

# Forum IAS

## 7 PM COMPILATION

**16th to 31st March, 2021**

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## Afghan Peace Process and India – Explained, Pointwise

### Introduction

The Afghan peace process aims at ending the ongoing civil war between the Taliban and the Afghanistan government. The US administration has proposed a new peace plan to the Afghan government and the Taliban. This Peace Plan might be helpful to curtail violence and bring lasting peace to Afghanistan.

### Background of the Afghan peace process

- The U.S. and Taliban signed an agreement for “Bringing Peace to Afghanistan” on February 29, 2020, at Doha. (also called Doha agreement).
- [Features of Doha Agreement](#)
  - **Troops Withdrawal:** The US and NATO will withdraw their troops from Afghanistan. All the troops will be out of Afghanistan within 14 months.
  - **Taliban:** Taliban will not allow any of its members to use the soil of Afghanistan to threaten the security of the United States and its allies.
  - **Prisoners:** Exchange of prisoners between the Afghan government and the Taliban will be done to build trust.
  - **Sanctions Removal:** As per the Doha agreement, US and UN sanctions on the Taliban leaders will be removed.

### Need of a new Afghan peace process

- The Taliban had warned that if the US does not abide by the Doha agreement deadline (May 1, 2021), the Taliban will step up fighting.
- On the other hand, the Afghan Army lacks the capacity to control the Taliban without US support.
- Further, the Taliban and the Afghan government started peace talks in Doha last year, but no solution has reached.

Hence, a new plan was desired to break the deadlock and prevent the complete takeover of Afghanistan by the Taliban.

### About the new Afghan peace plan of Biden administration

The Biden administration is pursuing actively in establish [a peace plan](#) between the Afghan government and the Taliban. Few important points of such peace process are,

1. **UN Summit:** United Nations will convene a meeting of the foreign ministers from China, Russia, Pakistan, Iran, India, and the United States. It will develop a “**unified approach**” to peace in Afghanistan.
2. **Withdrawal of Troops:** The peace plan has kept open the possibility that the 2500-odd US troops in Afghanistan might stay on for a while.
  - Under the **Doha agreement with the Taliban**, the US had promised to withdraw all troops by May 1 this year.
3. **Turkey to Organise a meeting:** The United States has asked Turkey to convene a meeting of the Afghan government and the Taliban to finalise a peace settlement.
4. **Taliban to Reduce Violence:** The US has asked the Taliban to accept an immediate agreement to reduce violence for 90 days. This will provide the space for the peace initiative.
5. **Inclusive Interim Government:** the US has asked the Afghan Government and Taliban to move towards a permanent and comprehensive ceasefire and form an interim unity government.

### Challenges to Afghan Peace Process

1. Afghan administration has consistently been **critical of the U.S.'s direct outreach** to the Taliban. They perceive it as an act undermining the legitimacy of the Afghan Government.
2. The Afghan President reiterated that the **transfer of power will be done only through elections**. But the Taliban wants a power transfer before participating in polls.
3. **Taliban is aware of the lower potential of Afghan forces**. So they are leveraging it for demanding arbitrary privileges.
4. **The fragmentation of Taliban forces** is another obstacle in peace. It is possible that some of them may continue to engage in violence and impacting the Afghan peace process.
5. Similarly, it would be difficult for the US to hold the withdrawal process. As a lot of **financial stress** of the Afghan government is borne by the US. According to the US Department of Defence, the total military expenditure in Afghanistan (from October 2001 until September 2019) was \$778bn.
6. The US is of the view that **Pakistan is strategically more important** to the U.S. than Afghanistan.
  - o Instead of pressuring Pakistan to refrain its support to the Taliban, the US is seeking Afghan government support for a power-sharing arrangement with the Taliban.

### Why is the Afghan peace process is important for India?

- **Security:** A stable Afghanistan is crucial for regional and domestic security and stability for India.
- **Connectivity:** The most important role of Afghanistan is always considered as **India's gateway to Central Asia**. It implies continental outreach.
  - o **For instance**, Connectivity with Afghanistan and Central Asia is the primary reason for India's engagement with Iran to develop Chabahar port.
- **Strengthening regional foothold with the diversification of engagements:** Increasing strategic engagements with Afghanistan is beneficial for India in widening the engagement with other countries in the region.
  - o For example, India's relations with Iran at present are dominated by oil. By engaging with Afghan and Iran India can diversify its trade interests.
- **Energy ambitions:** Peaceful Afghan is essential to address the energy needs of India. This is evident by Afghanistan's essential position in the TAPI (Turkmenistan, Afghanistan, Pakistan, India) pipeline.
- **Trade:** Afghanistan can help India export its products to Europe and help in gaining foreign exchange. The railway line from Chabahar to Zahedan in Afghanistan envisages connecting New Delhi with Iran, Afghanistan, Central Asia and Europe.

### What are the challenges in front of India?

- India **refused to recognise the Taliban regime of 1996-2001**. Instead, India supported the 'Northern Alliance' in fighting the Taliban in Afghanistan.
  - o The 'Northern Alliance' was a united military front that came to formation in late 1996 after the Taliban took over Kabul. They fought a war with the Taliban in 2001 and ended the Taliban's rule over Afghanistan.
- India has long held the position of **dealing only with the elected government** in Kabul. India supports an Afghan-led, Afghan-owned, and Afghan-controlled peace process.
- There has been a **high degree of mistrust** on Taliban since the Hijack of an Air India flight to Kandahar in 1999. Further Taliban's proximity to Pakistan has also hampered the Indo-Taliban relations.

- The **Doha Agreement is silent on other terrorist groups**. Such as anti-India terrorist groups like Lashkar-e-Taiba, Jaish-e-Mohammed.
- Further, supporting the Taliban will be a **betrayal for the people of Afghanistan**. The Taliban can go back to medieval practice and establish an Islamic republic based on Sharia. This will result in denying the hard-earned rights of the Afghan peoples.

#### India's policy towards the Afghan Peace process

- **Peace and reconciliation:** India is encouraging an Afghan-led, Afghan-owned broad-based, and inclusive process of peace and reconciliation.
- **Strengthening democratic institutions in Afghanistan:** India has focused on strengthening democratic institutions through various efforts like inaugurating the new Afghan Parliament. India also announced an additional **USD 1 billion assistance for capability building** in spheres such as education, health, agriculture, skill development, etc.
- **Soft power:** India is focusing on soft power methods (that involve winning hearts and minds) to strengthen cultural and political relations with Afghanistan. India's contribution to the development of cricket in Afghanistan is such an example.
- **No military intervention:** India is not in favor of using the military in Afghanistan. It was reflected in the recent rejection of the USA proposal to India to intervene militarily. India is in favor of **no boots in Afghanistan**.

#### Suggestions to improve Afghan peace process

- Considering the advances made by the Taliban and the continuance of civil war for more than a decade, the Afghan President has to take support from regional powers including India. This will strengthen the Afghan government's bargaining power in negotiation.
- The world leaders should take a robust step against terrorism by adopting the Comprehensive Convention on International Terrorism (proposed by India at the UN in 1996).
- India **must step up to assist materially** to those who want to defend the Afghan republic. This will mark the arrival of India as the superpower and as an arbiter in settling international disputes.

#### Conclusion

The objective of the Afghan peace process should be to bring about a just and durable peace through political negotiations. The world leaders must cooperate to ensure an Afghan-led, Afghan-owned and Afghan-controlled peace process. Because that only will bring lasting peace in the region and strengthen regional security.



## SC Ruling on State Election Commission: Explained, Pointwise

### Introduction

Recently, the Supreme Court held that State Election Commissions (SECs) should have independent State Election Commissioners. Further, the judgement mentioned, a Bureaucrat holding government office should not be appointed as State Election Commissioner. This article will explain two things: a) the reasons behind the judgement; b) issues faced by the State Election Commissions in India.

### About the recent judgement

In Goa, the government gave additional charge of managing the State Election Commission to the law secretary. Further, the Goa government also neglected the reservation for women, SCs, and STs in the upcoming Municipality election notification. A case got filed in the High Court of Bombay at Goa. The High Court struck down the notice and held that it is a violation of Article 243T of the Constitution.

But the State government filed a Special Litigation petition stating that the High Court has interfered in the 'election process'. In this case, ([\*State of Goa vs Fauzia Imtiyaz Sheikh\*](#)) the Supreme Court in its judgement made a few important observations. Such as:

- By providing additional charges to the law secretary of an **independent constitutional office (State Election Commission)**, the State government has violated the provisions of the Constitution. Further, the court mentioned that the position of law secretary is "directly under the control of the State Government". So, appointing him as a State Election Commissioner will impact the independence of the office.
- Apart from that, the court also held that according to **the Constitution**, all states and territories shall appoint **an Independent State Election Commissioner**.
- Furthermore, State governments should not interfere with the functioning of the State Election Commission.

### What are State Election Commissions?

The constitution envisages State Election Commissions (SEC) for every state to safeguard the free and fair election. It is constituted under the provisions of Article 243K read with article 243ZA of The Constitution of India.

Further, the constitution also mentions the State Election Commission should consist of a State Election Commissioner.

### The constitutional provisions with respect to State Election Commissions:

1. **Article 243K(1)**: This provision mentions two important following things.
  - The superintendence, direction, and control of the **preparation of electoral rolls for, and the conduct of all elections to the Panchayats (and the Municipalities** under Article 243ZA) will be vested in the State Election Commission.
  - The Governor will appoint the State Election Commissioner.
2. **Article 243K(2)**: This article mentions that the Governor will decide the **tenure and appointment** of the State Election Commissioner. But there are few restrictions as well. Such as:
  - His conditions of service shall not be varied to his disadvantage after his appointment.
  - Only by following the grounds and procedures to remove the judge of a High Court, the State Election Commissioner can get removed from his office.

**Note:** The President based on the recommendation of the Parliament can remove the judge of a high court. So, the governor cannot remove the State Election Commissioner. Even though, they he/she have appointed him.

### Judicial intervention regarding State Election Commissions

The court intervened in the functions and powers of the State Election Commission multiple times. The important ones are,

1. **Kishan Singh Tomar vs Municipal Corporation of the City of Ahmedabad (2006):** In this case, the Supreme Court held that during the conduct of the panchayat and municipal elections, the state governments should abide by the orders of the SECs. Just like they follow the instructions of the [Election Commission](#) during Assembly and Parliament polls. In conclusion, the SECs will enjoy the same powers as the Election Commission of India (ECI).
2. **Aparmita Prasad Singh vs. State of U.P. (2007):** The UP government has reduced the term of the State Election Commissioner from seven years to five years in 2007. The then Election Commissioner of UP filed a case regarding that. In that, the Allahabad High Court held that cessation of tenure by the State government does not amount to the removal of the State Election Commissioner. But, the Court also mentioned that the State can alter the terms and conditions of the State Election Commissioner before appointing him/her.
3. **N. Ramesh Kumar vs State of Andhra Pradesh (2020):** In this case, the court held that the State government cannot remove the State Election Commissioner by a promulgation of the ordinance.

### Challenges with the State Election Commissions

1. **Lack of autonomy in SECs:** Despite the provisions for independence of SECs, they are not functioning as an autonomous institution. For example, In 2008 the then state election commissioner of Maharashtra asserted that he should have the power to hold elections to the offices of mayor, deputy mayor, and sarpanch offices. But the State assembly got him arrested for the breach of privilege and sent him to jail for two days.
2. **Lack of Constitutional safeguard for SECs:** The manner of removal of SECs has been flouted by the State governments by alternative methods such as restricting the terms and conditions etc. This is evident in the Aparmita Prasad Singh vs. State of U.P. case
3. **No uniformity of service conditions for SECs:** Since the Constitution vest the power to determine the service conditions on State legislatures, the service conditions are not uniform across the country.

### Impact of the issues in State Election Commission

1. **Functions of Municipalities and Panchayats:** The court in the Kishan Singh Tomar case observed that due to various problems in the State Election Commission, the SECs are facing challenges in preparing the electoral rolls and conducting timely elections. This will impact the regular functioning of [Local government institutions](#).
2. **Impact on Free and Fair Election:** Free and fair elections form the bedrock of a democracy. Any restriction of the functions of State Election Commissions will directly affect the free and fair election. For example, In the recent Goa government case itself, the election notification violated the reservation for women, SC, and STs.

