

Forum IAS

7 PM COMPILATION

16th to 30th January, 2021

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Kalapani territorial dispute between India and Nepal resurfaced

Synopsis: Kalapani territory is one of the major disputed border areas between India and Nepal. But the dispute is not yet resolved by mutual terms and usually resurface time and again. In this article, you can read about the details of the dispute and the steps that India should take.

Introduction: Present development

Nepal has raised the Kalapani boundary dispute during the recent Joint commission meeting with India.

Dispute intensified in November 2019, when India published a revised political map after the reorganization of J&K, depicting Kalapani as the region of India.

Nepal immediately issued an objection to the map. Nepal government released a map mentioning Kalapani -Lipulekh- Limpiyadhura as a territory of the Darchula district of Sudurpashchim province of Nepal.

About Kalapani territory



Kalapani is the eastern most region of the Pithoragarh district of Uttarakhand, administered by India.

It is located at the China-Nepal-India tri-junction and is a strategically important area. So Kalapani was regarded as an 'observation zone' for troops. For example, by stationing Indian troops at Kalapani, India can observe the movement of the Chinese troops and push them back if required.

Apart from that, Kalapani serves as an important pass for the Kailash Mansarovar route. Since 1962, Kalapani has been guarded by the Indian security forces. But According to Nepal, King Mahendra with the helping tendency offered Kalapani to India temporarily for security purposes during the 1962 India-China war.

This debate intensified in the 1990s after Nepal restored its democracy.

What is Kalapani Dispute? Historical aspects and conflicting claims by both the countries

The key reason for the Kalapani dispute is the disagreement between India and Nepal over the origin of River Kali, flowing through Kalapani region.

British India signed the Treaty of Sugauli with the Kingdom of Nepal after the Anglo-Nepalese War in 1816. In this treaty, they demarcated the Kali River as Nepal's western boundary with British India.

But the source of Kali has become a main cause of contention.

River Kali is known as 'Kali' at the upper reaches, 'Mahakali' at the middle portion and 'Sarjoo' or 'Gogra' at the lower areas. This aggravates the confusion about where it belongs

The two contrasting views:

- Nepal's stand:
 - Nepal was of the view that the river which flows to the west of Kalapani is the main River Kali. They also believe that River Kali was originating at either Limpiyadhura or the nearby Lipulekh pass, which are both within the Nepalese territory.
- India's stand:
 - India believes that the River Kali originated from a smaller rivulet named Pankhagad. It was lying on the southern portion of Kalapani. Hence it is the true border, and the territory was lying in India.
 - The revenue and administrative records of the nineteenth century showed Kalapani as a part of India.

Other territorial disputes between India and Nepal

The disagreements between India and Nepal are not limited to Kalapani but also the other areas like Lipulekh, Limpiyadhura, and Susta;

Susta region:

- It is a fertile area consist of alluvial soil located in the Terai regions West Champaran district, Bihar of India.
- Susta region is located on the banks of the Gandak river. The Gandak river is also called as the Narayani river in Nepal.
- During the 1816 Treaty of Sugauli, the west side of the Gandak river belongs to Nepal and the Eastern part of the river belongs to India.
- But due to frequent change of course by the Gandak river, the Susta region at present belongs to the Eastern part (I.e., belongs to India). This is not accepted by Nepal.

Lipulekh and Limpiyadhura region:

- Both Lipulekh and Limpayadhura (Limpiya pass) located on the Nepal-Tibet border
- Lipulekh Pass connects the Indian state of Uttarakhand with the Tibetan Autonomous Region of China. Lipulekh is the shortest route to reach Taklakot, a Tibetan township of China.
- Nepal claims that the Indian army has encroached on both regions during the 1962 territorial offering of King Mahendra.

Solutions:

First, In the 1980s, both countries set up a Joint Technical Level Boundary Working Group. It succeeded in the demarcation of all territories except Kalapani and Susta. Both governments have to create such a joint working group to resolve the dispute.

Second, establishing a permanent mechanism to reduce the disputes further so that the disasters caused by the rivers and floods in the regions of India-Nepal can be mitigated effectively.

Third, India has to convey to Nepal's leadership about the friendly environment that 6 to 8 million Nepali citizens living in India and the benefits of open borders enjoyed by citizens of both countries.

Fourth, Mutual respect is the key: The Nepal government has to broaden the view and has to stop the territorial nationalism and pulling out the China card whenever they negotiate with India.

Way forward:

[The India-Nepal relationship](#) is a unique relationship, built by friendship and cooperation with cultural and civilizational links. The border dispute is one of the important issues to solve to take ahead India and Nepal relations to another level. But to be successful forgetting the mistakes and claims of past along with a fresh start is key to both the countries.

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5G technology in India – importance, challenges and solutions

Synopsis: More than 40 telecom operators in the World have already launched 5G technologies. India being the 5th largest economy in the world has not yet launched the 5G technology. Is it high time to launch 5G services in India or India still have time to catch up with the technology?

Present Status of 5G in India:

Department of Telecommunication (DoT) in 2017 setup a **5G steering committee headed by AJ Paulraj**. The committee submitted the report and suggest important steps. In 2018, India planned to start 5G services but it has not yet materialized.

All the private telecom players urged the DoT to lay out a road map of spectrum allocation and 5G frequency bands.

Reliance Jio plans to launch an indigenously built 5G network in the second half of 2021. And also, to be ready for deployment once the networks are in place.

The government for its part also working on creating a corpus of Rs 500 crore dedicated exclusively for the research and development of 5G technology in India.

Recently, The Department of Telecommunications (DoT) has sought opinion about the sale and use of radiofrequency spectrum over the next 10 years, including the 5G bands from the experts.

Importance of 5G Technology:

5G will bring with **High speed and ultra-low latency** will revolutionise government effort in promoting digital India.

First, Minimum Government and Maximum Governance: Better speed and connectivity will reduce the red-tapism and enhance speedy and better implementation of projects and policies. This will various government missions such as smart cities mission, etc.

Second, Ultra-Low latency in 5G services (time taken by a network to respond) will help in improvement in the logistics and shipping sector and al so reduces the overall cost of goods and services.

Third, Employment generation: 5G technology will open a new horizon of opportunity for new device manufacturers and application developers. Thus, more job opportunities will be created and it will help in the inclusive growth of the nation.

Fourth, Enhanced network coverage: This will enhance network performance and support during limited access or absence of mobile networks. The small cell concept used in 5G will have multiple advantages of maximum data transfer, better cell coverage, cloud access network and low power consumption etc. This will help in reducing the digital divide in India.

Fifth, 5G will provide enhanced Security: 5G will enhance security surveillance, better coordination among various agencies. The closed-circuit cameras will provide high-quality real-time video for security purposes.

Sixth, 5G will revolutionize Industrial Growth: The future of industries will greatly depend on smart technologies like 5G for efficient automation, safety, maintenance, tracking, smart packing, and energy management.

Seventh, 5G will improve Agricultural applications: 5g can be used for smart farming in the future. Such as combining smart RFID sensors and GPS technologies, farmers can track the location of livestock and manage them easily. Smart sensors can be used for irrigation control, access control and energy management.

Eighth, 5G will improve healthcare and mission-critical applications: Scientists are working on smart medical devices such as remote surgical machines, Smart medical devices, etc.

Challenges faced by India in introduction of 5G technologies:

First the major **question of need and viability**: Telecom operators are facing a financial crisis and have a combined debt of Rs 4 lakh crore. Apart from that, they are still trying to fully monetise 4G services. The introduction of 5G will involve a heavy upfront investment and have a long payback period. Thus, the viability of 5G after the introduction is a major challenge.

The **Second** challenge in the 5G deployment will be the **pricing of the spectrum**. DoT will price the spectrum but heavy upfront investment associated with 5G technologies will increase the price of the spectrum. But the telecom operators with a stressed balance sheet might not have that much capital to invest in the 5G technologies and spectrum.

Third challenge associated with 5G is the **technological and operational challenges**,

- **Extensive fiberisation requirement**: Most operators at present have about 20-25% fiberisation. But, a true 5G experience will require up to 80% fiberisation this also involves investment.
- **The antennae need to be upgraded at every site** and also require an entirely new orchestration layer to achieve the critical feature of 5G network slicing.

