Bengal) and **one UT** (Pondicherry) **on the East Coast** and **One State (Gujarat) on the West Coast** are more vulnerable to cyclone disasters

Benefits of Tropical Cyclones:

Although Tropical cyclones are known for the destruction they cause, when they strike, they also bestow certain benefits to the climatic conditions of that area such as

- **Relieve drought conditions:** By bringing rain to the coastal areas, cyclones relieve the drought like conditions in the surrounding areas.
- **Maintain equilibrium in the Earth's troposphere:** They Carry heat and energy away from the tropics towards temperate latitudes, thus helps in maintaining equilibrium of the troposphere.
- Cyclones help in maintaining a relatively stable and warm temperature worldwide.

Causes of destruction caused by Cyclones:

There are three elements associated with cyclones that cause destruction during its occurrence. These are:

- **Strong Gusts/Squall:**
 - These are very strong winds that accompany a cyclonic storm **damages installation, dwellings, communications systems, trees**, resulting in **loss of life and property**.
- **Gusts:** These are short but rapid bursts in wind speed. These are the main cause of damage. Gusts are generally short-lived.
- **Squalls:** A squall is a strong rise in wind speed which generally lasts for some time. Squalls generally associated with the bands of thunderstorms.
- **Torrential rains and inland flooding:** Torrential rainfall (more than 30 cm/hour) associated with cyclones is another major cause of damages.
 - Unabated rain gives rise to **unprecedented floods**.
 - Rain is a serious problem for the people which become shelter less due to cyclone.
 - Heavy rainfall from a cyclone is usually spread over wide area and cause large scale **soil erosion and weakening of embankments**.
- **Storm Surge:** It can be defined as an abnormal rise of sea level near the coast caused by a severe tropical cyclone;
 - **Seawater inundates low-lying areas** of coastal regions drowning human beings and life stock, **causes eroding beaches and embankments, destroys vegetation**, and leads to a **reduction of soil fertility**.
- Apart from these Cyclones also create destructions such as
 - **Sudden Change in Regional climate:** The ability of cyclone to bring in warmer air is high. So, the elderly and children in those areas have a high vulnerability to develop heat-related problems such as heat strokes.
 - **Loss of Livelihood:** The majority of the coastal people generally depend on fishing which is completely halted by cyclones.
 - **Loss of economy:** The economic loss is in multifront from infrastructure loss, relief packages to people, etc.

Challenges in Cyclones Management:

- **Bare minimum Technology:** At the terminal-end generally lacks the equipment and communication back-up to deal with the situation effectively.

- **Lack of grass root level participation:** There is a wider awareness gap is there between disaster management from people's end.
- **Multiple agencies:** The IMD issues meteorological or weather forecasts while the Central Water Commission (CWC) issues flood forecasts at various river points. But cyclones bring the combination of problems. Before the integration of data people on the ground lost the "golden time".
- **Low data:** The government has not measured the peak flows in the rivers and canals to plan remedies and also not documented data on annual flooding patterns.
- **Absence of land use norms** has spawned an amorphous housing sector characterized by inflated, speculative prices but no foundation of civic infrastructure.
- **Poor Urban planning:** Many Indian cities lacks poor urban planning which is highlighted by floods in Chennai and Mumbai.
- **Climate Change:** There are many proven records that exist between the link between the higher frequency of disaster and climate change.

Government Initiatives:

- Government is carrying out a **National Cyclone Risk Mitigation Project (NCRMP)** with the help of the **World Bank** for upgrade cyclone forecasting, tracking and warning systems in India
- Government is also implementing **Integrated Coastal Zone Management Project (ICZMP)** to improve national capacity for the implementation of comprehensive coastal management in India.
- Government also **separated Structural(includes construction) and non-structural measures** for effective disaster management of cyclones
- **Solutions:**
- The government should consider the NDMA Guidelines for the management of cyclones:
- **Ensemble Warning System(EWS):** Establish EWS involving observations, predictions, warnings, and customized local level advice for decision-makers (national, state, district level) to manage the impact of the cyclone ([Read more about EWS](#))
- **Commissioning of Aircraft Probing of Cyclone (APC):** Guidelines calls for the combination of manned and Unmanned Aerial Vehicles (UAV) for critical observational data gaps.
- **Cyclone Disaster Management Information System (CDMIS):** Establishing a comprehensive department for coverage of all management information and provide online services to the departments of Disaster management.
- **Specifying the roles and responsibilities** in institutionalizing Cyclone risk mitigation with Developmental planning.
- **Community Based Disaster Management (CBDM):** Guidelines asked to launch such activities in all villages of the 84 districts vulnerable to cyclones.