### Suggestions to improve the performance of State Election Commissions

1. The State governments **have to follow the judicial directives**. Such as,
  - o Appointing the independent person as the State Election Commissioner,
  - o Instituting the autonomy of SECs

- Respect the SECs functions during the elections of Panchayats and Municipalities
2. The Second ARC (Administrative Reforms Commission) has recommended a few important recommendations to improve the functioning of SECs. State governments should implement them. The recommendations are,
- **Formation of collegium:** The state government should create a collegium consisting of the Chief Minister, the Speaker, and the Leader of Opposition in the Legislative Assembly. The collegium will recommend the State Election Commissioner to the Governor for the appointment.
  - **Creation of an institution** to bring the Election Commission and the SECs under one roof. This will make better coordination, better utilization of resources, and experience sharing.
3. As per the recommendation of the Law Commission, The Central government can provide a separate independent and permanent Secretariat for the SECs and Election Commission.

In conclusion, the independence of the State Election Commission is essential to ensure free and fair elections at the grass-root level. So, the State governments have to ensure that to protect the bedrock of democracy.



## The Government of NCT of Delhi (Amendment) Bill 2021- Explained, Pointwise

### Introduction

The Government of National Capital Territory of Delhi (Amendment) Bill, 2021 or the NCT of Delhi (Amendment) Bill 2021 got introduced in Lok Sabha. It amends certain provisions related to the distribution of powers and responsibilities among the L-G (Lieutenant Governor) and the Delhi legislative assembly. The issue of power tussle between the L-G and the elected government of Delhi has come into the limelight again. It is because of the introduction of this bill.

### Key Provisions related to Delhi

1. Delhi's current status as a Union Territory with a Legislative Assembly is an outcome of the **69th Amendment Act**. The act introduced Articles 239AA and 239BB in the Constitution.
  - o They have created the Union Territory of Delhi with a legislative assembly.
  - o Further, the administrator appointed under article 239 gets designated as the Lieutenant Governor. There shall be a council of ministers to aid and advise LG.
  - o Lastly, provisions of public order, police and land are not under the jurisdiction of the Delhi government. The Centre will maintain these provisions.
2. **Article 239AA(4)** mandates that in case of a **difference of opinion** between the L-G and the Council of Ministers, the L-G has to refer the issue to the President.
  - o Until the decision is pending before the President, the L-G can use his discretion to take immediate action if urgency requires him/her to take an action.
3. The **GNCTD Act 1991** got passed to supplement the constitutional provisions relating to the Assembly and the Council of Ministers in the national capital. The act outlines few important provisions such as:
  - o the powers of the Assembly
  - o the discretionary powers enjoyed by the L-G
  - o duties of the Chief Minister with respect to the need to furnish information to the L-G.

### Salient features of the NCT of Delhi (Amendment) Bill 2021

The NCT of Delhi (Amendment) Bill mainly aims to amend four clauses of the Government of National Capital Territory of Delhi Act, 1991 (GNCTD Act 1991). They are,

1. **Section 21** – This section deals with the restrictions on laws passed by the Legislative Assembly concerning certain matters.
  - o The Bill provides that the term “government” referred to in any law made by the Legislative Assembly will imply Lieutenant Governor (L-G).
2. **Section 24** – This section deals with assent to Bills passed by the Legislative Assembly. The L-G will reserve the bills for the consideration of the President in a few matters. It includes bills that diminish the powers of the High Court of Delhi, the President directed the L-G to reserve a bill, etc.
  - o The NCT of Delhi (Amendment) Bill requires the L-G **to reserve bills** for the President that **incidentally cover any of the matters outside the purview** of the powers of the Legislative Assembly.
3. **Section 33**- It mentions that the Legislative Assembly will make rules to regulate the procedure and conduct of business in the Assembly.
  - o The 2021 NCT bill states that such rules must be consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha.
4. **Section 44** – **It deals with the conduct of business.** Accordingly, all executive decisions taken by the elected government should be under the L-G's name.

- The 2021 bill empowers the L-G to specify his suggestions on certain matters. His opinions has to be taken before making any executive action on decisions of the Minister/ Council of Ministers.

### Background of LG and Delhi Government Relationship

1. Frequent tussles have been witnessed between the Delhi government and the L-G of Delhi since 2015.
2. The primary reason behind it was the **lack of clarity over Article 239AA**. The proviso of Article 239AA(4) seems to give primacy to the L-G. Using this, the LG was able to undermine the will of the elected government.
3. A case also filed on the court about the L-G's power of discretion. In the **Government of NCT of Delhi v. Union of India case 2018**, the Supreme Court defined the limits of L-G's discretionary powers. The important points of that judgement were,
  - L-G is **bound by the aid and advice of the council of ministers** except in subjects of land, public order and police.
  - **Executive decisions do not need the concurrence of the Lieutenant General.** Further, the court also held that the L-G has no powers to overrule the decisions of the elected government.
  - The difference of opinion has to be referred to the president under Article 239AA(4) provision.
    - The Lieutenant Governor cannot act mechanically and refer every decision to the president.
    - Only genuine cases of public interest can be referred to the President.
    - Before referring a bill to the President, the L-G has to consider the principles of collaborative federalism, the concept of constitutional governance, objectivity, etc.
  - Executive power rests with the council of ministers of NCT, Delhi. The union government has no overruling powers with respect to the executive powers.

### Impact of Supreme Court Verdict on NCT of Delhi

- It established a situation of calm between the Delhi Government and the L-G.
- The Delhi **government stopped sending files on executive matters** to the L-G before the implementation of decisions. This resulted in swifter decisions like:
  - Free bus rides to women,
  - Doorstep delivery of rations to the city's residents,
  - Free electricity to households that are using less than 200 units of power
  - Mechanization of sewage cleaning operations
  - Moreover, during the COVID-19 pandemic, the government restricted Delhi's medical resources to its residents alone

### Need for new NCT of Delhi (Amendment) Bill

The Centre introduced the bill in Lok Sabha by mentioning the needs of the bill which includes:

1. The Bill seeks to **give effect to the 2018 judgement** and implementing the verdict.
2. The new Bill is also intended to **promote cooperative federalism** between the centre and the state.
3. The Bill would **address the ambiguities in the interpretation** of legislative provisions.

### Implications of NCT of Delhi (Amendment) Bill

1. Equating the L-G with the government simply **undermines the legitimacy** of the elected government thereby disrespecting representative democracy.

2. Further, The bill **goes against the spirit of the 2018 verdict**. The provisions such as getting the compulsory opinion from the L-G are against the verdict.
3. The NCT of Delhi (Amendment) Bill restricts the Delhi government from inquiring into executive matters. The Delhi assembly at present is examining multiple issues ranging from riots to the environment. This **disregards the ideal of democracy** conceived for the NCT of Delhi by Article 239AA of the Constitution.
4. The NCT of Delhi (Amendment) Bill if passed would be a **huge setback for Delhi's quest for full statehood**. As the L-G gets precedence to the Delhi government.
5. The bill empowers L-G to specify certain matters on which his opinion must be taken. This can **curtail the autonomy** that any elected government legitimately requires for governance.
6. Providing excess powers to L-G can also **distort the federal equilibrium**. The centre can use this bill as a precedent to curtail the powers of other states in the future.

### Suggestions

1. The new bill should be **reconsidered in the light of Justice D Y Chandrachud's note** in the 2018 verdict: "In a democratic form of government, the real power must subsist in the elected arms of the state".
2. A **cautious discussion and deliberation** should take place between the Centre and Delhi government on the ambiguous provision of the bill. This will help in the **eradication of unconstitutional and undemocratic provisions**.
3. Apart from that, the government at **the centre and state must cooperate** to make sure that L-G can discharge its constitutional function. At the same time, they need to avoid L-G doesn't become a hindrance to development.

### Conclusion:

The government must reconsider the NCT of Delhi (Amendment) Bill as per the advice of the Supreme Court. The revamped provisions should enable L-G to act as a facilitator for upholding the law of the land and constitutional provisions.

## Privatization of PSBs – Explained, Pointwise

### Introduction

The Government has fast-paced the privatization of PSBs (Public Sector Banks). Recently NITI Aayog released its last round of consolidation plans. In that, the NITI Aayog listed 6 banks for the privatization plan.

On the other hand, the employee unions of Public Sector Banks have gone on a two-day strike against privatization. Further, A joint platform of 10 Central trade unions also observed last Monday as “anti-privatization day”.

But the government refused to stop the Privatization of PSBs. The government stated that some PSBs are incurring losses, and it can no longer take care of them. In this article, we will analyze the important aspects of the Privatization of PSBs.

### What is the government plan on the Privatization of PSBs?

During Union Budget 2020-21 presentation, the government announced a new [policy for strategic disinvestment](#) of public sector enterprises. This policy provides a clear roadmap for disinvestment in all non-strategic and strategic sectors. The Banking Sector falls under the strategic sector.

The government aims to keep a bare minimum presence in the strategic sector. The final number of Public Sector entities in strategic sectors (including banking) will be determined by a group of ministers.

In 2019, after a massive consolidation exercise, the no. of PSBs reduced from 28 to 12. Recently the NITI Aayog consolidation plan left 6 PSBs out of the Privatization plan.

The NITI Aayog suggested privatizing all the PSBs except the SBI, Union Bank, Punjab National Bank, Canara Bank, Indian Bank, and Bank of Baroda. Further, the government also decided to perform privatization of two PSBs in the next fiscal year.

The PSB workers opposed the Privatization of PSBs right from the beginning. Nearly 10 lakh PSB employees, officers, and managers protested for two days against the Privatization of PSB plans last week.

### Contribution of PSBs so far

According to RBI data, there were only 1,833 bank branches in rural areas in the country in 1969. But after the nationalization in the 1970s, the rural branches increased to 33,004 by 1995 and continued to grow over the next decades. This provided various benefits to economic development. Such as,

- PSBs expanded **agricultural credit**, short-term agricultural credit (‘crop loans’). According to an estimate, the PSBs in 2017-18 account for a total of Rs 622,685 crores of Agricultural credit. Further, The PSBs also played a huge role in making the country self-sufficient by supporting the green, blue, and dairy revolutions.
- The PSBs pioneered the concept of **‘priority sector lending**. This provided credit to certain priority sectors which were earlier deprived of credit such as housing, etc.
- The **Differential Rate of Interest (DRI) loans** are the brainchild of public sector banking. Under this poorest section of people will receive the loan at a very marginal interest rate.
- The PSBs extended loans to **women’s self-help groups** under various programs. This contributed to **women’s empowerment in India**.
- PSBs also funded rural infrastructure projects through the **Rural Infrastructure Development Fund**.

In conclusion, the PSBs provided access to a formal banking network for all and facilitated **financial inclusion in India**.



### The rationale behind the Privatization of PSBs

1. **The problem of NPAs:** The banking system is overburdened with non-performing assets (NPAs). The majority of which lies in the public sector banks. For example, In 2020 the amount of NPAs with the PSBs was about Rs 5.47 lakh crore. This is more than twice the amount of NPAs in Private sector banks (Rs 2.04 lakh crore).
2. **Issue of Dual Control:** At present PSBs are under the dual control of RBI and **Dept. of Financial Services of Min of Finance.**
  - The RBI handles the governance side of the PSBs under the **RBI Act, 1934**
  - On the other hand, the **Dept of Financial Services** under the Finance Ministry maintains the regulation of PSBs under the **Banking Regulation Act, 1949.**
  - Thus, RBI does not have the powers to revoke a banking license, shut down a bank, or penalize the board of directors for their faults. The Privatization will provide the powers to RBI to control them effectively.
3. **Reduced performance:** The PSBs in the past failed to perform effectively when compared to Private banks. This will result in a loss for the government at the end of the day. For example, The PSBs had almost 71% of the overall lending ratio in 2005. But in 2020 their overall lending ratio came below 57% due to intense competition from the Private banks.
4. Public sector bank boards are still not adequately professionalized. Further, the Bank Board Bureau is not fully functional. So the government still decides board appointments. This creates an **issue of politicization and interference** in the normal functioning of Banks.
5. **A difference of Incentives:** PSBs are disrupted by government schemes like farm loan waivers etc. On the other hand, Private banks are profit-driven. The shareholders maintain effective control over banks' functions. So, they can improve the balance sheet of the PSBs after privatization.