Fourth, the threat to national security: China is preparing to dominate the world by rolling out its [5G technology warfare](#) across countries. By deploying the 5G in India without indigenisation of technology will make India vulnerable to China. This will make the data of individuals, groups or even security agencies at risk.

Lastly, **diverting the traffic from 4G to a more efficient 5G** is also a challenge. As the **AJ Paulraj committee** pointed out that older generation technologies will remain for almost 10 years after the 5G deployment.

Solutions for faster implementation of 5G technologies in India:

India needs to fast the pace of its 5G implementation as technology is critical to India's digital ambitions.

First, India needs to **introduce the spectrum policy**: the policy should focus on incentivizing heavy investment in 5G, including long-term support, and technology-neutral spectrum licences, instead of trying to look for reaping profits right away.

Second, India needs to **create an ecosystem capable of leveraging 5G**, Like skilled manpower, technology, R&D and investment, etc.

Third, India has to **work on Indigenous 5G technology**. IoT platforms not only for military applications but also for civilians to avoid any 5G warfare and data threat in the future.

Fourth, India has to **Implement the recommendations of 5G steering committee**. The important recommendations are:

- **Three phased implementation of 5G technology** in India
- **Early adoption of 5G technologies** to fast-track India's embrace of 5G's benefits.
- **Setting up of Standing Committee with a five-year term** to advice on building Spectrum Technology Infrastructure.

Way forward:

The shift from 4G to 5G is not incremental, but transformational. Skipping of 5G is not a choice India can afford. The economic impact of 5G in India is expected to be over \$1 trillion by 2035 according to the report of KPMG. The Sooner the deployment of 5G in India is the better for India.

Establishment of Bad Banks – associated Issues and Significance

As a result of the Covid-19 pandemic induced economic slowdown, the commercial banks are about to witness the spike in NPAs, or bad loans. To deal with it, Reserve Bank of India (RBI) Governor is considering the proposal for the creation of a bad bank.

What is a Bad Bank?

A bad bank is an asset reconstruction company (ARC), involved in management and recovery of bad loans or NPAs of other banks.

Generally, these Banks are initially funded by the government and gradually, banks and other investors start to co-invest in them.

What are the functions of Bad banks?

Commercial and Public Sector Banks (PSBs) sell their NPAs to the bad bank. The bad bank manages the NPAs/bad loans and finally recovers the money over time. The takeover of bad loans is normally below the book value of them. These banks are not involved in activities like lending and taking deposits.

For example, consider a steel plant's loan with SBI, turned into an NPA. Bad bank purchases this NPA from the SBI. After that, the bad bank appoints domain experts to manage the assets of the plant with an aim to maximize revenues and cut losses. This is called reconstruction and increases the economic value of the plant. When the bad bank sells this plant, it will recover more money.

The first bad bank was created in 1988 by the US-based Mellon Bank. After that, a similar concept has been implemented in other countries including Finland, Sweden, France and Germany.

Concept of Bad bank in India:

- The idea gained momentum when the RBI held asset quality review (AQR) found several banks showing a healthy balance sheet but have suppressed or hidden bad loans.
- **Sunil Mehta panel** on NPA's (Non-Performing Assets) proposed **Sashakt India Asset Management company**, for resolving large bad loans in 2018.
- The Bad bank proposal was also discussed during the Financial Stability and Development Council (FSDC) meeting, but the government preferred a market-led resolution process instead of a bad bank.

Difference between Bad Bank and ARC (Asset Reconstruction Company):

Bad Bank	Asset Reconstruction Company
A bad bank is simply a corporate structure that isolates liquidity and high-risk assets held by a bank or a financial organisation, or perhaps a group of such lenders.	ARCs are registered with RBI under Section-3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
Bad Banks if established can take over all types of stressed assets	ARCs will only buy those pools of stressed assets if they see business-viability of those pools.
Currently the Bad banks are at conceptual stage and yet to be materialized	Currently, there are many licensed ARCs in India

Why a bad bank is required?

First, Banks have difficulty in solving these cases due to lack of expertise, coordination, capital etc. Even the private ARCs have also failed to recover the loans.

Second, The RBI fears a spike in bad loans after the Covid-19 pandemic and the six-month moratorium announced to tackle the economic slowdown. This creates a necessity of [Bad banks](#).

Third, the **panel led by KV Kamath**, has said companies in sectors such as wholesale trade, retail trade, textiles and roads are facing stress. So, setting up a bad bank is crucial to revive these sectors.

Fourth, Bad banks are **targeted banking system with domain experts** to focus particularly on NPAs. Bad banks can be more effective, quicker in restructuring of the loans.

The Financial Stability Report points that the gross NPAs of the banking sector are expected to shoot up to 13.5% of advances by September 2021, from 7.5% in September 2020, under the baseline scenario. So, the Bad banks are essential considering the Indian conditions.

Advantages of having Bad bank:

First, Bad banks will **improve credit mobilization culture** in the economy: By holding the defaulters accountable the Bad Banks will ensure the accountability of borrower to pay the loan at any cost.

Second, Bad Banks will **improve monetary Policy Transmission**. NPAs were one of the major reasons for the lack of monetary policy transmission (MPT) in India. Even though RBI has reduced policy rates, Banks don't reduce lending rates, to recover the cost of NPAs with them. If bad banks can manage their NPAs, their financial health will improve and facilitate MPT in the economy.

Third, Bad Banks can **take bold decisions compare to commercial Banks**. In General, the price at which NPAs are sold comes under the preview of CVC, CBI and CAG. Banks were hesitant to reveal and disposal of stressed assets fearing adverse reports by these institutions. A bad bank that can maximize recovery due to professionalism and hence will be less hesitant.

Fourth, Higher prices for stressed assets can be realized by bad banks.

Challenges associated with bad banks:

First, the major challenge associated with the Bad bank's establishment is regarding **what kind of loans will be taken over by bad banks, and at what cost?** This is aggravated when the commercial banks were reluctant in the past for haircuts. If a PSB accept the [NPA](#) sale at lower price to Bad Bank then that loss is incurred by that PSB (I.e., the government)

Second, the **stake of government** in Bad bank is criticised for **political influence** in decision making. Especially when the majority of the NPAs are associated with the Public Sector Unit.

Third, the establishment of bad banks **may not incentivise banks to focus on the quality** of credit provided, monitor loans, and protect against ever-greening of loans. Banks might perform lending activities in the mindset that there is a system in place for recovering the loans.

Fourth, **larger systemic issues will not be addressed**. A bad bank does not address the structural weaknesses in public sector banks such as management etc.

For these reasons, many economists including the former RBI Governor opposed the establishment of Bad Bank in India.

Solutions:

First, **laying out a clear road map** for Bad Bank is crucial. Government can address the issue in the upcoming budget session.

Second, Exploring the models suggested by former RBI Deputy Governor, Viral Acharya. He suggested two types of Bad banks. The possibility of these two models can be explored before setting up of Bad Bank. The models were:

1. **Private Asset Management Company (PAMC)**– This model is suitable for stressed sectors where the assets are likely to have an economic value in the short run, with moderate levels of debt forgiveness.
2. **National Asset Management Company (NAMC)**– This is for the sectors where the NPA problem is in excess capacity and also of economically unviable assets in the short to medium terms.

The government can roll out the Bad Bank for the PAMC to instil public confidence and assess the performance of Bad banks and later can extended to NAMC category.

Third, K V Kamath Committee also suggested to set up Bad bank to revive sectors such as Trade, Textile, NBFCs, Steel and construction, etc.

Way forward:

The Problem of NPA is huge in India. Without reducing the problem of NPA India cannot become a trillion-dollar economy. The UK Asset Resolution (UKAR), a bad bank has recovered nearly 50 billion pounds of loans in UK. So, the Bad Banks is key to reduce the NPA's, and it is high time for India to follow the path.

Important Concepts

NPAs: A loan whose interest and/or instalment 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: These are 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: These are 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.

Threat of Deepfakes in India

Synopsis: Deepfakes are becoming a huge threat. This AI-based technology has been used to incite violence and disrepute people. Recently, it was used allegedly used to incite violence in the US.

