

7 PM COMPILATION

November, 2020

Features of 7 PM compilation

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

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

About Demographic Dividend:

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

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

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

Steps to be taken

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

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

Dissatisfactory status of Indian youth

- According to the 2018 State of Working India Report the youth unemployment rate is at least 18.3% (3.47 crore youths)
- About 30% of youth fall under the 'neither in employment nor in education' category and 33% of India's skilled youth are unemployed
- The CMIE estimated a loss of 14 crore jobs in April alone of which 2.7 crores concerned youth.
- 50 lakh youth are expected to be entering the workforce annually.
- Implementation of rural youth employment program alongside MGNREGA:** Even though an urban youth employment program will be a new involvement, the rural youth employment should be instituted alongside MGNREGA.

Demographic dividend can be a demographic disaster:

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

The youth development Index

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

Why India should focus on demographic dividend?

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

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

Various opportunities related to the demographic dividend in India:

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

Challenges of demographic dividend in India:

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

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

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

Way Forward:

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

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

Supreme Court stayed EC decision on Star Campaigner Status.

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

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

About the SC judgment

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

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

Who is a star campaigner?

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

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

Is there any law or guidelines governing star campaigners?

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

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

As per guidelines:

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

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

As per the revision:

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

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

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

Why political parties appoint star campaigners?

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

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

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

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

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

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

Guidelines for PM acting as a 'star campaigner'

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

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

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

About Haryana State Employment of Local Candidates Bill, 2020

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

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

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

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

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

Other states with reservation for locals in private jobs

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

How states are providing reservation to locals?

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

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

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

Implications of reservation in private jobs

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

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

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

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

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

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

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

Constitution and judgments concerning reservation for locals

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

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

Supreme Court Judgements:

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

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

Way forward

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

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

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

SC judgment on SC/ST (PoA)act

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

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

What was the case?

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

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

Constitutional Provisions

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

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

SC/ST Act, 1989

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

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

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

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

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

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

2018 SC judgment

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

Key guidelines

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

2018 amendment to the Act

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

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

Prathvi Raj Chauhan case, 2020

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

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

How effective has been SC/ST act?

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

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

What more should be done?

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

Way forward

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

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

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

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

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

What is FCRA (Foreign Contribution Regulation Act)?

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

Key provisions of FCR(Amendment), Act 2020:

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

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

Need for such amendments:

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

Concerns associated with the recent amendments

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

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

What can be the way forward?

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

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

Indo-Pacific and India | 7th Nov. 2020

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

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

Evolution of Indo-Pacific Concept

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

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

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

India’s concept of Indo-Pacific

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

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

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

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

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

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

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

The divergences involve, among other things,

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

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

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

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

Importance of Indo-Pacific region

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

Steps taken by India to promote Indo-Pacific vision

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

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

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

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

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

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

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

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

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

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

Challenges for India

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

Conclusion

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

ForumIAS

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

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

Types of Custodial Violence:

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

State of custodial violence in India:

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

Challenges in curbing custodial violence

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

State of prisons:

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

Non-ratification of UN Convention against torture:

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

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

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

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

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

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

Poor witness protection regime:

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

Constitutional safeguards:

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

Statutory safeguards :

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

Way forward

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

Police reforms:

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

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

What is Monetary Policy?

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

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

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

Monetary Policy Committee:

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

Objective:

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

Composition:

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

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

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

Is Inflation targeting a good policy?

Inflation targeting:

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

Inflation targeting as a good policy

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

Limitations of Inflation targeting policy

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

Need for independent MPC:

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

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

Way forward:

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

ForumIAS

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

What is the Gig Economy and platform work economy?

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

Provisions for gig and platform workers in labour laws of India

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

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

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

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

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

Need for providing benefits to the gig workers

UNEMPLOYMENT AND LOW CONSUMPTION:

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

HIGH EMPLOYMENT PROVIDER

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

IMPORTANT ROLE PLAYED BY GIG WORKERS DURING A PANDEMIC

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

FINANCIAL DEPENDENCIES OF WORKERS ON THE GIG ECONOMY

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

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

Issues in Labour laws coverage for gig workers

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

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

What should be done?

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

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.

ForumIAS

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
 - o Misinformation has to tackle with information like the one did by YouTube in tackling false information.
 - o They have to publish transparency reports from their side like Facebook
- From the Government Side
 - o 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
 - o 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
 - o **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
 - o 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).