### Arguments against the Privatization of PSBs

The supporters of PSBs provide many arguments against the privatization of PSBs. Such as,

- **The credibility of Private Sector Banks:** The Private sector bank is not always efficient. On a global level, there are many private banks that have failed, thus challenging the idea of private banks are efficient. For example, the recent YES Bank problem in India.
- **Reason for NPA's:** The present NPA problem lies majorly with the PSBs. But the NPA's increased due to the credit provided to the private corporate entities. So the private corporate entities have to be regulated and not the PSBs.
- **Against inclusive banking:** The Private Sector focussed on profit motive might restrict the credit to rural, agricultural, women, poor sections of society, etc. Thus, after Privatised PSBs the remaining PSBs have to take care of all of such credits. This might stress the remaining PSBs also.
- **Governance and policy issue of RBI:** Restructuring schemes such as strategic debt restructuring and schemes for sustainable structuring of stressed assets, initiated by RBI, are the major reasons for delayed recognition of bad loans from banks. This is applicable to all banks irrespective of ownership (public as well as private) of the banks.

For these reasons only the Former governor of RBI, Raghuram Rajan also opposed the Privatization of PSBs. He also mentioned that India at present needs changes in banking regulation.



**Suggestions**

1. **Proper implementation of the recommendations:** The government must properly implement the recommendations of various committees. Such as,
  - **Recommendation of PJ Nayak Committee:**
    - Though the government approved the Bank Board Bureau, the government has to provide enough support for proper functioning.
    - The government can split the Chairman and Managing Director roles. Further, the state can allow them a fixed tenure of 3 to 5 years.
  - **Recommendations of Narashimham committee**
    - The government can review the Banking Regulation Acts.
    - India can explore the **concept of Narrow Banking**. Under this weak PSBs will be allowed to place their funds only in the short term and risk-free assets. This will improve the performance of PSBs.
2. Apart from that, The government has to create strong recovery laws and **taking criminal action against wilful defaulters**.
3. The government has to rectify the challenges in the Insolvency and Bankruptcy Code. This will provide a faster resolution process.
4. In the meantime, the government can explore alternate steps such as the **concept of Bad Banks**.

The majority of the Committees appointed by the government including the PJ Nayak Committee supported the reduction of government stake in PSBs. So, the government has to strike a balance on how much privatization of PSBs is essential for financial inclusion and credit to essential sectors like infrastructure, rural, etc. Instead of providing arbitrary numbers, the government have to provide the rationale behind the bare minimum presence in the strategic sectors including PSBs

## Electoral Bond and its challenges – Explained, Pointwise

### Introduction

Recently the [Supreme Court agreed to hear a plea](#) to stay the fresh sale of Electoral Bonds. It is a significant decision considering the upcoming state assembly elections in West Bengal, Tamil Nadu, Kerala, and Assam. Political parties rely on Electoral Bonds for the majority of their funding.

Electoral bonds are surrounded by criticisms since their introduction. The Election Commission of India (ECI) and the Reserve Bank of India (RBI) stated that these bonds allow the transfer of illicit black money from shell companies. Later, the ECI also criticized the bonds as a “retrograde step as far as transparency of donations is concerned”. In this article, we will analyze the issues surrounding the Electoral Bonds in India.

### About the recent case

1. The Finance Act 2017 introduced amendments in the Reserve Bank of India Act, Income Tax Act, Companies Act, Representation of Peoples Act, and Foreign Contributions Regulations Act. It made the implementation of the [Electoral Bonds Scheme](#) in India, possible.
2. Right after that, in 2017 itself, the NGOs Association of Democratic Reforms (ADR) and Common Cause filed a case in court against the Finance Act 2017 to stay the execution of such bonds.
3. The Supreme Court in 2019 directed the Political Parties to submit the details of donations received through the bonds in a sealed cover to the Election Commission of India. Based on that, the political parties submitted the amount of donations received through bonds.
4. The ECI and the RBI analysed these reports. After that, they both opposed the implementation of Electoral bonds. Further, they also mentioned these Bonds as detrimental to Indian Democracy. The ECI even filed an affidavit mentioning the anonymous nature of bonds.
5. Since the case is not yet decided, the ADR recently demanded to fast pace the case. Further, it also cited the issues surrounding the Electoral Bonds. The SC also agreed to hear the dispute sooner.

### What are Electoral Bonds?

The [Electoral Bonds](#) are the non-interest-bearing financial instruments. These Electoral bonds allow **eligible donors** to pay **eligible political parties** using banks as an intermediary. The Electoral Bonds aim to ensure transparency in the funding of political parties.

*Eligibility criteria for receiving and donating funds*

1. **Eligibility of Political Parties**
  - Only the political parties registered under Section 29A of the Representation of the People Act, 1951 are eligible to receive funds through Electoral Bonds.
  - Further, these registered political parties also have to receive not less than 1% votes in the last Lok Sabha elections or the State Legislative Assembly to receive funds through electoral bonds.
2. **Eligibility of Donors**
  - Any citizen of India or entities incorporated or established in India can purchase these Electoral Bonds.
  - Citizens can buy electoral bonds either singly or jointly with other individuals.

### Functioning of the Electoral Bond Scheme

1. **The State Bank of India (SBI)** issues electoral bonds in the months of **January, April, July, and October**.
2. The electoral bonds are available in denominations from Rs 1,000 to Rs 1 crore.
3. The donors can buy electoral bonds and transfer them into the accounts of the political parties as a donation. The name of the donor is kept confidential.
4. Political parties will create a specific account. This account will be verified by the ECI. The political parties will encash the electoral bonds only in this verified account.
5. The bonds will remain valid for 15 days. Within that time, the political parties have to encash the electoral bond in the designated accounts.

### Need for Electoral Bonds

1. These bonds are aimed to reduce **anonymous cash donations** made to political parties. In the previous system, the political parties did not disclose the donor, the amount of donations received, etc. These anonymous donations led to the generation of black money in the economy. For example, Nearly 70% of the Rs.11,300 crore in political funding came from unknown sources.
2. The Electoral bonds **encourage political donations of clean money**. According to the government, the bonds will encourage political donations from individuals, companies, HUF, religious groups, charities, etc. Since the amount is transferred through the bank, the identity of the donor can be captured by the issuing authority.

### Challenges with Electoral Bonds

1. **Firstly, the problem of Anonymity:** In the electoral bond scheme, there is no provision exist for revealing the donor of the political party.
  - This violates the **freedom of political information**, which is integral to **Article 19(1) (a) of the Constitution**.
2. **Secondly, the challenges with the amendments of Finance Act 2017.** The Election Commission points out various challenges in the Finance Act like,
  - **Amendments made to Companies Act 2013:** The amendment removed an eligibility clause (A company can make a political contribution only if its net average profit of three preceding financial years is at 7.5%).
    - As per ECI, this **gives rise to the creation of shell companies** just to fund political parties.
    - Due to this amendment, Any **troubled, dying company** can donate an unlimited amount anonymously to a political party
    - Further, this also gives rise to the **issue of Black Money again** in political funding.
  - **Amendments made to RPA 1951:** The amendment made political parties need not report to ECI the donations received through electoral bonds.
    - This reduces the transparency in political parties. Further, it hampers **public scrutiny in democracy**.
  - **Amendments made to Foreign Contributions Regulation Act:** This permitted acceptance of donations from foreign companies with retrospective effect.
    - This facilitated the unchecked foreign funding of political parties in India.
    - Further, This provision also threatens Indian policies influenced by foreign companies.
  - **Amendments made to Income Tax Act:** The amendment provided 100% tax exemption to the political donations. Further, the amendments also exempted companies from mentioning such donations to the Income Tax department.
    - The shareholders of the company won't know where their money has gone.

3. **Lastly, A threat to the donor:** Since the electoral bonds are issued by the State Bank of India (a Public Sector Bank) the government can know the donor even though the bond does not mention the name. Thus, the bonds provide a ruling party with a chance to threaten the donors of the opposition party.

#### **Suggestions to improve the political funding**

1. An alternative to electoral bonds is a **National Electoral Fund** to which all donors can contribute. The funds can be allocated to political parties in proportion to the votes they get. This will protect the identity of donors. Apart from that, it would also weed out black money from political funding.
2. The best way to bring transparency in political funding is to **put a complete ban on cash donations** by individuals or companies to political parties. (At present Political parties can receive cash donation below Rs.2000)
3. Further, India has to consider State funding of political parties. The **Indrajit Gupta Committee on State Funding of Elections** has supported partial state funding of recognised political parties.
4. Further, the government have to amend the changes made in the Finance Act of 2017. The issue of electoral bonds can be rectified easily if the political parties wish to improve transparency. But that is not an easy thing to do. The Supreme Court has to address the issue clearly to improve transparency in political funding. Apart from that, India needs to educate the Voters through awareness campaigns especially about the ill-effects of money power during elections.

## Effectiveness of Inflation Targeting in India – Explained, Pointwise

### Introduction:

RBI adopted the Inflation Targeting on the recommendations of the Urjit Patel committee in 2016. Almost 5 years have passed since its adoption. The RBI has also announced a formal review of its inflation targeting method. Hence, there is a requirement for an elaborate review to examine the performance of this method. In this article, we will analyze the performance of Inflation Targeting in India so far.

### What is Inflation Targeting (IT)?

1. [Inflation Targeting](#) is a method that focuses on adjusting monetary policy to achieve a specified annual rate of inflation.
2. **Types of inflation targeting:**
  - **Strict inflation targeting (SIT)** – Under this, the central bank only focuses on keeping inflation, close to a given inflation target.
  - **Flexible inflation targeting (FIT)** – Under this, apart from inflation, the central bank is also concerned about other variables like the stability of interest rates, exchange rates, output and employment ratios.

### Basic Terminologies

- **Monetary Policy** – It is the macroeconomic policy laid down by the central bank that focuses on the management of money supply and interest rates.
- **Inflation** – It refers to a sustained/continuous rise in the general price level of goods and services in an economy over a period of time.
- **Headline inflation** – It is a measure of total inflation in an economy. In India, Consumer Price Index Combined (CPI -C) represents Headline Inflation.
- **Core inflation** – It is the inflation level after subtracting the food and fuel inflation from the Headline Inflation.
- **Repo Rate** – It is the rate at which RBI provides short-term loans to banks against the collateral of government and other approved securities under the liquidity adjustment facility (LAF).
- **Shut Period** – It is the period for which the securities cannot be traded

### Background of Inflation Targeting

- The Finance Act, 2016 amended the Reserve Bank of India Act, 1934 (RBI Act) . The amendment facilitated a statutory and institutionalized framework for a **Monetary Policy Committee(MPC)**.
- MPC was entrusted with the task of fixing the benchmark policy interest rate (repo rate) to **contain inflation** within the specified target level i.e. inflation targeting.
- A flexible inflation target (FIT) of 4% was decided with a deviation of +or- 2%. Further, **headline consumer price inflation** was chosen as the **key indicator**.
- This agreement between the center and the RBI on inflation targeting is set to end on 31st March 2021.

### Need of inflation targeting

1. Inflation targeting advocates the **objective of price stability** in actual monetary policy arrangement.
2. Adopting price stability creates a **stable non-inflationary environment for resource allocation** in the economy.
3. Since the RBI **sets a certain inflation rate as a goal**. The central bank made people believe that prices will continue to rise. This has few advantages like,



- The inflation targeting **benefits the economy** by making people buy things in the present (before they cost more).
- It **boosts investment**. As investors invest now because they are confident that the investment will give them a higher return when they sell later.
- 4. A credible central bank and stable inflation lower the country's risk premium and cost of borrowing in an open economy.
- 5. It also made the **RBI more accountable** to the government. As the RBI needs to give a proper explanation in case it breaches the inflation targeting tolerance range (2-6%).