What are Deepfakes?

- **Deepfakes are modified** images, text, audio, and video or synthetic media, created with the help of Artificial Intelligence.
- It **generates a fake version** from an original or real audio-visual content by **superimposing** new audio or image on an existing media file.
- **For example;** with the use of AI, the face of a person in an original video can be replaced with the face of another person (Morphing). Now the modified face will mimic the head movements, vocal patterns, and facial expressions of the original one.
- Media is manipulated with such sharpness that it becomes **almost impossible to identify the difference** between fake and real media. It can only be identified by using AI tools.

Read – [Capitol building coup attempt in US: Reasons behind launch and failures – ForumIAS Blog](#)

Threats of Deep Fakes

- Deep fakes can be **used to disrupt the democratic processes** like elections in any country.
- It is believed that Capitol Hill violence was incited by using deep fake media which caused misinformation and disinformation.
- **Deep Fakes are used to stain the reputations of individuals** and spread propaganda against them.
- According to a deep fake tracking research organization, in the month of October alone, over 100,000 fake nude images of women were circulating online.
- Real images for that purpose were acquired through social media accounts.
- The existence of deep fakes causes that much **distrust among the public** that any true evidence of a crime can easily be dismissed as fake.
- These technologies can be used by **terrorist organizations and insurgents** to further their agenda of destabilizing state governments. They can spread **false information** about institutions, public policy, and politicians for this purpose.
- The **existing legal framework** of many countries including India **does not criminalize** deep fakes.

Regulations of Deep fakes

In US: As per US law, **Social Media Companies cannot be held responsible** for the posts on their platforms.

In India: Some provisions in the Indian Penal Code (IPC) and Information Technology Act, 2000 criminalize a few related cybercrimes. But **there is no specific law as of now to deal with deep fakes.**

Issues in India's legal system

- **Sections 66E, 67, 67A, and 72 of the IT act** deal with the violation of privacy and publishing or transmitting obscene material in electronic form.
- But these provisions can also result in penal consequences for the victim, for voluntarily producing such material.

- **The Information Technology Intermediary Guidelines** (Amendment) Rules, 2018 are insufficient to tackle content manipulation on digital platforms.
 - Guidelines require that intermediate companies take necessary steps for the removal of illegal content.
- **During the 2019 general election of India**, the election commission gave out instructions on the use of social media for election campaigns. Social media companies also agreed to take action to prevent any violations.
 - However, it has been reported that social media platforms like WhatsApp were used for spreading misinformation and propaganda during the election.

What are the steps to be taken?

Existing laws are not enough to protect individuals against deep fakes. Only AI-generated tools can be effective in detection.

- **AI-based detection tools** with the capability to detect deep fakes must be invented as soon as possible.
- **In 2020, the University of Washington and Microsoft arranged a workshop** with experts to discuss how to avoid deep fake technology from harmfully affecting the 2020 U.S. presidential election. The workshop concluded with the following suggestions:
 - Deep Fakes must be **included under hateful manipulated media**, propaganda, and disinformation campaigns.
 - **Journalists should be provided with tools** to examine the authenticity of images, video, and audio recordings. For that, they require proper training and resources.
 - **Policymakers need to understand how deep fakes can threaten polity**, society, economy, culture, individuals, and communities.

Way forward

The best way to deal with this menace is AI-backed technological tools to detect and prevent deep fakes. These tools must be invented by the countries in cooperation as soon as possible. If steps are not taken immediately, these technologies are even capable of invoking wars among countries, in this information age.

Wages for housework: An Analysis

Recently, Kamal Haasan's political party, Makkal Needhi Maiam, proposed a due recognition to homemakers. The Political party included **payment for homemaker's domestic work** as a part of their election manifesto.

The proposal reopened the academic debate of Paying women for their domestic and care work.

Payment to domestic care work was first demanded by the Third National Women's Liberation Conference, in England in 1972.

Is it a new concept to India?

No, it is not a new concept to India.

- In 2010, the **National Housewives Association** tried to seek recognition as a trade union. But the deputy registrar of trade unions rejected the proposal on the ground that **housework is neither a trade nor an industry**. As Home and market for centuries were considered as two distinct spheres.
- In 2012, the **Ministry of Women and Child Development considered mandatory salary for housework** done by wives. It considered the proposal that wives will receive a salary from Man (Husbands). But the proposal never materialised.

Need to recognise household work:

First, According to [International Labour Organization](#), there is a huge difference between the care responsibilities of women's and men's care. Women performs **76.2 percent of total hours of unpaid care work**. This is three times more than similar work performed by men. In Asia and the Pacific regions, this figure rises to up to 80%.

Second, Housework demands 24*7/365 days of effort and sacrifice. Domestic work is essential for vulnerable persons in the house such as older persons, sick persons, children, etc. Thus, it should be recognized as a profession with same entitlements as paid employment.

Third, A large number of **women living with domestic violence and other forms of cruelty**. This is because they depend economically either on husband or on any other member of family.

For these reasons in 1991, The **UN Committee on the Elimination of Discrimination Against Women**, recommended measurement and quantification of domestic activities performed by women. This is to highlight the economic contribution of women.

[Further read about: Paying women for domestic and care work](#)

Advantages in recognising Housework:

First, as per Shashi Tharoor, recognising housework will **enhance women's power and autonomy**. This will lead to a **recognition of the value** of unpaid work performed. It will result in near universal basic income.

Second, recognising the housework will **put homemakers at the same level as other professions** such as doctors or office workers. **Social protection benefits can be made available** as a next step.

Third, it will **improve gender equality**. Housework salary will provide economic freedom and help women to live with dignity.

Fourth, Women will have the **ability to choose the work they desire**. After recognition, women can take either office work or housework, based on the level of income. Thus, **women can overcome time poverty** (shortage of time available towards personal requirements such as leisure, recreational activities) and can achieve 'work-life balance'.

Fifth, it can lead to **accurate National Income Accounting and GDP calculations** of our economy. At present national income calculations not included the domestic care work performed. Thereby underestimating the GDP at present.

Lastly, recognising the housework will **revolutionise the role of women** in our society.

[Also read: Should there be wages for housework?](#)

Challenges associated with recognition of housework:

First, the **calculation of the monetary value of care work**: In the Arun Kumar Agrawal v. National Insurance Company (2010) case, the Supreme Court acknowledged the contribution of the housewives as invaluable. The court also observed that it **cannot be computed in terms of money**.

Second, if recognised **Who will pay the money?**

- If husbands are entitled to pay Housework: In this case, the total household income will remain the same unless the husband's income is improved. There is a high chance of housework is not getting paid to their wives.
- If the government is entitled to pay Housework: It will put an undue burden on State and there is a high chance of Fiscal Deficit targets were not met.

Third, it **might create a new social norm** that **domestic and care work is 'women's work'**, as they are being paid for it. This will strengthen the patriarchal mindset and makes redistribution' of the burden of unpaid work impossible. This will **reinforce the gendered division of roles**.

Fourth, **Practical implementation is highly questionable**. Legal recognition does not always mean protection. This is evident from the equal inheritance rights to daughters were not fulfilled to the majority of women in India. Apart from that one cannot determine the leave policy, Loss of Pay if wife went to her home town etc.

Fifth, **recognising domestic work will reduce women's potential** in education, talent etc. Many talented women might be forced to perform household work as it is recognised.

Sixth, it might lead to the **commodification of housework and personal care**, like that of surrogacy.

[Read about the alternatives for wages against housework](#)

Way forward:

We need to strengthen awareness, implementation, and utilization of other existing provisions like;

- Right to reside in the marital home,
- Streedhan and Haq Mehr (amount entitled to Muslim women from her husband under marriage contract),
- Inheritance rights as daughters
- Free legal aid to women during the instances such as domestic violence, divorce etc.

Apart from that, Husbands should support wives in their daily housework. To perform that better parenting is required by the present generation. Parenting should focus our boys to be sons, brothers, husbands, and fathers who would respect women and women's rights.

Women should be encouraged to reach their potential through quality education, opportunities of work, gender-sensitive and harassment-free workplaces.