Way forward:

- With the adverse Climate Change risks posted by IPCC reports the only option for India is to better preparedness for the disaster with better urban planning, community awareness, etc.

Initiative to boost domestic manufacturing in India

News: Government has recently approved the Production Linked Incentive (PLI) scheme worth up to Rs 1.46 lakh crores for 10 sectors with an aim to make Indian manufacturers globally competitive, attract investment in India and enhance export.

The sectors under the scheme include automobiles and auto components, pharmaceuticals, telecom, and networking products, and advanced chemistry cell battery among others.

PLI scheme worth Rs 50,000 crore for large-scale electronics manufacturing (in particular, mobile phones), medical devices, and pharmaceutical ingredients was launched earlier.

Production Linked Incentive (PLI) scheme:

It proposes a financial incentive to boost domestic manufacturing and attract large investments in the electronics value chain.

Key features of the scheme:

- The scheme shall extend an incentive of 4% to 6% on incremental sales (over a base year) of goods manufactured in India and covered under target segments, to eligible companies, for a period of five (5) years with financial year (FY) 2019-20 considered as the base year for calculation of incentives.
- The Scheme will be implemented through a Nodal Agency which shall act as a Project Management Agency (PMA) and be responsible for providing secretarial, managerial, and implementation support and carrying out other responsibilities as assigned by MeitY from time to time.
- Companies that make mobile phones which sell for Rs 15,000 or more will get an incentive of up to 6 percent on incremental sales of all such mobile phones made in India.
- In the same category, for companies that are owned by Indian nationals and make such mobile phones, the incentive has been kept at Rs 200 crore for the next four years.

Intended benefits of the scheme

The scheme is aimed at:

- Incentivizing foreign companies to set up shop in India.
- Encouraging local manufacturing units to set up or expand manufacturing units.
- Reducing the dependence on Chinese imports.
- Attract Investment in cutting edge tech and manufacturing In India.
- Making India a part of the global supply chain.

What is the status of imports in India?

- **Analysis of factory-level production data from the Annual Survey of Industries (ASI)** shows that value addition for surveyed firms ranged from 1.6% to 17.4%, with most of the firms being below 10%. More than 85% of the inputs were imported for the majority of the surveyed firms in 2017-18.
- **UN data for India, China, Vietnam, Korea, and Singapore** (2017-2019), show that except for India, all countries exported more mobile phone parts than imports.
- India's imports of mobile phone parts were 25 times the exports in 2019.
- **The PMP policy increased the value of domestic production** while improvement in local value addition remains a work-in-progress.

Why the shift from China is unlikely?

- India produced around 29 crore units of mobile phones for the year 2018-19; 94% of these were sold in the domestic market and the rest was exported. This means that much of the production and sales under the PLI policy will have to be for the export market.
- A study by **Ernst & Young for the India Cellular & Electronics Association** showed that if the cost of production of a mobile phone says 100 then the effective cost of manufacturing a mobile phone in China is 79.55, Vietnam is 89.05, and India is (including PLI), 92.51.
- It may be early to expect a major chunk of mobile manufacturing to shift from China to India as incentives under the PLI policy may not turn out to be a game-changing move.
- The PLI policy **does not strengthen our current export competitiveness** in mobile phones; and markets with a higher average selling price have lower volumes.
- In September 2019, Chinese Taipei contested the raise in tariffs under the PMP. If the PMP is found to be the **World Trade Organization (WTO) non-compliant**, then we may be flooded with imports of mobile phones which might make the local assembly of mobile phones unattractive.