#### Performance of Inflation Targeting so far

1. In these 5 years periods (2016-2021) after inflation targeting was introduced, RBI managed to keep inflation in control.
  - **The inflation rate has remained within the prescribed band** of 2% to 6%. According to the RBI, Inflation was above 9% before the introduction of Inflation Targeting in India.
  - Also, the RBI has been successful in anchoring inflationary expectations. As the **estimated response coefficient** to RBI is higher for India than it is for other countries.  
**The estimated response coefficient** is the relationship between the Bank response and the unexpected rise in Inflation.
2. However, sometimes the band was breached as well. In June 2020, the upper threshold of 6% was breached due to COVID-19 lockdown.

#### Issues in inflation targeting

1. **Assumption of correct output level:** The model of Inflation targeting is based on the assumption that inflation means overheating the economy (i.e. output or production is greater than natural level output/production.)
  - However, it is impossible to observe the level of output in an economy. Hence, setting policy rates based on the assumption that the economy is overheated, is unscientific.
2. **Limited power of RBI:** The belief that RBI can successfully control inflation using Inflation targeting is not completely true. During the lockdown, **food inflation peaked even when the inflationary targeting mechanism was in force**. It was mainly **due to supply chain disruption** during the lockdown.
3. **Adverse impact on other sectors:** The cases of IL&FS, PMC Bank, PNB and YES Bank suggest that **poor management and maladministration** in the financial sector can escape RBI scrutiny as they tend to focus more on inflation targeting.
  - RBI has **kept the interest rates high** to manage inflation. This has **discouraged private investment** thereby reducing employment and export potential.
  - **High real repo rates** for almost three years 2017-2019 are the primary cause of **the GDP growth decline in India**. The GDP declined from 8 percent (pre-IT) to 5 percent (post IT) due to high real repo rates.
4. **Global Nature of inflation:** Inflation is global in nature as the price level of a good is determined by millions of producers across the world. Research by economic experts has also pointed out the international influence on the inflation level. Further, they mention points like,
  - No one producer or one country can influence the price of any item or the general price level.
  - For instance, The average inflation rate among EM (emerging markets) targeters during 2000-04 were 4 percent, and it was 3.8 percent among the non-targeters.

**Suggestions to improve the inflation targeting**

1. The Reserve Bank of India (RBI) in its Currency and Finance (RCF) report has called for **aligning the shut period** with global practices. The RBI predicts that this will provide better monetary policy transmission.
  - **Shut down period** is the period, in which MPC members maintain complete silence, i.e. no media coverage. It is observed before a few days of a policy decision, till few days after the decision. It ensures no sudden volatility in the market and effective market transmission.
  - At present the shut period is seven-day after the release of the monetary policy committee (MPC) resolution. The RBI wants to reduce this to 3 days after the resolution.
2. In order to enhance **accountability and credibility**, the transcripts of the MPC meetings may be recorded. Further, the transcripts may be **released in the public domain with a lag of 5-7 years**.
3. The government has to change the Inflation targeting **from headline to core inflation**. This will provide advantages like,
  - More than 50% basket of headline inflation comprises commodities that the RBI policy rate cannot affect. Especially fuel inflation.
  - Food inflation is now in single digits than earlier double digits.
4. Improvement of Regular measurement of CPI. This includes **a frequent update of the basket and its weights** along with changing times.
5. **Expansion in the ambit of MPC** is also needed.
  - For instance, the inclusion of liquidity issues (liquidity adjustment facility, changes in reverse repo, and OMOs) in the discussion may result in greater transparency and effective procedures.

**Conclusion**

The RBI's Currency and Finance report has indicated the central bank's preference to maintain flexible Inflation Targeting in the range of 2-6% for the next five years. This will build confidence in the broader economy that is still prone to both supply shocks and sudden demand shrinkage. Nonetheless, some reforms are desired in the Inflation targeting procedure to achieve optimum outcomes.

## NITI Aayog's Great Nicobar Development plan – Explained, Pointwise

### Introduction

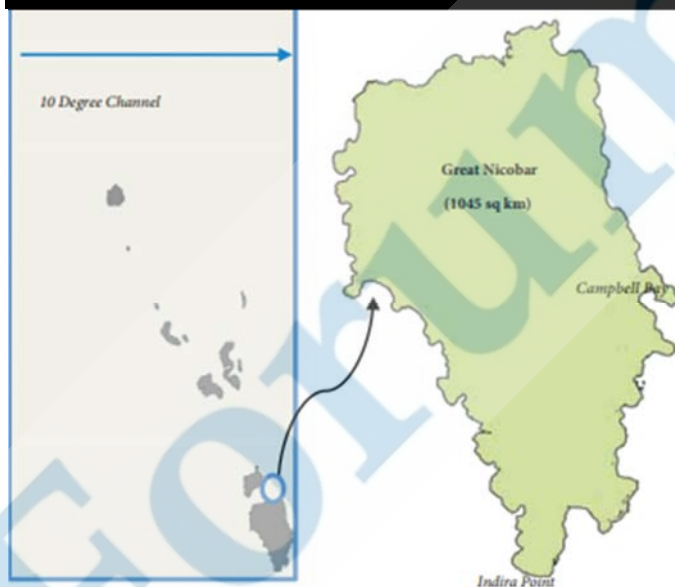
NITI Aayog's Great Nicobar Development plan aims to promote the holistic development of Greater Nicobar. Based on that, the Standing Committee of the National Board for Wildlife (NBWL) **denotified the entire Galathea Bay Wildlife Sanctuary** for building port and other related infrastructure.

This would facilitate the realization of NITI Aayog's master plan for the development of the great Nicobar island. However, experts have expressed concern that this rapid development can lead to disastrous consequences.

### Background

- The **Island Development Agency (IDA)** was constituted in 2017 under the aegis of the Ministry of Home Affairs. The IDA looks into the holistic development of islands.
  - Home Minister of India is its chairman. CEO of NITI Aayog acts as its convener.
  - The other members of IDA include Secretary- Tourism, Tribal affairs, the Home Secretary, Secretary Ministry of Environment, and Cabinet secretary.
- [NITI Aayog](#) has been mandated with the task to steer the **holistic development of the islands** sustainably. The program aims to attain sustainable development in the identified Islands without damaging the pristine biodiversity.
- In this regard, the NITI Aayog came up with a Great Nicobar Development plan.

### Information about Great Nicobar Island



- Great Nicobar is the southernmost and largest of the Nicobar Islands of India. The island of Sumatra has located 180 km to the south of Great Nicobar. It has an area of about 1045 sq. km.
- According to the 2011 census, it has a population of about 8,069. The island is home to one of the most primitive tribes of India — the Shompens.
- The island includes **the Great Nicobar Biosphere Reserve (GNBR)** comprising the Galathea National Park and the Campbell Bay National Park.
- Indira Point in the Great Nicobar Island is the southernmost point of India's territory.

**Current Scenario**

- The National Board for Wildlife (NBWL) denotified the entire Galathea Bay Wildlife Sanctuary.
  - The sanctuary is one of the 'Important Coastal and Marine Biodiversity Areas'. Further, it is also an 'Important Marine Turtle Habitats' in the country as per National Marine Turtle Action Plan.
- Another Environment Ministry expert committee approved a "zero extent" Ecologically Sensitive Zone (ESZ) for the Galathea National Park. This would allow the use of land in the south-eastern and south-western parts of the island for the Great Nicobar Development plan.

**About the Great Nicobar Development plan**

- Firstly, The overall Great Nicobar Development plan envisages the use of about 244 sq. km. region for development purposes.
- Secondly, Phase 1 of the plan will cover:
  - 22 sq. km. airport complex,
  - Transshipment port (TSP) at South Bay
  - Parallel-to-the-coast mass rapid transport system and
  - Free trade zone and warehousing complex on the southwestern coast.
- Thirdly, Andaman and Nicobar Islands Integrated Development Corporation (ANIIDCO) will be the nodal agency for the implementation of the Great Nicobar Development plan.

**Significance of the Great Nicobar Development plan**

1. **Job opportunities for locals:** The plan involves the creation of infrastructure (ports, airports, etc.). This will help in creating satisfactory jobs for the locals.
2. **Economic Development:** It will help in creating tourism prospects in the region. This will aid the income generation in the region.
  - The per capita income in Andaman & Nicobar Islands for the year 2015-16 was Rs. 1,24,361. This was much lower than the per-capita income of other Union Territories (Chandigarh, Delhi, and Puducherry.)
3. **Connectivity:** The development of world-class infrastructure will help in improving inter-island connectivity. Thereby, improving governance and boosting export potential.
4. **Social Benefits:** It would further create affordable state-of-the-art facilities for healthcare, quality education, and adequate air, sea and web infrastructure.
  - It will facilitate the delivery of e-governance services such as telemedicine and tele-education, as a part of the Digital India initiative.
5. **Strategic benefit:** The Nicobar island located in proximity to the strait of Malacca. This demands the creation of robust infrastructure for meeting geopolitical interests in the region.
  - The islands are also home to India's **only tri-services command** – the Andaman and Nicobar Command (ANC).
  - The command holds immense relevance due to rising Chinese aggression in the Indo-Pacific region.

**Concerns with the Great Nicobar Development plan**

1. **Firstly, a threat to biodiversity:** Any construction in the region threaten the survival of certain important organisms. Such as,
  - The beaches at the mouth of the river Galathea in South Bay are among the most prominent nesting sites of [Giant leatherback turtles](#).



- Similarly, 90% of the Nicobar megapode's nesting sites are within a distance of 30 m from the shore.
- 2. **Secondly, jeopardizing environment for economics:** Galathea sanctuary lies in Coastal Regulation Zone (CRZ)-I (the zone with maximum protection). But still, a slew of high-value projects got precedence over the pristine biodiversity.
- 3. **Thirdly, neglecting tribal rights:** The proposed project areas are important grounds for the hunter-gatherer nomadic community especially Shompen. Initiation of work would make large forest areas inaccessible and useless for the Shompen.
- 4. **Fourthly, geological volatility:** Andaman & Nicobar Islands are located in seismic zone V. Further, The Andaman & Nicobar observe frequent storms and cyclones. This can easily destroy constructed structures.
  - For instance, In 2004 Tsunami caused a 3-4 metre land subsidence. This is the reason for the submergence of a lighthouse located at Indira point.
- 5. **Fifthly, undermining international obligations:** The Galathea Bay Wildlife Sanctuary forms part of a **UNESCO World Heritage Site**. So preservation of this pristine biodiversity is an International Obligation of India.
- 6. **And lastly, information Deficit:** The rationale, process of creation, and other relevant provisions of the plan are still not publicly available.

### Suggestions

1. **Firstly**, the work must be carried out with **due regard to tribal rights**. This would involve proper adherence to policies like the **Shompen Policy of 2015**.
  - The **Shompen Policy of 2015** calls for giving priority to tribal rights over large scale development proposals.
2. **Secondly**, any construction under the Great Nicobar Development plan should involve a proper **Environment impact assessment** (as mandated by the Environment Protection Act 1986). This will make development more feasible. Further, It will minimise the threat of excessive environmental degradation.
3. **Thirdly**, construction of infrastructure should be done using eco-friendly practices like strict adherence to **GRIHA code** for building construction.
  - GRIHA means Green Rating for Integrated Habitat Assessment. It is the National Rating System of India.
  - It has been conceived by TERI and developed jointly with the Ministry of New and Renewable Energy, Government of India.
4. **Fourthly**, NITI Aayog and the agencies participating in planning should **maintain transparency in data**. The government should release the data on the rationale, the process of creation, consulted groups etc. in public domain. This will give a holistic view to critics and supporters.
5. **Finally**, India should enhance **Cooperation with countries like Japan, South Korea etc.** This will help in developing successful island development models.

### Conclusion

India needs to achieve the Vision of "Happy and Prosperous Islanders on ecologically-protected Islands". To achieve that, India needs to adopt development plans that are technically feasible, economically profitable and socially acceptable.



## Mines and Minerals Amendment Bill 2021- Explained, Pointwise

### Introduction

The Lok Sabha and Rajya Sabha passed the [Mines and Minerals \(Development and Regulation\) \(MMDR\) Amendment Bill, 2021](#). The MMDR Bill 2021 seeks to amend the Mines and Minerals (Development and Regulation) Act, 1957. This bill is expected to be the watershed moment in the development of mines and minerals in India. In this article, we will analyze the MMDR Bill 2021.