There is another idea better than recognising housework. It is the idea of transferring **Universal Basic Income (UBI)**(unconditional cash payment to low-income households) to the account of women members of family. This will put the money directly in the hands of women and not stress government as significant as the recognition of housework.

Aspect of Mercy petition in India and Judicial intervention

Former Punjab CM Beant Singh's assassin Balwant Singh Rajoana's mercy petition was accepted by the Home ministry in 2019. But the decision could not be implemented as the Council of Ministers didn't send the file to the President. Recently the Supreme Court criticised the government for their delay and scheduled a hearing for that.

This created a larger debate on the relevance of mercy petition itself and the pardoning power of Executive in India.

What is a mercy petition?

A mercy petition is filed by a convict to change his/her punishment (especially capital) into a lesser form of punishment. It is also called **clemency petition/plea or executive clemency**. Mercy Petition can be exercised after all the legal remedies were exhausted. (Legal remedies include all the remedies available under prevailing law and Constitution).

A petition can be filed with the President (**under Article 72 of the Indian Constitution**) or the governor (**under Article 161 of the Constitution**).

This provision of pardoning power or mercy towards convicts was first originated in the United Kingdom. Later the concept made its presence in the United States of America, India, Canada, etc.

What is the procedure to file a mercy petition?

A convict under a death sentence is eligible to make the mercy petition. But it should be filed within seven days, after the dismissal of her/his appeal by the Supreme Court and intimation of the same to the convict by the Superintendent of the Police (SP).

First, A written petition is filed before the President/Governor either by the convict or his/her relative on his/her behalf. The petition can be filed on the following grounds:

- The convicted person is the sole bread earner of their family.
- The physical/mental fitness of the convict or his/her age.
- Law for the crime committed was quite harsh.
- The court committed an error or mistake unknowingly.

The grounds might play an important role in the decision-making process.

Second, the Petition will be **forwarded to the Ministry of Home Affairs** for comments and recommendations.

Third, the Home Ministry analyses the merits of the Mercy petition. During this phase, the Ministry also discusses the matter with the concerned State government.

- After this, the Home Minister makes the recommendation on Mercy petition to the President.

Fourth, As per the advice of the Council of Ministers (CoM), the President can either accept or reject the mercy plea. There is no time limit prescribed for the President to exercise this power.

The Governor is also empowered with pardoning powers, but the Governor cannot pardon the Death sentence. However, he can commute, remit, reprieve the death sentence for the offences against the law, which is under executive power of the State

What is the reason to have mercy petition?

First, The option for mercy can result in good conduct by the Convict in the prison. This helps in solving the issue of prison discipline.

Second, Mercy petition **adds a human touch to the country's judicial process**. The mercy petition process judges **the convict based on humanity and not on legality** (concluding judgement based on evidence and witnesses).

Third, Mercy Petition **can save an innocent person** from being punished due to doubtful conviction or miscarriage of justice. Thus, this process is very significant as it provides an opportunity to **correct the errors made during the judicial process**.

Fourth, pardoning is provided with the belief that it will **serve for better public welfare** and for the **greater public good**.

Challenges with the mercy petitions in India:

First, there is **no time limit given** in the Constitution for a decision on Mercy Plea. There are many instances when the mercy petitions are kept pending for a long period. This is seen as a **violation of Human Rights** by legal experts. The convicts face mental, emotional and physiological trauma during the delayed period.

Second, the experts also say, "**Mercy petition is dealt largely without mercy** by the successive governments". They point out reasons such as

- President not bound to accept the Mercy Petitions. It is the discretion of President
- The critics also point out the information released by the RTI Act, "There are 77 mercy pleas decided by successive Presidents between 1991 and 2010. Of these 69 were rejected and only 8 were accepted".

Third, the President is not bound to state the reasons for the rejection of Mercy Petition. It results in a lack of transparency in the process.

Judicial interventions on Mercy petition:

First, In **Ranga Billa Case**: the court mentions that "nature and ambit of the pardoning power is entirely a discretionary remedy. Providing grant or rejection of petition need not state the reason for the actions.

Second, In the **Kehar Singh vs Union of India (1989)** case: The court mentions "pardon by the President is an act of grace. Therefore, pardoning cannot be claimed as a matter of right. The power exercisable by the President is exclusively administrative in nature, and it is not justifiable.

Third, In the **Dhananjay Chatterjee (alias Dhana) vs the State of West Bengal (1994)** case: The Supreme Court said that "The pardoning power under Articles 72 and 161 can be exercised by the Central and State Governments. The powers shall not be exercised by the President or Governor on their own".

Fourth, In **Mohd. Afzal Guru vs. State of Delhi (2014)** case: The court said that "there has to be **14 days gap between** the rejection of mercy petition and **actual execution** of the death penalty".

Way forward:

Pardoning power of the executive is very significant as it corrects the errors in the judicial process. Timely disposal of mercy petition is a boon. To ensure that the government have to fix the time frame and create certain binding conditions to exercise the Mercy petition. This will facilitate smooth functioning of Indian democracy.

Issue of cruelty against wild animals in India

Recently an elephant died in Mudumalai Tiger Reserve (MTR), Tamil Nadu. The death was caused by a burning tyre thrown at the elephant by some people.

This is not the first instance **when a wild animal has been killed due to fire, firecrackers or by a mob with sticks**. The violence against wild animals has increased many folds in recent years. But such news gets attention only when a video gets viral or some mainstream media airs it.

There is an urgent need to know the root causes of this increasing threat to wildlife.

Present status of cruelty against wild animals in India:

Before this incident, in June 2020 a pregnant elephant died due to hunger and fatigue. This happened after a local fed a cracker stuffed pineapple to her.

Under the Prevention of Cruelty to Animals Act, between 2012 and 2016, more than 24000 cases of animal cruelty have been reported in India.

In India, cruelty against wild animals is mainly prevalent in the areas where a **man comes in contact with wild animals or vice versa**. About 20-25% of people directly derive their livelihood from the forest or the agricultural land in the vicinity.

Why there is a high prevalence of cruelty against wildlife?

First, the **prevalence of illegal wildlife trade**: Wild animals in India are hunted for their body parts such as tiger and leopard skins, their bones and other body parts. These products are smuggled at very high prices in markets such as China, South East Asia, Europe and the Gulf.

Second, in India, there is **increased pressure on natural resources**. This has led to a **decrease in wildlife corridors**. Wildlife corridors are the lifeline of wild animals. This is resulting in human-animal conflict and conflicts are used to justify violence against wild animals.

Third, The **threat to farmers**: Farmers in India have only fragmented landholdings (The average farm size in India is only 1.15 hectares). Farmers see wild animals as a threat to their livelihood. They resort to cruelty against animals to protect crops by Electric fencing, poisoned fruits, firecrackers, snare traps, etc.

Fourth, people **generally see wild animals as a threat to humanity**. Even though wild animals don't want to harm humans, Human see the wild animal as a threat at the moment they saw the animal.

Laws to stop cruelty against animals in India

"Prevention of cruelty to animals." and "Protection of wild animals and birds." are present in Concurrent List (both the Centre and the States have the power to legislate).

1. The Wildlife (Protection) Act, 1972:

First, this Act prohibited the capturing, trapping, baiting, or poisoning of wild animals (even attempting to do) as a punishable offence. The Act prescribes punishments such as 25,000 INR fine or a prison term (up to 7 years) or both.

Second, The Act also makes it unlawful to injure, destroys wild birds or reptiles, damaging their eggs or disturbing their eggs or nests. If the person found guilty he/she can be punished with imprisonment (3 to 7 years) and a fine of Rs 25,000.

Third, the Act **established the Wildlife Crime Control Bureau**. The Bureau aims to combat organized wildlife crime in the country

2. The Prevention of Cruelty to Animals Act, 1960

First, This Act defines “animal” as any living creature other than a human being.

Second, The Act **generally focuses on all the animals, but** it has certain specific provisions aimed towards the cruelty of wild animals. They are

- Beating, overriding, kicking, torturing, overloading, and causing unnecessary pain to any animal.
- Administering an injurious drug/medicine to any animal.
- Killing or Mutilating any animal in cruel manners such as using strychnine injections.
- Shooting an animal when it is released from captivity.