Challenges faced by domestic manufacturers:

- **Less presence of domestic firm:** Domestic firms have been nearly wiped out from the Indian market and thus their ability to take advantage of the PLI policy and grab a large domestic market share seems difficult.
- **Cheap imported material:** Domestic firms may have the route of exporting cheaper mobile phones to other low-income countries but their performance has not been promising.
- For example, among the chosen domestic firms, Lava International reported exports of ₹324 crores in 2018, while Optimus Electronics exported ₹83 crores in 2018 and ₹4 lakh in 2019.
- **Low Level of Participation in Global Value Chains (GVCs):** India's participation in GVCs has been low compared to the major exporting nations in East and Southeast Asia. Export growth of capital-intensive products from China has been mainly driven by its participation in the GVCs.
- **Lack of integration:** China's export promotion policies since the 1990s have relied heavily on a strategy of integrating its domestic industries within the GVCs.
- **Lack of competitiveness:** India's mobile phone exports grew from \$1.6 billion in 2018-19 to \$3.8 billion in 2019-20, but per unit, value declined from \$91.1 to \$87, respectively.
- **Missing Profits:** Despite the impressive growth of electronic products in India, the net value added by production units is very low.
- **Challenges in Set-up of Foundries:** Many industry experts also cite the lack of a foundry as contributing to low R&D in this sector in India, which results in poor talent retention and eventually 'brain drain'.
- **Low R & D:** Domestic players have also shown low interest due to their inability to compete with tech giants in research and development (R&D) and investment.

Steps that were taken to boost manufacturing

- **Scheme for Promotion of Manufacturing of Electronic Components and Semiconductors:**

- Under the scheme, a financial incentive of 25% of capital expenditure has been approved by the Union Cabinet for the manufacturing of goods that constitute the supply chain of an electronic product.
- The SPECS notified for manufacturing of electronics components and semiconductors has a budget outlay of Rs 3,285 crore spread over a period of eight years.
- The government estimates that the push for the manufacturing of electronics components and electronic chips will create around 6 lakh direct and indirect jobs.
- **Modified Electronics Manufacturing Clusters Scheme**
 - The EMC 2.0 has a total incentive outlay of Rs 3,762.25 crore spread over a period of 8 years with an objective to create 10 lakh direct and indirect jobs under the scheme.
 - The EMC 2.0 scheme will provide financial assistance up to 50% of the project cost subject to a ceiling of Rs 70 crore per 100 acres of land for setting up of Electronics Manufacturing Cluster projects.
 - Electronic manufacturing clusters to be set up under the scheme will be spread in an area of 200 acres across India and 100 acres in the North-East part of the country.

Way forward:

- **Focus on supply chain co-location:** Foreign firms chosen under the PLI policy should be encouraged to co-locate their supply ecosystems in the country as the assemblers and component manufacturers move together.
 - The six-component firms that have been given approval under the '**specified electronic components segment**' do not complete the mobile manufacturing ecosystem.
 - For example, literature shows that when Samsung set up shop in Vietnam, it relied heavily on its Korean suppliers which co-located with it to produce in-between inputs, so much so that 63 among Samsung's 67 suppliers then were foreign.
 - Even though Samsung is invested hugely in India, it has not co-located its supply chain in the country.
- **Focus on the value of production:**
 - The new PLI policy offers an incentive subject to brinks of incremental investment and sales of manufactured goods; these **thresholds vary for foreign and domestic mobile firms**.
 - **However, the focus remains on increasing the value of domestic production, and not local value addition.** If implemented, an additional capacity of 60 crore mobile phones per year may be on stream at the end of the PLI.
- **Profiting from Anti-Chinese Sentiments:** USA's allegations on China for worsening Covid-19 and India-China conflict are golden opportunities for India to act fastly on it and attract outgoing investment.

Issue of Lakshmi Vilas Bank

News: Reserve Bank of India imposed a **30-day moratorium on Chennai based Lakshmi Vilas Bank Ltd (LVB)** and put in place a draft scheme for its **amalgamation** since its financial position underwent steady decline and posted **loss for the last 3 consecutive years**.

Under these developments, RBI has imposed the following conditions:

- RBI has put a cap of Rs 25,000 on withdrawals from the bank.
- Draft Scheme for amalgamation includes the amalgamation of LVB **with DBS Bank India**, a subsidiary of DBS of Singapore. Amalgamation will include all business, assets (including tangible and intangible), estates, rights, titles, etc. of LVB.