### Types of Mines in India

At present, there are two types of mines in India. They are:

1. **Captive Mines:** Captive industries own these mines. The coal or mineral produced from these mines is for the exclusive use of the owner company of the mines. The company cannot sell coal or mineral outside. Some electricity generation companies used to have captive mines. For Example, If an iron ore mine is allowed to a captive industry(iron and steel plant). Then that iron and steel plant can use the iron ore only for producing steel for their company. They cannot sell the ore to any outsider.
2. **Non- Captive Mines:** In Non-captive mines, the minerals obtained by a company can be sold in the market.

**Note: Specified minerals** include minerals other than coal, lignite, and atomic minerals.

### About the MMDR Bill 2021

1. There are two important Acts that govern the mines and minerals in India. They are,
  - o The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act)
  - o The Coal Mines (Special Provisions) Act, 2015 (CMSP Act).
2. The MMDR Act regulates the overall mining sector in India. Further, the MMDR Act empowers the central government to reserve any mine for the particular end-use(Captive mines).
3. Similarly, the CMSP Act provides for the auction and allocation of mines.
4. The Mines and Minerals (Development and Regulation) (MMDR) Amendment Bill,2021 amends both the MMDR Act and CMSP Act. Further, it aims to provide holistic development of mines and minerals in India.
5. An Ordinance with similar MMDR bill provisions was also promulgated in January 2020.

### Salient provisions of the MMDR Bill 2021

1. **Removes distinction between captive and non-captive mines:**
  - o The Bill removes the distinction between [captive and non-captive mines](#). It will not reserve any mine for a particular end-use. All mines will now be able to sell their extra minerals.
2. **Sale of minerals by captive mines:** The MMDR Bill 2021 provides that captive mines (other than atomic minerals) may sell up to 50% of their annual mineral production in the open market after meeting their own needs. But they need to pay the royalty to the central government.
3. **National Mineral Exploration Trust (NMET):** The Bill provides for the constitution of a **Statutory body** named the National Mineral Exploration Trust (NMET). It will see the overall functioning of the mining sector.
4. **National Mineral Index (NMI):** The Bill proposes to introduce an **index-based mechanism** by developing a **National Mineral Index (NMI)**. Various statutory payments and future auctions can use the National Mineral Index in the future.

5. **Transfer of statutory clearances:**
  - Presently, an auction is conducted to determine the fresh mining leases after the expiration of a mineral lease.
  - The auctioned person (new lessee) needs to obtain statutory clearances before starting mining operations.
  - The MMDR Bill 2021 changes this provision. It makes the transferred statutory clearances valid throughout the lease period of the new lessee.
6. **Auction by the central government in certain cases:** The Bill provides that if the State Government is not able to complete the auction process within a specified time, the Central Government may take over and conduct such an auction.

#### Concerns with the MMDR Bill 2021

1. The bill is seen by various state governments as the restriction of their revenue generation and indulgence of the central government in the State mineral policy. The reasons are,
  - **Fixing the royalty to States:** The bill mentions fixing royalty payments to the states for the mining leases provided to Central PSUs. This might reduce the amount of revenue to the state government.
  - **Vesting the ultimate power with the Centre:** The bill provides for auction by the central government in certain cases. State governments see this as the central government supremacy in the State mining lease policy.
  - **Centre's direction to District Mineral Fund (DMF):** Under the MMDR Bill 2021, the centre can direct the spending of DMF. The States on the ground have to perform the actions directed by the Centre. States see this as the Centralization of DMF. **District Mineral Fund:** The District Mineral Fund is established based on the contribution of major or minor mineral exploring companies in a district. The fund is utilised in the interest of the persons and areas affected by mining-related operations.
2. **Environment concerns with the MMDR bill 2021:** As the mining is liberalised under the MMDR Bill 2021, there are higher chances of degrading the environment, restricting tribal rights, threatening the biodiversity of the area etc.

#### Advantages of the MMDR Bill 2021

1. **Exploration of India's mineral potential:** India has the same mineral potential similar to Australia, South Africa. Further, India is producing 95 minerals. But India still imports minerals worth more than Rs. 2.5 lakh crore a year. The MMDR Bill 2021 facilitates to explore better mining of minerals. This will **improve the commercial mining capability** of India.
2. **Effective mining and creates huge employment benefits:** More exploration of mines will lead to effective and profitable mining in India. Further, the mines and minerals located in the Indian hinterland will create local employment at an enormous level.
3. **Transparency in the mining process:** The MMDR Bill 2021 aims to infuse transparency in the mining sector. Further, it will also reduce the red-tapism as the bill provides for the transfer of statutory clearances, new NMI index etc.
4. **Variety of benefits:** The relaxation of mining restriction on Captive mines and the transfer of statutory clearances have few significant advantages, like,
  - **More investment into the mining sector:** This will facilitate more internal investments, FDI and increase Forex reserves. Apart from that, this will bring more new technology into the mining sector.

- Since the captive mines can sell their minerals commercially to other industries, It will spur the growth of other industries. Further, this will **reduce the import of raw materials**. This is in line with creating Atmanirbhar Bharat.
- Companies can create additional revenue by selling minerals to other Industries and intermediaries.

### Suggestions

1. **Protect the Environment:** Both the Centre and State government should ensure the protection of the environment. Further, the relaxation of mining to the companies should not violate the provisions of the environment. To ensure that, the government have to create a **proper and periodic environmental auditing mechanism**.
2. **Creating other safeguards in long run:** The implementation of the MMDR Bill 2021 have to monitor closely for enhancing the contribution of the mining sector to 2.5% of Indian GDP (at present it is 1.75%). The implementation of the MMDR Bill 2021 depends upon various organs of the state and private sector. So, the issues in the implementation have to identify and rectified either Judicially or legislatively or administratively or in other ways.
3. **Creating adequate infrastructure in other sectors:** The development of mines and minerals depend on India's logistical capability, development of ports, railways etc. So to create an adequate export capacity of Mines and minerals, India needs to develop adequate infrastructure in other sectors.
4. **India needs to reduce the cost of the value addition of minerals:** The government has to reduce the losses associated with the value addition of minerals. Or else, India can face challenges in sustaining the industry. For example, China imports iron ores from India. But due to efficient value addition, China produces steel at a low cost. Further, China also exports them to India and disrupt the domestic steel industry.

### Conclusion

Overall the MMDR Bill 2021 might provide a strategic push in the mining sector. Over a period of time, India can fulfil its mineral needs, create employment, ensure the growth of industries, etc. Thus, the proper implementation MMDR Bill will make India a global supplier of minerals to the whole world.

## Remote Voting Facility in India – Explained, Pointwise

### Introduction

The Chief Election Commissioner has proposed to include the 'remote voting facility' in the upcoming 2024 Lok Sabha elections. This will enable voters to cast votes from remote locations and improve voter turnout. However, the success of this method depends on various other steps including the creation of enabling infrastructure for remote voting. In this article, we will explain the remote voting facility and its challenges in India.

### Current Scenario

- Firstly, the first pilot project of the remote voting facility is likely to start in the next 2-3 months.
- Then, a team of experts from IIT Madras and other IITs is working on drafting the modalities of 'remote voting' or 'blockchain' voting system in full swing.
- Other projects in pipeline:
  - Introduction of E-Voting for NRI(Non-Resident Indians) in the next 6-12 months.
  - Linking of Aadhaar card with EPIC (Electoral Photo Identity Card). This will improve voter identification at polling stations.

### About Remote Voting Facility (RVF):

- It will enable a voter to cast his or her vote from any polling station in the country.
- It will remove the compulsion on voting only at the domicile polling station. (As the voter is registered in his domicile).
- The project is being developed by the IIT-Madras using **blockchain technology**.

### Blockchain Technology:

1. A blockchain is a distributed ledger of information which is replicated across various nodes on a "peer-to-peer" network (P2P Network)
2. The data exists on multiple computers at the same time. It constantly grows as new sets of recordings or blocks get added to it in a decentralization manner.
3. All transactions that occur on a standard Blockchain are **verified and signed with cryptography** to ensure **security and anonymity**.
  - Cryptography: It is the process of converting ordinary plain text into unintelligible text and vice-versa.
  - The intended person can encrypt the coded message and use them.
4. The ledger can record many transactions such as monetary transactions, property transfer, and even ballot storage.

### Probable working of Remote Voting Facility

Blockchain is a decentralized, transparent, and an encrypted data technology. This **could potentially help to minimize election tampering**. Further, the Blockchain can also **maximize polling** in elections. The probable implementation will include the following steps.

1. In the first stage, the user's voter identity will be **verified and authorized** through a multi-layered identification system. This system can have web cameras and biometric identification. This will prevent duplication.
2. In the second stage, a **blockchain-enabled personalized e-ballot paper** will be generated. The citizens will use this paper to cast his/her vote.
3. In the third stage, an **encrypted blockchain hashtag (#) will be created**. This hashtag will then be sent to all the people in the chain. So, the person cannot cheat his/her vote in other locations.



**Significance of Remote Voting Facility (RVF)**

1. **Firstly, Higher Voter Turnout:** The voter turn in the 2019 Lok Sabha elections was 67.11% across 542 constituencies. The RVF can increase the voter turnout in the upcoming Lok Sabha election.
2. **Secondly, Promote Inclusivity:** Individuals who are 'on the move' like students, patients, migrant labourers, essential service providers, etc. will become part of the electoral process.
3. **Thirdly, Flexibility:** RVF gives more flexibility to voters. An individual can cast his/her vote from multiple locations and not solely from one registered polling station.
4. **Fourthly, Greater Political Accountability:** RVF will give a voice to unheard groups like migrant workers. The contesting candidates generally did not concern with them, as they will not vote in elections.
5. **Fifthly, Strengthens Representative Democracy:** RVF will ensure more eligible voters cast their vote. Thus, it will help in fulfilling the ambition of the representative democracy.
6. **And lastly, Fulfils Constitutional Mandate: Article 326** of the Indian Constitution has given voting rights to every individual above 18 years i.e. **universal adult suffrage**. The spirit of this article calls for ensuring universal voter turnout in elections and RVF can help us move closer towards this.

**Challenges with Remote Voting Facility**

1. **Cyber Threats:** As RVF is based on blockchain, therefore it might be attacked by hackers which would distort the final result.
2. **Privacy Concern:** The process involves saving a user's biometrics and facial data. Any misuse of such by concerned authorities or hackers would undermine the right to privacy.
3. **Stakeholder's Confidence:** Nowadays, political parties and candidates are questioning the credibility of EVMs. Instilling trust over RVF will be a challenging task.
4. **Confidentiality of Voting:** As the RVF facility will be availed in front of an authorized officer, the secrecy of the voting process might get jeopardized.

**Suggestions to improve Remote Voting Facility**

1. The government has to do a **wider consultation** with all the concerned stakeholders before the rollout of RVF. This includes political parties and civil society groups (like the Association for Democratic reforms).
2. In the pilot phase, the Parties and candidates should **get timely notifications of RVF**. By providing real-time information can **strengthen trust** in the electoral process.
3. Also, The Election Commission should organise **the RVF hackathons** in order to build **greater public confidence**. So that the 'didn't want to vote' category people also cast their vote with confidence.
4. For ensuring a universal voter turnout, **awareness generation** should be done.
5. Further, till the RVF develops, **easing and enhancing the process of postal ballot** is desired.
  - o India used the Electronically Transmitted Postal Ballot System (ETPBS) in 2019 Lok Sabha Elections. The ETPBS helped the armed forces, central paramilitary forces and central government officers working in Indian missions abroad to cast their vote.



**Conclusion**

Technology has played a pivotal role in strengthening the electoral process of the world's largest democracy. For example, the introduction of EVMs, VVPAT machines, C- Vigil App, etc. The launch of RVF will be a significant step. But the apparent challenges have to be resolved first. This will make Remote Voting a safe, secure, trustworthy, and transparent process.