Third, This Act established the **Animal Welfare Board of India (AWBI)**. The AWBI aims to promote the promotion of animal welfare.

Fourth, the Act does not consider the following acts as cruelty against wildlife.

- Extermination of any animal under the authority of law
- Dehorning/castration of cattle in the prescribed manner,
- Destruction of stray dogs in lethal chambers in the prescribed manner

Challenges in controlling Cruelty against wildlife.

First, the Supreme Court has issued a directive to states for setting up a State **Animal Welfare Board**. But the majority of the states have not formed the state welfare boards yet. Few states like Maharashtra and Rajasthan formed State Animal Welfare Boards. But in those states, the Boards faces challenges like inadequate budgetary allocation, lack of forest personnel, etc.

Second, The **Prevention of Cruelty to Animals Act, 1960 has few serious lapses**. They are,

- The Act **doesn't differentiate between different form of cruelties** against animals. For example, the law prescribes similar punishment to the person who kicks a wild animal and the person who killed the wild animal.
- Most serious forms of animal violence **receive the maximum punishment of a fine of 50 rupees or imprisonment up to three months** or both.

Third, there is a huge **difficulty in tracing violators**: The wild animal is harmed either in the forest or in farmland. **Not every incident is reported or documented**. Apart from that, finding proof against the violator is difficult unless there is a witness or media like images/videos.

Fourth, there is a contradiction in the **classification of elephants as wild and domesticated**: While the WPA, 1972 protects elephants as a wild animal. The administrative policies allow for an ownership exception. For example, there are almost 500 privately owned elephants in Kerala alone.

Way forward

First, Amending the Prevention of Cruelty to Animals Act: In this regard in 2011, The AWBI recommended amendments to The PCA Act, that are required to be implemented. The major provisions of the bill include,

- The PCA Act has to move away from a **'defensive position' to a more 'welfare-oriented approach'**. It should be done by expanding the definition of animal abuse and empowerment of Animal welfare organizations.
- The PCA Act should multiply the penalty for repeat offenders by a factor of 1,000

Second, State governments have to establish the **State Animal Welfare Board**. **Further, Boards should be** allocated adequate finances and manpower.

Third, encouraging farmers to move away from cruel measures to **humane methods** to protect their crops. Eg: Farmers in Tamil Nadu are making use of **the Italian honey bee**

(natural elephant deterrent). The government can provide technological solutions like radio-collaring, etc to monitor the movement of wild animals.

Fourth, The agriculture and forest departments must cooperate and share the burden of **compensation to farmers** for crop loss due to wild animals.

Fifth, the government has to involve the civil society, NGOs and local administration in **creating awareness**. Awareness has to be created about the seasonal migration of animals, Man-wild animal ecosystem balance etc.

Gandhi once mentioned, "The greatness of a nation and its moral progress can be judged by the way its animals are treated". The Cruelty to wild animals is the evidence where **human losing humanity**. So apart from government initiatives, we also have to understand the seriousness of the issue.

Taiwan-China conflict and India's stand on it

Recently Taiwan reported a large-scale incursion in its air defence zone by Nuclear-capable Chinese bombers and fighter jets. In response, the U.S. sent an aircraft carrier strike group in the South China Sea. The US claims this as an effort to support freedom of navigation in the region.

The China-Taiwan conflict has larger regional implications. At its worst, this issue has a potential of igniting a war between the US and China. This conflict will also have implications for India.

What is the core conflict between China and Taiwan?

In China, after World War II, two political parties were formed

1. The **Kuomintang (KMT)** or the Republic of China (Nationalist)
 2. The **Chinese Communist Party (CCP)** (Communist)
- Civil War broke out between two political parties in China. During the civil war, the Communist Party led by Mao Zedong won. The KMT under the leadership of **Chiang Kai-shek** fled to Taiwan in 1949.
 - The Communist Party and its leaders began ruling the Chinese Mainland as the People's Republic of China (PRC). KMT started ruling Taiwan as the Republic of China (RoC). Both PRC and ROC disagreed on the issue that who is the legitimate governing body of China.
 - The PRC always maintained that it is the legitimate governing body of China. Along with that the PRC also maintain Taiwan as an inalienable part of mainland China and consider Taiwan as a breakaway province. To prove that the People's Republic of China introduced "One country Two systems approach" and "One China Policy".

Taiwan:



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Source: Wikipedia

- It is an island on the **southern coast of China**.
- The maritime boundary of Taiwan includes China (officially the PRC) on the west, Japan on the Northeast, and the Philippines on the south.
- It is the 5th largest economy in Asia and a global leader in Integrated Circuit Chip manufacturing.
- Taiwan is the most populated state and largest economy that is **not a member of the UN** (United Nations) **and WHO** (World Health Organization).
- However, Taiwan is a member of WTO (World Trade Organization) and Asia-Pacific Economic Corporation (APEC) under the name of **“Chinese Taipei”**.

What is One Country Two system Policy?

It is a policy proposed by Deng Xiaoping. Initially, the policy aimed to restore the relationship between the Chinese mainland and Taiwan. But later expanded to include other historical Chinese territories as well (e.g. Macau and Hong Kong). It is also called the **One-China Principle**.

In general, the regions accepting this policy **have to acclaim that there is only one China** (PRC). China (PRC) will control defence and foreign Affairs of these regions. In return, the region can have economic and administrative autonomy (I.e., they can follow the capitalist economy).

But this policy has not been accepted by Taiwan. It has put forward the following conditions in front of China:

- The People's Republic of China (PRC) has to be renamed the Republic of China (ROC).
- The Chinese mainland (The communist region) has to conduct democratic elections.

Conditions were not accepted by the People's Republic of China.

What is One China Policy?

This is a policy to force Taiwan to sign a 'one country two system' policy.

Under this policy, any country willing to establish diplomatic relations with the People's Republic of China must acknowledge that there is only **“One China”**. Apart from that the accepting country also has to cut down all formal ties (informal ties can be maintained) with Taiwan. Moreover, it can't recognize Taiwan as an independent country.

At present Countries such as Egypt, Iran, Iraq have recognized the PRC and accepted the One China Policy. However, Countries such as the USA, India, Saudi Arabia maintain an informal relationship with Taiwan.

The countries such as Nicaragua, Honduras, Paraguay have rejected the One China Policy and have diplomatic relations with the Republic of China.

Major developments on conflict:

First, Sunflower Student Movement 2014: In 2010, the **Economic Cooperation Framework Agreement (ECFA)** was signed between ROC and PRC to boost Taiwan's economy. This is followed by the Cross-Strait Service Trade Agreement (CSSTA). But this was opposed by students resulting in the **Sunflower Movement**.

Second, There is a diplomatic shift in the policy of the US and Taiwan. In recent years US engaged with Taiwan and supporting Taiwan's membership to WHO (World Health organisation).

Third, In a recent referendum, Taiwan people rejected the proposal to rename the country's Olympic team as Taiwan. The people voted for the team's name to be continued as Chinese Taipei.

India's changing position on One China Policy (OCP)?

First, In the 1950s, India was one of the first Asian countries to recognize the People's Republic of China and its OCP. Thus, no diplomatic relations could be established with Taiwan.

Second, The Look East policy started strengthening the engagement of India with East Asian countries, including Taiwan. In 1995 India and Taiwan established complementary representative offices.

Third, India-Taiwan relations improved gradually and since 2010 India has **refused to endorse the "one-China" policy**. At the same time, India is **not having any formal diplomatic relations with Taiwan**.

India's relationship with Taiwan:

India's relationship with Taiwan is based on the co-operation of the two countries.

First, In the **field of the economy**: Both countries signed a Bilateral Investment Agreement in 2018. Apart from that both the countries also signed the "Double Taxation Avoidance Agreement" and "Customs Mutual Assistance Agreement" in 2011 to boost economic ties.

As a result of these initiatives, Bilateral trade improved from \$934 million in 1995 to USD 7.5 billion in 2019

Second, Science and Technology co-operation: Taiwan is a technological giant. India and Taiwan signed an MoU for cooperation in the field of agricultural and food science, new material for sustainable energy and storage devices, health care, etc.

Taiwanese tech giant Foxconn committed a 5bn\$ investment in Maharashtra.