What is Prompt Corrective Action (PCA)?

- PCA is a framework under which banks with weak financial metrics are put under watch by the RBI.
- The RBI introduced the PCA framework in 2002 as a structured early-intervention mechanism for banks that become undercapitalised due to poor asset quality, or vulnerable due to loss of profitability.
- It aims to check the problem of Non-Performing Assets (NPAs) in the Indian banking sector.

Background of the LVB issue:

- LVB shifted its focus from SMEs (Small and Medium Enterprises) to large businesses, in 2016-17 and loaned Rs 720 crore against fixed deposits of Rs 794 crore, which later turned into bad loans.
- In 2018, ReligareFinvest sued the Delhi branch of LVB to recover fixed deposits worth about Rs 800 crore that the bank invoked to recover those loans.
- RBI put LVB under Prompt Corrective Action (PCA) framework in September 2019 due to which the bank was not able to issue fresh loans or open a new branch anywhere.
- Now RBI has formalised a scheme for its amalgamation as mentioned above.

Why this decision was taken?

- **Erosion of the bank's net-worth:** Deposits has undergone a steady decline, with continuous losses over the last three years.
- **Experiencing low levels of liquidity:** Inability to raise adequate capital from market and due to continuous withdrawal of deposits.
- **Increase in Non-performing assets:** Almost one fourth of the bank's advances have turned bad assets. Its gross non-performing assets (NPAs) stood 25.4% of its advances as of June 2020.

RBI's power of amalgamation

- Under Section 45 of the Banking Regulation Act, a scheme of reconstruction or amalgamation can be prepared by RBI, during the period of amalgamation only.
 - Once the moratorium comes into effect, the bank cannot lend, and existing depositors cannot withdraw beyond a specified amount.
- But the practice of imposing a moratorium was seen as disruptive as it carried the risk of undermining depositor confidence in the banks and financial stability.

- Thus, the government empowered RBI under **Banking Regulation (Amendment) Ordinance 2020**, to prepare a reconstruction scheme without having to first make an order of moratorium on barring deposit withdrawals.

Types of Private banks in India:

1. **Old generation Private Banks:** Private banks existed in India at the time of nationalization of major banks but were not nationalized due to their small size or some other reason. After the banking reforms, these banks got a license to continue and have existed in India along with new private banks and government banks. Ex: LVB, CUB, KVB, etc.
2. **New generation Private Banks:** Those who were formed after the bank nationalization. Ex: Axis, Yes Bank, HDFC.

Issues facing Private Banking Sector:

- Collapse of IL&FS (Infrastructure Leasing & Financial Services) in 2018 had set off a chain reaction in the financial sector, leading to liquidity issues and defaults.
- RBI had earlier this year bailed out Yes Bank through a scheme backed by State Bank of India and other banks
- Punjab & Maharashtra Co-op Bank was hit by a loan scam involving HDIL (Housing Development and Infrastructure Limited) promoters and the bank is yet to be bailed out.
- Most of the old generation Private banks **do not have strong promoters**, making them targets for mergers or forced amalgamation. For ex: In KarurVysya Bank, the promoter stake is 2.11%, and in Karnataka Bank, there's no promoter
- **Asset Quality:** biggest risk to India's banks including Private banks is the rise in bad loans or Non Performing Assets (NPAs) along with the slowdown in the economy. This unforeseen COVID-19 Pandemic just increased that further. However, the impact will differ depending upon the sector.

Ex: banks lend to pharmaceuticals and IT seem to have benefited from reduced NPA and those who lend to hospitality, tourism, aviation expect to increase NPA's further.