ForumIAS

## Interlinking of Rivers Project in India – Explained, Pointwise

### Introduction

The Prime Minister and the Chief Ministers of Madhya Pradesh and Uttar Pradesh signed an agreement to implement the first phase of the Interlinking of Rivers project. The tripartite agreement aims to implement the Ken-Betwa River Link Project (KBLP). It is a historical moment in the ambitious interlinking of rivers project in India. In this context, this article will explain the interlinking of rivers projects and the challenges associated with them.

### About Ken-Betwa Link Project

- Both the Ken and Betwa river are tributaries of the river Yamuna.
- It is the first project under the **National Perspective Plan** for the interlinking of rivers.
- **Under this project**, water from the Ken River will get transferred to the Betwa river.
- This project will spread across the districts of Madhya Pradesh and Uttar Pradesh.



### About the National River Linking Project (NRLP)

The interlinking of rivers is a large-scale civil engineering project that aims to effectively manage water resources in India. The government aims to achieve this by building a network of reservoirs and canals through a **National River Linking Project (NRLP)**. It is also known as the **National Perspective Plan**

- The main objective is to transfer water from water 'surplus' basins suffering from floods to water 'deficit' basins suffering from drought/scarcity.
- The implementation of the NRLP will form a gigantic **South Asian Water Grid** with a network of nearly 3000 storage dams
- The then Ministry of Irrigation prepared this plan of interlinking of rivers in August 1980.

- The NRLP is managed by National Water Development Agency (NWDA) under the Ministry of Jal Shakti.



- The plan proposes 30 river links to connect 37 rivers across India under two components:
  - **Himalayan Rivers Development Component:** Under this, 14 river links are identified. This has two sub-components
    - Connecting the Ganga and Brahmaputra basins to the Mahanadi basin.
    - Connecting the Eastern tributaries of the Ganga with the Sabarmati and Chambal river systems.
  - **Peninsular Rivers Development Component or the Southern Water Grid:** This includes 16 river links. Ken Betwa Link Project is one among them. This part has four sub-components;
    - Linking Mahanadi and Godavari river basins to Cauvery, Krishna, and Vaigai river systems.
    - Interlinking the West-flowing rivers to the south of Tapi to the north of Bombay.
    - Interlinking a few west-flowing rivers to the east-flowing rivers.
    - Other projects include connecting Ken to the Betwa river, and Parbati & Kalisindh rivers to the Chambal river.

### Present Status of the Interlinking of Rivers project

- Godavari River has been formally interlinked with the Krishna River at Ibrahimpatnam (near Vijayawada) in Andhra Pradesh in September 2015.
- India declared the Ken-Betwa Link project as the National Project. The recent agreement aims to implement the interlinking of the Ken and Betwa rivers.

### Advantages of Interlinking of Rivers

1. **Hydrological Imbalance of India:** India has a large-scale hydrological imbalance with an effective rainfall period of 28 to 29 days. Further, there are certain regions that receive very high rainfall and cause flooding. On the other hand, there are regions with heavy water shortages and face droughts. Interlinking would transfer the water from flood-prone regions to draught-prone regions.
2. **Improve the inland navigation:** Interlinking of rivers will create a network of navigation channels. Water transport is cheaper, less-polluting compare to the road and railways. Further, the interlinking of rivers can ease the pressure on railways and roads also.
3. **The benefit of irrigation:** The interlinking of rivers has the potential to irrigate 35 million hectares of land in the water-scarce western peninsula. This will help India to create employment, boost crop outputs, farm incomes. Above all, the interlinking of rivers will make India a step closer to **achieving food security**.
4. **Development of power:** The interlinked rivers have the potential to generate a total power of 34000 MW(34 GW). This will help India to reduce coal-based power plant usage. Furthermore, It will also help to achieve India's Nationally Determined Contribution in Paris Climate Agreement.
5. **Other benefits:**
  - o **Water supply:** The project envisages a supply of clean drinking water amounting to 90 billion CBM(Cubic Meter). It can resolve the issue of drinking water scarcity in India.
  - o Similarly, interlinking of water also provides **water for industrial use** amount to 64.8 billion CBM.
  - o Apart from that, interlinking can help the survival of fisheries, protect wildlife in the summer months due to water scarcity. It can also reduce forest fires occurring in India due to climatic conditions.
  - o India can also **explore an additional line of defence** in the form of waterline defence.

### Challenges in Interlinking of Rivers

The interlinking of rivers project has a variety of challenges. They are,

1. **Environmental Challenges:** The critics of the interlinking of rivers point out certain major environmental challenges with interlinking. They are,
  - o **Submergence of vast areas of land in reservoirs:** The construction of dams leads to large-scale submergence of land. The government has to acquire large-scale lands for the smooth implementation of the project. But acquiring land for the project is not easy.
  - o **Getting permits from Environmental agencies.** The submergence of land many times falls within the wildlife and protected areas. For example, In the Ken-Betwa Link Project land alone, nearly two-thirds of the land (4,206 ha of the land) falls within the Panna Tiger Reserve. So getting Environmental clearance and conducting an Environmental Impact Assessment is very hard.
2. **Social Challenges:** This includes the challenge of loss of livelihood and displacement of people. The large-scale submergence of land has to be compensated by displacing people in that area. Especially, the poor and tribal people located near the forests. So, the government not only needs to face challenges in **displacing people** but also in the **Rehabilitation of people**.
3. **International Challenges:** Countries like Bhutan, Nepal, and Bangladesh will get impact due to the Interlinking of Rivers project. For example, Bangladesh strongly



objects to transferring the Brahmaputra water to the Ganga. Considering this, the smooth implementation of the project is not expected.

4. **Political Challenges: Water is a state subject** in India. So the implementation of the NRLP primarily depends on Inter-State co-operation. Several states including Kerala, Andhra Pradesh, Assam, and Sikkim have already opposed the NRLP.
5. **Economic Challenges:** NRLP is a highly capital-intensive project. The project will need Rs.5.6 lakh crores(estimated cost with the base year of 2000). A report points out that Climate change will cause **a meltdown of 1/3<sup>rd</sup> of the Hindu Kush Region's glaciers by 2100**. So, the Himalayan rivers might not have 'surplus water' for a long time. Considering this, investing billions of money in the interlinking of rivers might yield benefits only for a short time.
6. **Other Challenges:** The government is proposing a **canal irrigation** method for transmitting water from one area to the other. The maintenance of canals is also a great challenge it includes preventing sedimentation, clearing logging of waters etc.

### Suggestions

1. **Integrated water resource management** is the key for India. India needs to conserve every drop of water, reduce wastage, equitable distribution of resources at the same time enhance groundwater. So the small scale simple things have to be tried instead of large scale projects.
2. Instead of interlinking rivers, India can try the **concept of virtual water**. For Example: Suppose when a country imports one tonne of wheat instead of producing it domestically, it is saving about 1,300 cubic meters of the local water. The local water can be saved and used for other purposes.
3. The government can invest the money in other areas instead of investing money for the interlinking of rivers. Such as,
  - o Conducting awareness campaigns to reduce water and food wastage. For example, the recent [catch the rain campaign](#).
  - o Can create Rainwater harvesting systems like that it created toilets with Swachh Bharat Mission. This will not only increase the groundwater recharge but also reduce soil erosion, stormwater runoff, flooding, etc.

### Conclusion

We need to understand the importance of achieving small things. After all, "Big visions are realized through small steps only". So, the government has to conduct a detailed hydrological, geological, meteorological and environmental analysis of the interlinking of rivers. In that, the government must analyze the alternatives also.

## India-Bangladesh relations – Explained, Pointwise

### Introduction

Today is the 50th Anniversary of Bangladesh's independence and also the 50th Anniversary of India-Bangladesh relations. The Indian Prime Minister has gone to Dhaka to take part in the golden jubilee celebrations of Bangladesh's independence. This is the second time that the incumbent Indian PM has visited Bangladesh.

India played a great role in the emergence of independent Bangladesh. Further, India was also the first state to recognize Bangladesh as a separate nation. The signing of the historic Land Boundary Agreement in 2015 made India-Bangladesh relations even stronger. Yet, there are certain friction points in bilateral relationships.

### About Bangladesh since Independence

**During Bangladesh Independence:** India provided shelter to nearly 10 million Bangladeshi refugees. Further, India also helped East Pakistan (present Bangladesh) militarily to attain Independence. The very first Independent government of Bangladesh was formed and administered from Theatre Road in Kolkata (by Sheikh Mujibur Rahman's close political associates).

**Bangladesh Post-Independence:** Bangladesh passed through different regimes after Independence. So, India-Bangladesh relations also oscillated.

- An assassination of Bangladesh's founding president [Sheikh Mujibur Rahman](#) occurred on August 15, 1975. This was followed by **Military rule in Bangladesh**.
  - General Ziaur Rahman became President but also got assassinated in 1981
  - Between 1982-1991 General H.M. Ershad ruled the country.
- Bangladesh returned to **parliamentary democracy in 1991**

### India-Bangladesh relations so far

1. **Land Boundary Agreement in 2015:** Both the countries have achieved a remarkable feat under this Agreement. India and Bangladesh swapped the disputed islands. This allowed the inhabitants to choose their country of residence. The inhabitants were [incorporated as citizens](#) of either India or Bangladesh.
2. **Economic cooperation:**
  - Bangladesh is India's biggest trading partner in South Asia. India exported \$9.21 billion worth of goods and services in 2018-19. And, it has also imported \$1.04 billion worth of goods and services.
  - India offered duty-free access to multiple Bangladeshi products.
3. **Infrastructure Cooperation:**
  - India since 2014 provided 3 Line of Credit(LOCs) amounting to \$8 billion to Bangladesh for the construction of roads, railways, bridges, and ports. But due to slow project implementation from Bangladesh, only 51% has been utilised by it.
  - World Bank refused to fund the construction of the Padma bridge. But India provided LOCs for the construction of it.
4. **Connectivity:**
  - **Three passenger and freight railway services** are currently in operation between India and Bangladesh. At present, two more routes are also restored by both governments. The recent [Chilahati-Haldibari rail link](#) is also a significant step.
  - **Kolkata-Dhaka-Agartala Bus Service** also launched in 2015. This reduced the distance between Kolkata and Agartala from 1,650 km(through chicken's neck or Siliguri corridor) to just 500 km.
  - Recently, the Indian Prime Minister also inaugurated the ['Maitri Setu' bridge](#). It is a 1.9 km long bridge that connects Sabroom in India with Ramgarh in Bangladesh.

- Border Haats organized in the border districts also enhance trade and people to people connectivity in India-Bangladesh relations.
- 5. **Energy cooperation:** India at present provides a power supply of 600MW from Palatana Power Plant in Tripura. In return, Bangladesh agreed to provide a 10 GBPS internet connection to India's North Eastern States.
- 6. **Tourism sector:** Bangladeshis make up a large portion of tourists in India. In 2017, they outnumbered all the tourists arriving from Western Europe.
- 7. **Medical Cooperation:**
  - Bangladesh has received 9 million doses of Covishield vaccines from India so far.
  - Apart from that, Bangladesh also accounts for more than 35% of India's international medical patients. Bangladesh alone contributes to more than 50% of India's revenue from medical tourism.
- 8. **Other cooperation:** India-Bangladesh signed MOUs in the field of health, medicine, joint-research. Further, they both agreed to exchange knowledge between health professionals of both countries.

### Challenges in India-Bangladesh relations

Despite having a wide collaboration, India-Bangladesh relations also have certain challenges. Such as,

1. **The Teesta river water dispute:** The Teesta river originates in Sikkim and flows through West Bengal and Bangladesh. In Bangladesh, the river merges with the Jamuna (the Brahmaputra in India). In 1983, an ad-hoc water sharing agreement allocated 39% of Teesta water to India and 36% to Bangladesh. The remaining 25% remain unallocated.



2. The 2011 interim deal aims to share the Teesta river water between India and Bangladesh about 42.5 per cent and 37.5 per cent respectively. But, the state of West Bengal object to this and demands and never signed the deal (Water is a state subject in India).
3. **The Issue of Drug Trafficking:** A 2007 International Narcotics Control Board mentions Bangladesh as a prime transit point of trafficking heroin from South Asia to Europe. The INCB data also mentions trafficking through India as one of the common methods of drug trafficking.
4. **The issue of Illegal migrants:** During Bangladesh independence alone, among the 10 million refugees only 6.8 million left India. The Rest stayed in parts of West Bengal and Assam.