Third, In the field of education both the countries signed a **mutual degree recognition agreement** (2010) in higher education. At present there are 7 Taiwan Education Centers (TEC) has been set up in various universities in India.

Fourth, Apart from that Taiwan and India also involve in Cultural engagement like screening Taiwan films in film festivals of India, etc.

Way forward:

India can engage more actively with Taiwan for reasons like, **First**, Taiwan is a technological giant and **India's present challenges can be solved to a greater extent by engaging with Taiwan**.

- For example: India can achieve Make in India, "Digital India," "Skill India," and "Startup India" initiatives with active engagement with Taiwan

Second, closer Economic and Political ties with Taiwan may be the counter China-Pakistan Nexus. India can better leverage China's territorial claims on Aksai Chin and engagement in Gilgit Baltistan by maintaining closer relations with Taiwan.

Despite there is an ongoing tussle between China and Taiwan, India being Non-aligned with any one of them. India continuing a mutual relationship with Taiwan without harming the relationship with China. It is high time for China to respect the same

Criminalisation of government criticisms: Laws and issues

Recently **Bihar government** decided to categorize defamatory and offensive social media posts against government officials as cybercrime. Bihar Police has issued a circular to implement this order.

This is not the first instance when Sedition laws and criminal defamation have been used to silence the critics of the government.

Examples of Government silencing critics:

First, As per the National Crime Records Bureau (NCRB), 70 people were accused of sedition in 2018. But only **four cases actually ended in conviction**.

Second, In **August 2016**, the court criticized the then Tamil Nadu Chief Minister J Jayalalithaa for misusing the criminal defamation law to “suffocate democracy” and, the court held that, “public figures must face criticism”.

Third, In May 2020 Madras High Court declared 28 criminal defamation proceedings filed by the Tamil Nadu government as invalid.

Fourth, the NCRB Report 2018 mentions, **the conviction rate of offenders prosecuted under the Unlawful Activities Prevention Act was just 14.5% in 2015**.

These are clear examples of government using sedition, Criminal defamation and other suits as a **means of harassment**.

What are the laws governing criticisms against the government?

First, **Sedition** under [section 124A of the IPC \(Indian Penal Code\)](#). Sedition is defined as **any action that brings or attempts to bring contempt or hatred towards the government of India**. Sedition cases are punishable with a maximum sentence of life imprisonment.

Second, **Criminal defamation** under [section 499 of the IPC](#). Defamation is defined as **the communication of a false statement that harms the reputation of an individual person, group, product, business, government, religion, or nation**.

Third, The Government enacted the **Information Technology (IT) Act 2000** for matters related to cybercrime and e-commerce. Under this act, the Government can punish any crime involving a computer or a network. The Act can charge India citizens as well as foreigners.

Fourth, The **Unlawful Activities Prevention Act of 1967**. The Act aims **to effectively prevent unlawful activities and associations involved**. In 2019 the government amended the provisions of the Act to **designate an individual as a terrorist**. The Law prescribes a maximum punishment of **death penalty or life imprisonment**.

Fifth, Apart from these Acts several states have enacted specific laws to govern the criticisms. For example draft bill of **Shakti Act of Maharashtra** has a provision for stricter punishment for offenders who post defamatory messages on social media.

What are the Judicial interventions on Laws governing criticisms?

First, In **Kedarnath Singh vs State of Bihar case 1962**, Court upheld the constitutional validity of **Section 124A (Sedition)**. The Court mentioned, “citizen right to freedom of speech and expression does **not include incite people to be violent** against the government or with the intention of creating public disorder”.

Second, In **Balwant Singh v State of Punjab case 1995**, the Supreme Court held that mere sloganeering that evoked no public response did not amount to sedition.

Third, The **Supreme Court of India**, in the **Subramanian Swamy vs Union of India, 2014**, upheld the constitutional validity of the IPC (Section 499 and 500). The court mentioned the fundamental right to live with dignity and reputation “cannot be ruined solely because another person can have his/her freedom”.

Fourth, In **Shreya Singhal vs. Union of India 2015 case**, the Supreme Court struck down Section 66A (this provision criminalizes sending offensive messages through a computer or other communication devices) of the Information Technology Act, 2000. The court also held that the provisions of section 66A have violated Right to freedom of speech and expression.

Why we need such laws in India?

First, these laws have utility in combating secessionist, anti-national and terrorist elements. Some highly publicized cases cannot be the reason to repeal section 124A, section 499 and UAPA.

Second, if **contempt of court** invites penal action, the **contempt of government** should also attract similar punishment for the smooth functioning of democracy.

Third, these laws provide **stability to the democratically elected government**. Sedition laws, Defamation laws and UAPA act as a strong defence against violence and illegal activities aimed to overthrow the government.

Why the provisions have to be repealed?

First, These provisions are clear examples of a violation of the Right to **Freedom of Speech and Expression**. Right to question, criticize and change rulers is one of the fundamental ideas of democracy. Both the sections of IPC (124A and 499) and the provisions of UAPA are in direct conflict with the aforesaid Rights.

Second, **IPC and Unlawful Activities Prevention Act** have provisions that penalize “disrupting the public order” or “overthrowing the government with violence and illegal means”. These are sufficient for protecting the national integrity. There is no need for Section 124A and 499. It can be repealed.

Third, In 1979, **India ratified the International Covenant on Civil and Political Rights (ICCPR)**. The ICCPR sets out internationally recognized standards for the protection of freedom of expression. However, the misuse of sedition, criminal defamation and UAPA is inconsistent with India’s international commitments.

Fourth, Even the UK (sedition law originated) and Australia have removed sedition laws. International bodies such as the UN had recognized the threat posed by criminal defamation laws.

Fifth, The criticisms if reach at right time to the government, then it can save a lot of resources, government machinery, etc.

Way forward:

There are certain ways to improve sedition, criminal defamation and the application of UAPA in India.

First, We have to **educate the Law enforcement authorities to prevent the problem of misuse**. The enforcement authorities might be trained regarding the application and non-application cases of sedition, criminal defamation and UAPA suits.

Second, the **State has to follow the Parent-Child approach** during the criticisms where raised. The Madras High court advocated this approach in May 2020.

Parent-Child approach: The state must act like it is the parent of all its citizens. Despite the insult (sedition or criminal defamation) by children (citizen), parents don’t discard their children quite easily. Like that State also accept the fact that **public figures must face criticism**.

Third, **The Protection of Speech and Reputation Bill, 2016** in modified form can be enacted by the government. The Private member bill has certain important provisions such as

- Setting the maximum claim limits and barring governments, local bodies and other institutions (statutory functions) from filing suits for defamation and sedition.
- Providing punishments such as apologies, corrections and retractions, for a lesser form of crimes.

India is an open and liberal society, the largest democracy. But to secure national integrity, divisive forces have to be kept in check. So, it is necessary to retain the laws criminalising criticisms. But the wrongful enforcement and misuse have to be checked.



Oxfam Report Findings – Rising inequality in India

Recently [Oxfam International](#) has released a report titled “The Inequality Virus”. The report highlighted the increasing inequalities in India during the time of Covid pandemic. The report found out the existing inequalities in the world have increased to new heights. In this regard, there is a larger question on how to reduce inequality in India?

Facts from the report:

General aspects of the report:

First, COVID pandemic has **increased the economic inequality in almost every country. This is the first time this has happened ever since records began.**

Second, there is a huge increase in the wealth of the 10 richest billionaires since the crisis began. This increase in wealth is sufficient to prevent anyone on Earth from falling into poverty because of the virus. The top 10 richest can also pay for a COVID-19 vaccine for everyone in the world.

Findings of Report about India:

First, the impact of the pandemic on Rich and poor: The wealth earned by the top 11 Indian billionaires during the pandemic alone is sufficient to sustain the MGNREGS or the Health Ministry’s budget for the next 10 years.

Second, the Impact of Pandemic on Informal sector: India’s earliest and stringent lockdown made the Informal sector, the worst affected sector due to Pandemic.

Third, Digital divide worsened as education shifted online. Girl students were most vulnerable as there is a higher chance of forced marriage, domestic violence, and early pregnancies.