- **Regulatory challenges :** RBI's CAR (Capital Adequacy Ratio) and other stringent regulations reduce Private sector banks Alternative investment opportunities
- **HR challenges:** Shortage of experienced and trained private bankers and high attrition levels means that talent is always in short supply
- **Infrastructure challenges:** Lack of appropriate and adequate physical and IT infrastructure is one of the major challenges facing the PB sector in India. Bank branches are not well equipped to cater to HNIs (High Net Worth Individuals) and UHNWIs (Ultra High Net Worth Individuals)

Solutions and way forward

- RBI constituted **KV Kamath Committee** tasked to recommend on the financial parameters required for a **one-time loan restructuring window for corporate borrowers** under stress due to the pandemic can reduce stressed assets and NPAs not only in private banks but in the entire banking system as a whole.
- **Narashimham committee** recommendation of **Introduction of Narrow Banking Concept** where weak banks will be allowed to place their funds only in the short term and risk-free assets can be followed in Private banks when they face loss for 4 consecutive quarters instead of RBI step into amalgamation or bailout

- Splitting the Chairman and Managing Director and allocating them fixed tenure of 3 to 5 years as advised by the **PJ Nayak Committee** can be followed for Private banks.
- Insolvency and Bankruptcy Code should be better utilized and have to complete within the provided timeline.
- Private banks have to improve their Promoters stake or look out for promoters.

Conclusion

With BASEL III norms on the cards Indian Banking sector has to be strengthened especially PSBs but that doesn't mean the Private can be left out. A mutually strong, competitive private banking is the key to push the entire banking system.

Important Definitions:

HNI: In India, those peoples who have more than 2 crores investible surplus are considered high net worth individual (HNI)

NPA's: A loan whose interest and/or installment of principal have remained 'overdue' (not paid) for a period of 90 days is considered as NPA.

Stressed assets = NPAs + Restructured loans + Written off assets

Restructured asset or loan: assets which got an extended repayment period, reduced interest rate, converting a part of the loan into equity, providing additional financing, or some combination of these measures

Written off assets: assets which the bank or lender doesn't count the money the borrower owes to it. The existing shareholders face a total loss on their investments unless there are buyers in the secondary market who may ascribe some value to these.

Social and Digital media regulations in India

Issue of Digital/Social media regulations in India

In the backdrop of the increasing popularity of online platforms (OTT, Social Media Etc.) in India and world over in the recent times, many efforts are being made to regulate the content being posted on them.

The latest attempt in this row has been made by the Kerala Government. Kerala government has recently amended the **Kerala Police Act** by incorporating a new Section, 118 (A).

Provisions of the controversial Kerala law

- Any person who sends or creates any information that is offensive or is intended to offend or threaten another person, through any means of communication, is liable to face imprisonment of five years or a fine of Rs 10,000 or both.
- Make the offence as a cognisable (Police can arrest the person without warrant and investigate the person without the permission of the Court) and provides a punishment of three years.

Ø **Criminal defamation under the IPC** is a non-cognisable offence and no police officer can register an FIR for the offence; it can only be prosecuted as a private complaint. Apart from that, the punishment prescribed in IPC is only two years.

Ø **Similar offence for Sec. 199 Cr.P.C.:** No court shall take cognisance of defamation unless the aggrieved party files a complaint.

- As per the government, Section 118(A) is meant to protect people, particularly women, transgenders and other vulnerable sections from social media abuse.

Relevant points from judgments:

- In **Shreya Singhal Case** Supreme court said that when a provision of law suffers from Vagueness and unclear about the terms and penal provisions used then that provision of law can be struck down by the judiciary (Supreme Court struck down Section 66A of IT Act and also Section 118(d) of Kerala Police Act as a violation of Fundamental Rights enshrined under Article 19 (1))
- Kerala High court itself said
“Existing laws which deal with the defamation and other allied offences are sufficient to address these kinds of issues. So, there is no need for separate legislation for offences like defamation, modesty of women and transgender etc.”
- By making defamatory utterances cognisable and raising the prison term, the Kerala ordinance effectively amends the IPC and Cr.P.C., a move for which the Centre’s (President’s) assent is mandatory, as it is in conflict with central laws.

Regulations of Digital media

Recently, the government has brought digital/online media platforms, films release on OTT, and audio-visual programs, under the ambit of the Ministry of Information and Broadcasting from the ambit of the Ministry of Electronics and Information Technology.

New regulations added 2 new categories i.e.

1. Films and Audio Visual programmes made available by online content providers
2. News and Current Affairs on online platforms such as Facebook, Twitter and Instagram

In recent cases involving Sudarshan news, the government on the requirement of regulating the electronic media stated that regulating the digital media was more pressing.