India enacted the **Illegal Migrants Determined by Tribunals(IMDT) Act in 1983**. The Act describes procedures to detect illegal migrants from Bangladesh staying in Assam. It placed the onus of proving a person illegal migrant on the complaining person. This facilitated large scale illegal migration into India.

5. To avoid this Supreme Court in 2005, **Sarbananda Sonowal v. Union of India case** struck down the Act.
6. Armed Dacoity in border districts, fake money transfer, cattle smuggling is also a cause of concern for India. Further, the Trafficking of Illegal migrants and involving them in terrorist activities, prostitution in India is also a challenge in India-Bangladesh relations.
7. Smuggling and drug trafficking led to killings of Bangladeshi violators by India's Border Security Force. This issue was raised by Bangladesh a few times. But the issue is not yet resolved.
8. Apart from that, Bangladesh is also opposing India's proposed the Tapaimukh Dam on the Barak River in Manipur and the [Interlinking of the rivers project](#) by India.

#### **Suggestions to Improve India-Bangladesh relations**

1. The **early resolution of Teesta** is the better way to boost India-Bangladesh relations. The government has to form a tripartite committee containing members from India, Bangladesh and the State of West Bengal to determine the amount of water sharing. At present West Bengal not take place in [Joint River Commission meetings](#).
2. The government has to ensure the deportation of illegal migrants. Further, the government should not extend voting rights, nationality to illegal migrants.
3. The governments should involve joint forces to reduce border issues. Such as illegal trading, trafficking, cattle smuggling, etc. This will yield better results in curbing crime and increase better civil-military relations.
4. India needs to strengthen regional groups like SAARC, BIMSTEC etc. This will give full impetus to India's **Neighbourhood First policy**.

India's one prime interest is developing North-East India, better connectivity to South-East Asian Countries and exploring the Indo-Pacific region. To reach that, better India-Bangladesh relations is a significant step.



## Pendency of Cases and Rising Vacancies in the Judiciary – Explained, Pointwise

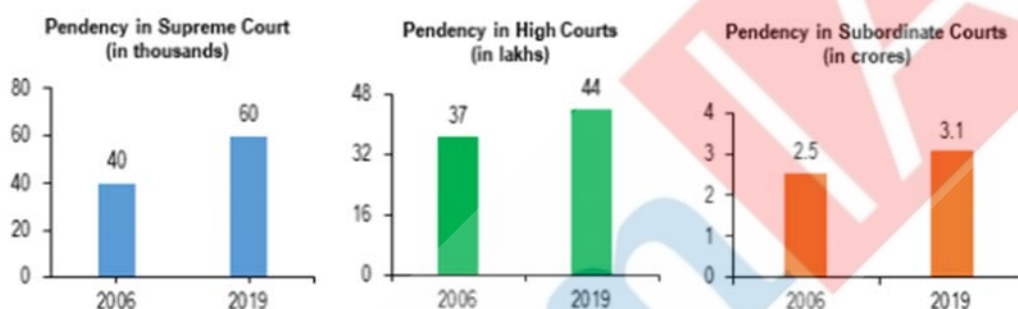
### Introduction

Recently the Supreme Court asked the reason from the government for delaying the process of appointment of judges. The SC also highlighted that the government has not cleared the 55 recommendations made by the Collegium for judicial appointments to High Courts.

The total sanctioned strength in the 25 High Courts is 1,080. However, the present working strength is 661 with 419 vacancies as of March 1, 2021. The SC highlighted this as one of the reasons for the pendency of cases in the [Judiciary](#). The pendency of cases in the Judiciary is a long pending issue.

Although the credibility of the judiciary is not a cause of concern, it is the pendency that is creating a major issue. It can have grave consequences such as denial of justice, prison overload etc. Thereby it demands urgent attention.

### Status of pendency of cases in the judiciary



- From 2006-2019, an overall increase of 22% (64 lakh cases) was seen in the pendency of cases across all courts.
- As of August 2019, there are over 3.5 crore cases pending across the Supreme Court, the High Courts, and the subordinate courts. Amongst this, 87.3% of cases are in subordinate courts, 12.5% in High Courts and 0.2% in Supreme Court.

### Few Important articles

- **Article 124(2)** of the Indian Constitution provides that the Judges of the Supreme Court are appointed by the President. He/she should consult such a number of the Judges of the Supreme Court and of the High Courts in the States as he/she may deem necessary for the purpose.
  - Second Judges Case (1993) – [Collegium system](#) was created to make recommendations for appointments and transfers. It comprises the [Chief Justice of India](#) and two other seniormost SC judges.
  - Post the [third judges case](#), the number of senior-most judges increased to four.
- **Article 224A** – The Chief Justice of a High Court can request a former high court judge to act as an [ad hoc judge](#). He/she can do this with the previous consent of the President.

### Causes for Pendency of cases

1. **Increase in the number of cases:** An improvement in literacy levels, population growth and formulation of citizen-friendly tools like PIL have resulted in a huge influx of cases in courts.
2. **Rising Vacancies:** The courts are working below their sanctioned strength. As of 2017, High Courts have 403 vacancies out of sanctioned strength of 1,079 judges. But still, there are no filling of vacancies. Similarly, subordinate courts have 5,676 vacancies

against a sanctioned strength of 22,704 judges. The delay in appointments is increasing vacancies.

3. **Rigid Procedural Requirements:** A lot of paperwork needs to be done on every case which sometimes creates unnecessary delays.
  - For instance, [Vishnu Tiwari was recently acquitted of a false rape charge](#) by Allahabad high court. His appeal was pending before the Allahabad High Court for 16 years. The reasons behind this were missing documents or documents in the wrong format for listing the case.
4. **Poor Conduct of Lawyers:** They are sometimes found indulging in collusive corruption especially at subordinate levels in order to drag the case. Moreover, the lawyers also demand frequent adjournments for not valid reasons.
5. **Inefficiencies by Police Personnel:** They are sometimes seen complacent in filing charge sheets and conducting speedy investigation which creates a delay in delivering timely judgement.
6. **Law school** focus on developing lawyers not focus on building future members of the Judiciary.

### Impacts of Pendency of cases

1. **Firstly, the burden on Judges:** Rising pendency creates an excess burden on judges. Judges have sometimes seen hearing more than 100 cases in a day. This reduces the average time devoted to a case on a particular day.
2. **Secondly, overcrowding of Prisons:** Pendency enhances the number of undertrials in the prisons which eventually leads to overcrowding. [According to the NCRB data](#), In 2019 there were 4.78lakh prisoners. Out of which 69.05 % were undertrials.
3. **Thirdly, undermines Right to life:** In **Hussainara Khatoon v. Home Secretary, State of Bihar case, 1979** the SC held that the “right to a speedy trial” is a fundamental right implicit under Article 21. But pendency of cases is a clear violation of the Judgement itself.
4. **Fourthly, harassment of people:** The pendency causes harassment of the accused and victim. As they need to go through significant financial, physical and mental stress for years due to the pendency. For instance, in the recent example of [Vishnu Tiwari acquittal case](#), He spent 20 years in prison before this acquittal.
5. **Fifthly, undermines Judicial Credibility:** The **faith and trust of the common man** in the judicial setup are also lost if he/she didn't receive timely justice. It is perceived that judges are indulged in some kind of favouritism towards one of the parties and are deliberately delaying the process.
6. **Finally, unsatisfactory Disposal rate:** The disposal rate(number of cases disposed of) has stayed between 55 -59% in the Supreme Court, 28% in the High Courts, and 40% in the subordinate courts.

### Suggestions to reduce Pendency of cases

1. Firstly, the rise in vacancies can be duly addressed with **timely appointments**. This would require developing a consensus over **a memorandum of procedure** between the executive and judiciary.
  - It is an agreement between the judiciary and the government. It contains a set of guidelines for making appointments to the higher judiciary.
  - The memorandum of procedure should be based on four criteria
    - Transparency in the Judicial appointments,
    - Eligibility criteria for judicial appointments,
    - A permanent secretariat to assist the collegium
    - A mechanism for complaints against candidates.

2. Secondly, the Supreme court has recommended that **retired high court judges** having domain expertise should be placed back **as Ad Hoc judges**. This will fast track the disposal of cases.
3. Thirdly, the slow disposal rate can be improved by augmenting the quality of judges. For this, the government can set up **All India Judicial Services(AIJS)**.
  - It is a proposed cadre of judicial officers at the lower levels (below High Courts). They would be recruited through an open competitive national level exam conducted on the lines of the Civil Services Exam.
4. Fourthly, an **integrated digital system** is required in the judiciary to **streamline** the process. This digital system will allow smooth interaction between various institutions through a digital platform. It will normalize the format and content of data across all the systems.
5. Fifthly, the **media as the 4th pillar of democracy** should do periodic and constructive reporting on the pendency of cases. This will have a dual benefit.
  - Placing better accountability on judges
  - Bringing the pendency to the public domain.
6. And lastly, alternative **Dispute Resolution mechanisms** like Arbitration, Conciliation, Lok Adalats etc. should be promoted by judges. Further, legal services authorities, such as, NALSA, SALSA, DALSA and TALSA, can generate awareness.

### Conclusion

The right to fair and speedy trial must be upheld in all circumstances as it is an important component of dignified life under Article 21 of the Indian Constitution. Further, the pendency of cases also depends on other reforms like [Prison reforms](#), police reforms etc. The government has to ensure those reforms as well. In conclusion, we must remember that **Justice Delayed is Justice Denied**.

## The Issues of UNHRC Resolution against Sri Lanka and India's Stand – Explained, Pointwise

### Introduction

Recently [the United Nations Human Rights Council \(UNHRC\)](#) adopted a resolution against Human Rights violations in Sri Lanka. However, this is not the first resolution about Human Rights violations in Sri Lanka. The UNHRC earlier had adopted **the 30/1 resolution** in 2015. The then Sri Lankan government accepted the resolution and started working on it. But since the swearing-in of the new government in Sri Lanka, Human Rights went on downhill. This led to the recent resolution. United Nations human rights chief Michelle Bachelet is appointed to collect evidence of war crimes. Though the UNHRC resolution is not legally binding, its implications are numerous. In this article, we will discuss the details of the UNHRC resolution and its implications on Sri Lanka.

### Reasons behind UNHRC Resolution against Sri Lanka

A Civil War broke out in Sri Lanka in 1983. The **Sinhalese-dominated Sri Lankan government** tried to control the insurgent group **Liberation Tigers of Tamil Eelam (LTTE)**. While the LTTE aimed to **establish a separate state** for the Tamil Minority people in Northern Sri Lanka.



The civil war lasted for 26-year and ended in 2009 with the defeat of LTTE. Both the Sri Lankan Government and the Tamil rebels committed atrocities in the war. According to some estimates, at least 1,00,000 people died during the civil war.

The domestic and international human rights groups including the UNHRC report highlighted the Human Rights violation by the Sri Lankan government even after the war, such as,



- The government is using state forces for murdering, torturing, forcing critics to disappear.
- The 18th Amendment to the Constitution in 2010 provided dictatorship powers to the Sri Lankan President. The powers include,
  - Re-elections any number of times,
  - President can appoint/dismiss members of Independent commissions and Judiciary, etc

### The 30/1 resolution and the aftermath

To curb the HR violations in Sri Lanka UNHRC adopted the **30/1 resolution or the consensus resolution** in 2015. The resolution aimed to establish reconciliation, accountability, and human rights in Sri Lanka. The Sri Lankan government accepted the resolution under the new President and took the following steps, like,

1. Establishing a **credible judicial process**. Under this, the Sri Lankan government allowed participation of Commonwealth and other foreign judges, etc. This was to ensure proper adjudication of Human Rights Violations. (This is in line with the 30/1 resolution)
2. Enactment of 19th Amendment to Nullify the powers provided to President under 18th Amendment.

But the new government in 2020, changed the progression. Recently under the new Presidency, the government withdrew its commitments under the resolution 30/1. Further, the new Sri Lankan government also stated that the resolution was not in conformity with the Constitution of Sri Lanka.