Fourth, The report also mentions poor, marginalized, and vulnerable communities have higher rates of Covid-19 prevalence in India.

[Read more about the Oxfam report](#)

Reasons for rising inequality during pandemic:

First, the pandemic’s impact on labour-intensive manufacturing: the lockdown also affected the consumer-based economy of India. Apart from that, the social distancing norms made it impossible to work with social distance.

This created a domino effect on the transportation sector, loss of GST revenues in states, unemployment, etc. Overall 40-50 million **seasonal migrant workers faced distress.**

Second, crowded agricultural sector: The migrant workers who lost a job in the manufacturing moved to the rural areas and demanded jobs at very low wages. This made the agriculture sector more crowded and also created Stagnation in agricultural wages.

Third, 14 days mandatory home or institutional quarantine/ person infected with Covid-19 impacted the lower-income group the most. In many cases, the person who underwent the home quarantine/infected with the disease was also the sole breadwinner of the family. This created inequality as the whole family lost the income for at least 14 days

Fourth, the cause of lockdown: During the pandemic, white-collar workers (person performs professional, managerial, desk, or administrative work) isolated themselves and worked from home. It led to the closure of many small income avenues like roadside vendors, smaller shops, restaurants, etc.,

Impacts of inequality during Pandemic:

First, Inequalities will create Social unrest: The income inequality during the pandemic is one of the reasons for the sufferings of migrant workers and the recent farmer’s protest also.

Second, Inequalities increased government budget and the burden of subsidies: the government unveiled many stimulus packages to get the economy on track and to provide

relief to economically weaker sections (EWS). The government introduced the Atma Nirbar Bharat package and schemes like Pradhan Mantri Garib Kalyan Yojana.

Third, Impact on Informal sector: The Pandemic impacted the informal sector more than the formal sector. During the pandemic, 75% of the total (122 million) job loss belongs to the Informal sector.

Fourth, the Pandemic is detrimental to public healthcare and education: the closure of schools has directly affected 32 crores of students. Among that 84% of students belong to rural areas and 70% of them attended government schools.

Fifth, the Impact of Pandemic on gender disparity: The report mentioned the **unemployment rate among women increased to 18% from 15% in pre-covid time.** Also, women are 23.5% less likely to re-employed compared to men.

- The report also predicts 2.95 million unintended pregnancies, 2,165 maternal deaths, and 1.80 million abortions (including 1.04 million unsafe abortions) among women due to the **closure of family planning services.**
- The report also mentions domestic violence increased by almost 60% over the past 12 months of the pandemic.

Sixth, the Impact of Pandemic on health and sanitation: The report mentions **only 6% of the poorest 20% have access to non-shared sources of improved sanitation.**

Apart from that, there is an increase in hunger and malnutrition levels among the economically weaker sections of society. The issue of hunger and malnutrition is highlighted by the [recent NFHS report](#).

Way forward:

First, the report itself suggests a few important measures to bridge the inequality. Such as;

- **Re-introduction of wealth tax and one-time COVID-19 cess of 4%** on taxable income of above 10 lakhs. According to the report's estimate, a wealth tax on 954 richest families can raise 1% of India's GDP.
- The report mentions **India has to grow first then only it can distribute the wealth.** Focusing on distribution now can lead India into a low-income equilibrium trap.

Second, the government needs to focus on the **Promotion of Labour Intensive Manufacturing post-covid phase** like Textile, Construction, Footwear, Clothing, etc.

Third, the Government also has to utilize the time to **trains persons in skill development:** A skill-led economy is the need of the hour to completely utilize India's demographic dividend towards equality.

Fourth, the State has to be the **dominant provider of merit goods such as health, education, nutrition, etc.** This can be achieved by increasing the budgetary spending on health, education to the desired 6% of GDP.

The World Bank has calculated that if countries act now to reduce inequality then poverty could return to pre-crisis levels in just three years. So it is high time for India to act on inequality reduction activities.

The POCSO Act and associated issues

Bombay High Court in **Satheesh vs State of Maharashtra case** acquitted a man of sexual charges under the POCSO (Protection of Children from Sexual Offences) act. The court cited the stringent Mandatory Minimum Sentence provision in the POCSO act and punished the person based on the IPC section 354 (Outraging the modesty of women).

However, the [Supreme Court stayed the Bombay High Court verdict](#). But this is not an only incident, where, an accused has been acquitted under POCSO Act. Today, one more HC acquitted an accused in a similar case.

There is an urgent need to understand the issues and challenges Courts are facing in the implementation of The POCSO Act. The recent interpretation by Bombay High Court is one such issue among many.

What is the POCSO Act?

The Protection of Children from Sexual Offences Act (POCSO Act) enacted in 2012 and amended in 2019. The Act was formulated to effectively address sexual abuse and sexual exploitation of children and pornography.

Salient provisions of the Act:

First, The Act **defines Child as** any person below eighteen. The Act also defines **different forms of sexual abuses**.

Second, The Act provides for relief and rehabilitation as soon as the complaint is made to the **Special Juvenile Police Unit or the local police**.

Third, The Act prescribes a maximum punishment of life imprisonment or the death penalty. The Act provides a **mandatory minimum punishment** of three years.

Fourth, The Act provides for the **establishment of Special Courts for the trial** of offences under the Act.

[Read more about the POCSO Act](#)

What is the intent behind the enactment of the POCSO Act?

First, data from the 2011 Census shows, India has a **472 million population of children** below the age of eighteen. **To protect them** from sexual offences separate **legislation was required**.

Second, India is a **signatory to the UN Convention on the Rights of the Child**. So the POCSO Act was a mandatory international commitment to protect the rights of children.

Third, the **Goa Children's Act 2003** was the only legislation which specifically focuses on child abuse. Thus national-level legislation was the need of the hour that can be implemented in every State and UTs.

Fourth, Child sexual abuse was prosecuted under various sections of IPC such as Section 375 deals with rape etc. But the **IPC sections suffer from various issues** such as

- IPC Section 375 does not protect male Child and protect only the traditional sexual offences like peno-vaginal intercourse.
- IPC Section 377 and IPC Section 354 does not define the terms “unnatural offences” and “modesty”.

What is the significance of the POCSO Act?

First, The Act provides for **immediate relief at the filing of the case**. The compensation amount can change, **based on the need of the victim**. For example, the Act does not define the outer limit. The Judges can include Child's educational need, medical needs including trauma compensation while deciding the compensation amount.

Second, The Act is **Gender-neutral and Child friendly**. The Act defines Child as any person below 18 years of age. Apart from that, the Act includes various safeguards for the child, like protecting the identity, avoiding victimization etc.

What are the challenges associated with the POCSO Act?

First, The POCSO Act is suffered by **Abysmal rate of conviction like 14% in 2014 and 18% in 2017**. The National Crime Records Bureau (NCRB) data of 2016, mentions the conviction rate as 29.6%, while **pendency is as high as 89%**. The NCRB also mentions the cases are not disposed within a year due to reasons such as frequent adjournments, the inability of the police to file investigation report etc.

Second, Though, the Act mentions **Special Children courts** to be established to hear the cases. Many states **did not establish** such courts. This is highlighted by Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India & Ors case.

Third, the Act provides a **maximum punishment of death penalty**. But **Justice J.S. Verma Committee** (Constituted on the aftermath of the Nirbhaya case) and **262nd Report of the Law Commission of India, 2015**, were against the imposition of the death penalty for rape cases.

Fourth, Section 8 of the POCSO Act prescribes a **mandatory minimum sentence** of three years. **The state of J&K vs Vinay Nanda case** the Court held that it cannot prescribe punishment lesser than the minimum prescribed punishment. This resulted into the various challenges such as

- **More acquittals** in POCSO cases: Percentage of acquittal is high because the Judges thinks the mandatory minimum punishment prescribed is more compared to the seriousness of the crime.
- Else the Court can **acquit** the accused and punish him like that of [Satheesh vs State of Maharastra case](#). In other words, punishing the person under Section 354 of IPC (Outraging the modesty of women).

Section 7 and 8 of POCSO Act: Section 8 prescribes the punishment for the offence of sexual assault defined in Section 7 of the Act. It provides for the mandatory minimum sentence of 3 years and a maximum of 5 years.