At present, the News Broadcasters Association (NBA) represents the news channels, the Press Council of India regulates the print media, the Central Board of Film Certification

(CBFC) monitors film, while the Advertising Standards Council of India regulates advertising.

Last month, a law was passed stating that digital news platforms could not have more than 26% foreign investment.

Need for regulating OTT platforms

- Video streaming services such as Netflix and Amazon Prime have become key distributors for new movies and entertainment content during the COVID restrictions and have multiplied their subscribers in India in recent years. But they do not require any certification before any new releases.
- In contrast, new movies, before theatrical release, have to get through the certification process of the Central Board of Film Certification.

Need for regulating digital/social media platforms

- **Ability** of digital/social Media to **Reach, Scale and size** is huge compare to print and other media.
- While electronic media in India is regulated by the Cable Television Networks (Regulation) Act of 1995, there was **no law or body to oversee digital content**. Some people are taking an undue advantage which leads to too much voice and noise in social media.
- Recently, India has seen a **surge in the number of fake news** items in circulation, especially on WhatsApp and Face book.
- **Absence of editorial control in digital/ social media** leads to large scale user-generated content which is unregulated
- In 2018, fake information that was circulated on WhatsApp led to the lynching of five men in Maharashtra and there are many such instances.
- In this time, when India is in conflict with its **neighbouring countries like China** and Pakistan, there is a possibility of **Foreign-funded digital platforms** running to **defame our country**.
- There is also evidence of fake information influencing **the process of election** in the USA which undermines the root of democracy.

Issues in regulating the OTTs, digital and social media

- When it comes to regulating digital news content, new regulations may end up facilitating **more governmental interference** and censorship which impacts the Right to freedom of speech and expression (Article 19(1))
- It is expected that **regulations might be instrumental** in suppressing the freedom, enjoyed by digital media till now and might be targeted at a section that has been bold and forthright in speaking truth to power.
- Digital platforms were till now able to openly create the movies/videos on politically sensitive subjects, now they have to bow down to the political pressures.
- If the government is providing any legislation to regulate the social/digital media then the wider/free for all media houses and persons might face a number of allegations which leads to a **huge inflow of cases to the judiciary** which is already overburdened.
- The government turned down the self-regulatory proposal proposed by the 15 OTT platforms collectively under the Internet and Mobile Association of India (IAMAI) in September this year.

Important provisions of Self-regulatory Proposal by OTTs

Proposed two-tier structure as part of the self-regulatory regime

o **1st tier:** Consumer Complaints Department or an internal committee, as well as an advisory panel, which will deal with complaints, appeals, and escalations.

This is the three-member committee of which two of whom will be executives of the streaming service, and one an “independent external advisor” who is not be employed by the company in any capacity.

o **2nd tier:** formation of Digital Curated Content Complaints Council (DCCCC) chaired by a retired judge of the Supreme Court or High Court along with an enumeration of prohibited content.

Government Rejected the proposal as the current model does not have third party monitoring options, lacks a well-defined Code of Ethics, the minority status of independent advisor and also gives an unclear picture of content prohibition.

Government also asked IMAI to look at other self-regulatory models since the government does not support the current one.

Solutions:

- From Social/digital media side has to have a corporate responsibility
 - Misinformation has to tackle with information like the one did by YouTube in tackling false information.
 - They have to publish transparency reports from their side like Facebook
- From the Government Side
 - The government should pass an **Act** like that of the US **to establish a self-regulatory system** for media platforms and to hire content moderators to moderate the contents getting published on their platform
 - With recent reports posting a number of internet connections recently crossed the 750 million milestones in India, **Digital Literacy Programmes** has to be encouraged along with Digital India Mission
 - **Model Code of Conduct** implemented by Election Commission of India has been effective and efficient in curbing fake news and misinformation in social/digital media during elections, Government should appoint a study committee to explore the **scalability** of the same to other aspects as well.
- From Society
 - People should understand that **freedom** in social/digital media should complement with **responsibilities envisaged** in the Fundamental Duties.

Way forward:

Regulating social/digital media cannot be done from one side. All the stakeholders should have to contribute for the betterment of the platform as a whole is the key else India might follow the USA (Most Americans get their News from suspicious internet source which resulted in extreme polarization of citizen’s view).