### About the recent resolution on Human Rights Violation

A **UN High Commissioner's report** highlighted Human Rights Violations in Sri Lanka. Its findings include

1. Increasing militarization in Sri Lanka
2. Intensified surveillance against rights defenders and NGOs,
3. Interference with trials in certain symbolic cases from the past, etc.

Recently the UNHRC conducted its 46th session. During this, the UNHRC adopted a resolution titled "[Promoting reconciliation, accountability and human rights in Sri Lanka](#)".

The resolution mentioned certain important points. Such as,

- The human rights situation in Sri Lanka deteriorated under the current administration.
- Further, the resolution also mentions that the rights defenders and ethnic and religious minorities are facing problems in Sri Lanka.

The resolution was adopted after the 22 states of the 47-member Council Voted in Favour. However, 11 countries including Bangladesh, China, and Pakistan voted against the resolution. On the other hand, 14 countries, including India, Indonesia, Japan, and Nepal abstained.

### Impact of the UNHRC resolution

The UNHRC resolution is not a legally binding one. So there is no legal obligation on Sri Lanka to follow the resolution. But the resolution has a great moral significance. This includes,

1. **Deterioration of Country's image in front of Global community.** The resolution signals to other global countries that the government of Sri Lanka is not a credible member in fulfilling its obligations.
2. **Sanctions by individual countries:** The countries that voted in favour of the resolution may impose any sanctions or withdraw any benefits provided to Sri Lanka.

For example, The European Union supported the resolution can withdraw the [Generalized Scheme of Preferences \(GSP\)](#) given to Sri Lanka.

3. **Justice in the future:** Post-resolution, the UNHCR collects, consolidates, and preserves evidence of Human Rights violations. It also allows the development of strategies to ensure future accountability. Apart from that, the UNHCR can also make recommendations to the international community on preventing any future Human Rights violations.

### Other examples of UNHRC resolutions

The UNHRC aims to promote and protect human rights around the globe. Apart from that, they usually adopt a resolution to condemn, investigate alleged human rights violations in countries. The previous few resolutions include,

1. In 2018, the UNHRC resolution demanded the prosecution of Myanmar generals for committing genocide against the Rohingya Muslims.
2. Various times the UNHRC undertook resolutions to condemn the Human Rights violation by Israel in Palestine. For example in the recent 46th session also there were four resolutions related to Israel.

### India's Stand on Human Rights Violations in Sri Lanka

India **never supported the Human Rights Violations** in Sri Lanka. But at the same time, India **wants the solution to the issue to be internal** and not the forced one like the 30/1 resolution. For example, India in 2012 supported a **credible investigation into human rights violations**.

Sri Lanka [requested India's support in the recent UNHRC resolution](#). But, India abstains from the recent UNHRC resolution against Sri Lanka. [India's stand include](#),

1. **India has emphasised meaningful decentralization** to meet Tamil aspirations. Also, India demanded the unity and integrity of Sri Lanka.
2. **India's concerns in Sri Lanka have been different** from the rest of the international community. India is well-informed by a sense of the long-term well-being of the Tamils. Hence, India **stresses devolution** rather than accountability.
3. **India has its own limitations in expressing** disappointment over Sri Lanka's stand on Human Rights violations. Increasing Chinese presence in the Sri Lankan region is one of such reasons.
4. India always **supported the implementation of the 13th Amendment of 1987**. The 13th Amendment is the outcome of the Indo-Lanka Accord of July 1987. This takes a middle stand on the Sri Lankan civil war. Under this amendment, the creation of Provincial Councils was encouraged. The council maintains the power-sharing arrangement between the Sri Lankan government and the LTTE. To date, the 13th amendment was the **only constitutional provision** on the settlement of the long-pending Tamil question.

### Conclusion

The recent UNHRC resolutions provide moral sanctions on Sri Lanka. Since the moral sanctions are internal and vary from person to person, the implementation lies completely with the President of Sri Lanka only. But, International pressure can change Human Rights Violations in any country. So, neutral governance of countries and International pressure during violations are necessary to eliminate the human rights violation in the world.

## Refugee Problem in India – Explained, Pointwise

### Introduction

The Refugee Problem in India is again in the limelight after the February 2021 [coup in Myanmar](#). Numerous people are coming to India from Myanmar to save their lives. However, the Indian government is reluctant to allow this influx considering the challenges posed by refugees.

India's stance towards refugees had remained accommodative in the past. It has welcomed them from diverse countries subject to national interest and resource availability.

Humanitarian spirit, national security and legal framework can tackle the current refugee problem.

### About the recent Refugee Problem

- Myanmar witnessed refugee influx after the coup in the country and subsequent military rule. Some democratic groups started protesting against the coup. It resulted in the military crackdown on the dissenters.
- So, Many people in Myanmar and the security forces who oppose the coup, start fleeing the country and entering India.
- Against this backdrop, the Ministry of Home Affairs (MHA) directed Nagaland, Manipur, Mizoram and Arunachal Pradesh to [check illegal influx from Myanmar](#) into India.
  - It has also called for [sealing the border with Myanmar](#) so as to curtail the influx.
  - The ministry clarified that state governments have no powers to grant 'refugee' status to any foreigner.
  - Intelligence inputs suggest 733 Myanmar nationals have made it into Mizoram.

### International conventions and forums for Refugees

*United Nations Refugee Convention, 1951:*

1. The 1951 Refugee Convention or **Geneva Convention** is a United Nations **multilateral treaty** for the protection of refugees.
2. The convention defines a refugee as a person who fled their homes and countries. Especially due to a well-founded fear of persecution of his/her race, religion, nationality, membership of a particular social group or political opinion.
3. The Convention also mentions people who do not qualify as refugees, such as **war criminals**.
4. The Convention builds on Article 14 of the **Universal Declaration of Human Rights** 1948. The article recognizes the right of persons to seek asylum from persecution in other countries.
5. **non-refoulement:** The cornerstone of the 1951 Refugee Convention is the principle of non-refoulement. According to this principle, a refugee should not be deported to a country where he or she faces serious threats to his or her life or freedom.
6. The 1967 protocol of the convention allowed even the non-Europeans to get refugee status. Thereby making the convention more comprehensive.

*United Nations High Commissioner for Refugees (UNHCR)*

1. It was created in 1950, during the aftermath of the Second World War, to help millions of Europeans who had fled or lost their homes.
2. It is a global organization for saving lives, protecting rights and building a better future. The organisation covers refugees, forcibly displaced communities and stateless people

*Global Refugee Forum (GRF)*

1. The United Nations High Commissioner for Refugees (UNHCR), the UN Refugee Agency, and the government of Switzerland together host the GRF.

2. It aims to debate and discuss the response of the world's countries to the global refugee situation.

### Refugee Problem in India

- India **does not have a separate statute for refugees**. Until now India is dealing with refugees on a case-by-case basis.
- India is **not a signatory to the 1951 Convention** on Refugees or the 1967 Protocol Relating to the Status of Refugees.
  - However, India is a **signatory to a number of United Nations and World Conventions on Human Rights**. Such as the Universal Declaration of Human Rights (UDHR). It affirms basic rights for all persons – citizens and non-citizens in the same manner.
- India has been **generous to refugees and asylum-seekers**. The two largest Refugee Influx in India are including some 62,000 Sri Lankans and some 100,000 Tibetans are directly assisted by the Government of India.
- In late 2011, the Rohingya started to arrive in India's Northeast following stepped-up persecution by the Myanmar armed forces.
- According to the Home Ministry, there are roughly 14,000 Rohingya refugees in India who are registered with the UNHCR. Apart from that, there are estimates of around 40,000 Rohingya living in India illegally.

[Read about the legal Provisions for Refugees in India](#)

### Factors behind Refugee Problem in India

#### *Direct causes for Refugee Problem*

- **Prevent persecution:** Refugees often face a grave threat of persecution in their native countries that induce them to migrate towards safe havens like India.
- **Accommodative approach:** Despite being a non-signatory to the 1951 refugee convention, India has welcomed refugees since 1947. This includes Tibetans, Bangladeshis, Afghans etc.
- **Diversity:** The multi-religious, multicultural and multi-ethnic diversity of India creates social bonds with numerous foreign citizens. For instance, it was the Tamilian Bond that induced Sri Lankan Tamils to look towards India for migration during the civil war. Similarly, the kinship between Myanmar people and Manipur people is attracting the Myanmar refugees towards India.

#### *Indirect causes for Refugee Problem*

- **Open Borders:** This is not a direct factor but it facilitates movement towards India. Many people from Myanmar were able to enter India due to the open border.
- **A deficiency of Personnel:** The government's order to curb the refugee influx from Myanmar was not implemented effectively. As the Assam Rifles wasn't able to effectively monitor the border with just three battalions.
- **Favourable Agreements:** The majority of refugees from Myanmar are holding their position around the Free Movement Regime. It is a region of 16 km on either side, where there is unrestricted access as per a pact between the two countries.
- **Unstable Neighbourhood countries:** India's neighbourhood countries are facing one or other problems since their formation. For example, the Civil war was now followed by [Human Rights Violation in Sri Lanka](#). Similarly, the [Bangladesh liberation war](#) later followed by military rule, etc.



### Arguments in favour of permitting Refugee Influx

- **Humanitarian Rights:** India has an **implicit obligation under UDHR** to protect the human rights of non-citizens as well. Thus, the refugees facing persecution threat should be allowed into India.
- **Prevent Civil War:** The armed rebel groups have threatened Myanmar's military with retaliation if the atrocities do not stop. If India returns back the Myanmar, then more hatred will be generated that might trigger a civil war in future.
- **Responsible Regional Power:** The country aspires to be regional and global power that itself calls for adopting an accommodative stance towards refugees.
- **Champion of Democracy:** The world's largest democracy has a responsibility of protecting the rights of people who put their lives in danger for upholding democracy. This was seen recently in Myanmar.

### Arguments against permitting Refugee Influx

Refugee Influx poses many [challenges to India's internal security](#). This include,

1. **Social consequences of permitting refugees:**
  - **Refugees might create an identity crisis** with the indigenous people. For example, Bangladeshi refugees in Assam and Arunachal threaten to overtake the indigenous population of the region.
  - **Difficult to identify and deport them back** to their country after a few years. For example, the Rohingya refugees entered through the North-East. But later they **spread to all other states**.
2. **Economic consequence of permitting refugees:**
  - **Increased financial responsibility of the state.** According to the UNHCR report in 2014, there were **more than 200,000 refugees in India**. India at present does not have the financial capacity to satisfy all their basic needs.
  - **Decreases domestic wage level and replaces the native people.** Since illegal immigrants and refugees require food and shelter, they also work at very low wages in their settling areas.
3. **Political consequence of permitting refugees:**
  - **Issue of terrorism:** These refugees, since not accepted by governments, are vulnerable to join terror outfits for work and revenue.

### Suggestions to solve the Refugee Problem

- Firstly, India should put forward its **constructive arguments** in the upcoming UNSC meeting related to the Myanmar coup. A proposal to impose global sanctions on Myanmar can be considered here.
- Further, there is a need to **formulate a comprehensive refugee policy** that would provide greater clarity in differentiating between a refugee/illegal migrant.
  - A National Immigration Commission can be appointed to frame a **National Migration Policy** and a **National Refugee Policy** for India.
- Thirdly, the government has to strengthen **the Foreigners Act 1946** and also sign bilateral agreements with neighbourhood countries regarding deportation.
- Fourthly, the **states must cooperate with the centre on the refugee problem**. As law and order is a state list while international relations come under the Union list.
- Fifthly, the states should follow the MHA guidelines of 2018 to identify illegal immigrants. The MHA recommendations include,
  - Restrictions of Illegal Migrants specific locations as per provisions of law
  - Capturing their biographic and biometric particulars
  - Cancellation of fake Indian documents

- Initiating legal proceedings including deportation proceedings as per provisions of law

### **Conclusion**

The people demanding refuge are in a vulnerable situation and see a last ray of hope in an inclusive and tolerant country. Considering this, there should be an intake of refugees but not at the cost of the native population. So, It is high time for India to define a clear-cut refugee policy.

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