Section 7 of the POCSO Act mentions whoever “with sexual intent” touches the private part of children or commit any such act “which involves physical contact”... “is said to have committed sexual assault”.

Difference between Section 8 of the POCSO Act and Section 354 of IPC:

Section 8 of the POCSO Act	Section 354 of IPC
This section is gender-neutral	This section is only for women and not for male or transgender child
Punishment can be a minimum sentence of 3 years and may extend to the maximum sentence of 5 years	Punishment shall not be less than one year but it may extend to five years

Fifth, The POCSO Act is considered as a **victim-oriented statute** (i.e., the damage caused to the victim assumes more importance). This makes the Act, not a neutral one. For example, **Section 29 of the POCSO Act** mentions If a person is prosecuted under the POCSO Act, the special court **“shall presume”** the accused to be guilty.

Sixth, The Act **does not cover all the aspects of sexual violence of children**. For instance, the Act is silent on cyberbullying and other online sexual crimes of children. The Act is also silent on cases where one child made sexual violence against another child/children.

Way forward:

First, the government has to amend the POCSO Act to overcome the challenges by removing the **mandatory minimum sentence and the death penalty**. The amendment should also include offences such as cyber bullying of children and other online sexual crimes against children.

Second, High courts should instruct the trial courts **not to grant unnecessary adjournments** during the trial. **State police chiefs should constitute special task forces** investigating cases to prevent the pendency of cases.

Third, The Supreme Court issued a direction to set up special courts within 60 days on the districts that are having more than 100 pending POCSO cases. This has to be implemented urgently.

Fourth, the introduction of **sex education in schools** and educating the children about good touch and bad touch is significant. In **2008-09 Parliamentary committee report** mentions the introduction of sex education, but it never materialized. It has to be implemented.

Though the Act can be amended and faster implementation can provide relief to the Children, Awareness and sensitization of people is equally important to prevent the crime itself.

India-Sri Lanka Maritime dispute – Explained

Recently four fishermen from Tamil Nadu died while fishing in **Palk Bay**. **The cause of death is still not clear**. But the Indian government has registered its strong protest with Sri Lanka. The arrest and death of fishermen by the Sri-Lankan government is a frequent issue. A press note mentions, “between January 2015 to January 2018 alone, 185 Indian boats got seized, 188 Indian fishermen have been killed and 82 Indian fishermen are missing”
The Fishermen conflict is one of the main challenges in maintaining good bilateral relations between India-Sri Lanka.

What are the reasons for fisheries-related conflicts?

First, the **maritime boundary line** between both countries is **not a well-defined one**. **For example**, in the Palk Bay region, the distance between both countries is very less. It varies from 16Km to 45 km. Therefore, the application of 12 nautical mile criteria is difficult here.

According to the United Nations Convention on the Law of the Seas (UNCLOS) 12 nautical miles from the baseline of a country, is considered as its territorial water.

Second, The issues of **Katchatheevu island**: India, and Sri Lanka have signed two agreements (1974,1976) to demarcate the International Maritime Boundary Line (IMBL) between them. But fishermen of Tamil Nadu are not accepting the agreements. Because of reasons, such as

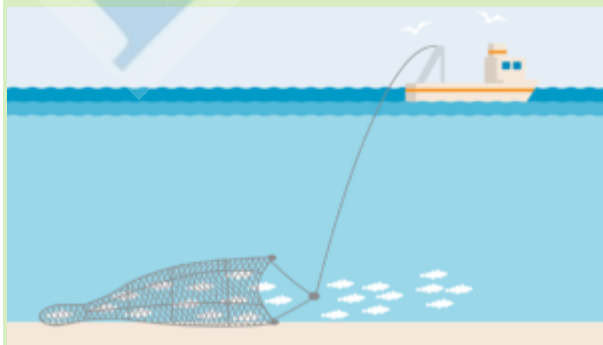
- According to the fishermen community, “their consultation was not considered during the signing of the agreement and Katchatheevu is a sovereign territory of India”.
- Prior to the agreements, the fishermen of Tamil Nadu used the island for sorting their fishes, drying the nets, etc. They also used the dry net to catch fishes again while returning.
- After the agreement, the island was included in the Sri Lankan side of the maritime boundary. This reduced the fishing area of Tamil Nadu fishermen.

All these factors led to the frequent border crossing of Indian Fishermen. The Sri Lankan Navy usually arrest them or destroy their fishing nets.

Third, Fishing method of the Fishermen of Tamil Nadu: TN Fishermen uses mechanized trawlers for performing **bottom trawling method of fishing**. But according to the **Fisheries and Aquatic Resources Act** of Sri Lanka, the practise of bottom trawling is an offence.

What is bottom trawling?

- It is an ecologically destructive fishing practice. It involves trawlers dragging weighted nets along the seafloor.
- The major problem in bottom trawling is **Bycatch** (captures juvenile fish and other non-targeted fish species). This will cause great depletion of aquatic resources and affecting marine conservation efforts.



What are the challenges in resolving this dispute?

First, the non-agreement on terms between both the countries. In 2016 India and Sri Lanka agreed to set up a **Joint Working Group (JWG)** to find a permanent solution for fishermen issue. But the two rounds of talks did not provide any result. Because

- India demanded a three-year grace period to move away from the bottom-trawling method to an effective, alternative method of fishing.
- But the Sri Lankan side demanded an immediate end to bottom trawling practices.

Second, arrest and seizure on a larger scale makes negotiations hard. The Indian fishermen do not have the financial capability and technology to involve in multi-day fishing. So they do fishing in nearby locations like Palk Bay, Gulf of Mannar. This led to larger arrests and seizures. As a result, the conflict deepened, and hard to negotiate.

What are the other Challenges in India-Sri Lanka relations?

First, **The increase of Chinese investment – China** has extended billions of loans to the Sri Lankan government for infrastructure projects. Apart from that China has also got a 99-year lease for strategic Hambantota port.

However, with the recent **'India first policy'** of Sri Lanka, the relations have started improving.

Second, The unresolved Tamil Eelam issue- Though the civil war ended in Sri Lanka, rehabilitation of Sri Lankan Tamil people is not yet complete. There are still Sri Lankan refugees present in India. There is also a close cultural association among the Tamil-speaking community in India and Sri Lanka. So, a few sections of Tamil community in Tamil Nadu are also in favour of autonomy to Northern and Eastern Sri Lanka.

Third, The issue of the trade imbalance- Indian exports to Sri Lanka was worth US\$ 4.16 billion in 2018. But the export from Sri Lanka to India is US\$ 767 million. Sri Lanka wants to reduce this imbalance. So the Sri Lankan government is **demanding greater access to Indian markets.**

Way forward:

First, Indian fishermen need to phase out the bottom trawling practices at the earliest. It will not only improve the bilateral relationship but also prevent ecological destruction. The government can provide incentives and involve in persuasive techniques for fishermen to achieve the objective.

Second, the Government has to fast-track the Blue Revolution Scheme. The Scheme allocates Rs 1,500 crore over a period of time for the conversion of bottom trawling boats into deep-sea liners. Fishermen will use the deep-sea liners for deep-sea fishing.

What is deep-sea fishing?

Deep-sea fishing is the practice of catching fish that live in the deep parts of the sea/ocean. In this practice, the boats are designed in such a way that fishermen will get access to the deeper parts of the ocean and fish species. Also, there are no ecological damages associated with deep-sea fishing like that of bottom trawling.

This is practised worldwide, especially in the coastal areas.

Third, regarding the Katchatheevu island, both countries can work upon any of the two solutions. Such as

- India can get back the island on "lease in perpetuity" (lease forever)
- Both countries can permit licensed fishermen to fish within designated areas. For example, permitting both country fishermen within 5 nautical miles of IMBL.

Fourth, Both India and Sri Lanka can also work upon starting ferry services. This will improve the people-to-people connection and reduce the conflict in the long run.

Mutual recognition of each other's concerns is the key to resolving the fishermen issue. Apart from that, India and Sri Lanka have to see the fisherman issue as a holistic one including Katchatheevu island. This will not only help in solving the fisherman dispute alone but also a good start for the new generation of India -Sri Lanka relations.

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