7 PM COMPILATION

1st to 15th August, 2023

Features of 7 PM compilation

- Comprehensive coverage of a given current topic
- Provide you all the information you need to frame a good answer
- Critical analysis, comparative analysis, legal/constitutional provisions, current issues and challenges and best practices around the world
- Written in lucid language and point format
- Wide use of charts, diagrams and info graphics
- Best-in class coverage, critically acclaimed by aspirants
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16th Finance Commission: Explained, pointwise

Introduction

The 16th Finance Commission is due to be set up shortly to determine how much of the Centre's tax revenue should be given away to States (the vertical share) and how to distribute that among States (the horizontal sharing formula). Many critical changes have taken place since the constitution of the Fifteenth Finance Commission in November 2017 that includes COVID-19 and the subsequent geopolitical challenges.

What is the Finance Commission?

The Finance Commission is constituted by the President under Article 280 of the Constitution, mainly to give its recommendations on distribution of tax revenues between the Union and the States and amongst the States themselves.

Two distinctive features of the Commission's work involve redressing the vertical imbalances between the taxation powers and expenditure responsibilities of the centre and the States respectively and equalization of all public services across the States.

It is the duty of the Commission to make recommendations to the President as to—

1. the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them and the allocation between the States of the respective shares of such proceeds;
2. the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
3. the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State based on the recommendations made by the Finance Commission of the State;
4. the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State based on the recommendations made by the Finance Commission of the State;
5. any other matter referred to the Commission by the President in the interests of sound finance.

Over the years the core mandate of the Commission has remained unchanged, though it has been given the additional responsibility of examining various issues. For instance, the 12th Finance Commission evaluated the fiscal position of states and offered relief to those that enacted their Fiscal Responsibility and Budget Management laws. The 13th and the 14th Finance Commissions assessed the impact of GST on the economy. The 13th Finance Commission also incentivised states to increase forest cover by providing additional grants.

Why is there a need for an FC?

Resolving vertical fiscal imbalance:

Vertical fiscal imbalance occurs due to the asymmetry in the constitutional scheme of assignment of resources and responsibilities between the central and the state governments.

The central government has been assigned a relatively larger share in the collection of tax revenues, while the state governments have relatively larger expenditure responsibilities.

Reducing horizontal fiscal imbalance:

Horizontal fiscal imbalances arise from the inter-state differences in tax bases and due to the varied ground conditions of the states regarding needs and costs of provision of public goods.

LPG Reforms:

In the pre-reform period, the Finance Commission's recommendations were relatively less significant. The Central government had alternative methods to provide compensation to States through plan financing and investments in public sector undertakings (PSUs).

However, after the reforms, the frequency of new PSU investments decreased, and the Planning Commission was abolished in 2014. Consequently, the Finance Commission has become the primary authority responsible for shaping India's fiscal federalism.

What are a few of the successful recommendations made by the Finance Commissions?

Over the years, Finance Commissions have made various impactful recommendations concerning public finance, governance, and development in India. Here are some successful examples:

6. Introducing tax devolution as a major component of vertical transfers, gradually increasing the states' share from 10% to 42% over time.
7. Implementing performance-based incentives for states to promote fiscal discipline, population control, forest conservation, power sector reforms, and other crucial initiatives.
8. Establishing disaster relief funds for states and local bodies to enhance their preparedness and response capabilities for natural calamities.
9. Introducing grants for local bodies to strengthen their fiscal autonomy and accountability in delivering essential services.
10. Introducing grants for specific sectors like health, education, justice delivery, and statistical systems, addressing critical gaps and needs in these areas.

What are the challenges that Finance Commissions face?

Lack of compliance: Both the Union and state governments sometimes overlook or ignore the recommendations. They may not agree with them or have other priorities.

Complex reforms: Some of the suggested reforms can be complicated to implement. They require significant changes in government processes and policies.

Resource constraints: The governments, particularly at the state level, might face resource constraints. This can make it hard for them to put the recommendations into practice.

Policy prioritization: The governments often focus more on resource distribution. The recommended reforms may not align with their policy priorities.

Conditionalities: Some states object to the conditions attached to grants. They believe these restrictions limit their expenditure options.

Insufficient data: There can be a lack of necessary data to implement the recommendations. For instance, the 13th FC pointed out statistical gaps that hindered implementation.

Performance-Based Grants: The 15th FC proposed performance-based grants. However, this requires the establishment of clear and efficient performance metrics, which can be challenging.

What are some novel challenges before the 16th Finance Commission?

Impact of Covid-19 Pandemic: The 16th Finance Commission must consider the repercussions and consequences of the pandemic on the fiscal condition and performance of both the Central and State governments. Additionally, the Commission needs to factor in their respective expenditure requirements and priorities.

The GST Council: The decisions made by the GST council can impact on the revenue projections and calculations undertaken by Finance Commissions when distributing fiscal resources.

What are the key areas that the 16th FC should prioritize?

Cesses and surcharges:

The effective share of States in the Center's gross tax revenues (GTR) declined from nearly 35% during 2015-16 to 2019-20, to approximately 31% between the fiscal years 2020-21 and 2023-24 (BE).

This decline was primarily attributed to a significant increase in the share of non-shareable cesses and surcharges in the Center's GTR which increased to 18.5% of the GTR during 2020-21 to 2023-24 (BE) from 12.8% during 2015-16 to 2019-20.

Horizontal distribution:

Historically, Finance Commissions have struggled to determine how much a state's deficit is due to its fiscal incapacity and how much is due to fiscal irresponsibility.

They have tried to modify the distribution formula to support deficit States without penalizing responsible States which is impossible as the total funds for distribution are limited. Every horizontal distribution formula has been criticized as being inefficient or unfair or both.

The concept of horizontal distribution inherently involves wealthier States providing compensation to poorer States. Ensuring this process doesn't exacerbate the divide between the rich and poor states presents a challenge for the government when defining the terms of reference for the Finance Commission.

Per capita income criteria:

The share of individual States in the Centre's divisible pool of taxes is determined by a set of indicators. Per capita income is one of the criteria. Per capita income is the distance of a State's per capita income from a benchmark. It is usually determined by the average per capita income of the top three States.

This criterion ensures relatively larger shares for relatively lower income States. At present, it has the highest weight of 45%. Many of the richer States want a lower weight for this criterion.

But it is essential to consider the requirements of the lower-income States. These States will have a greater contribution to India's 'demographic dividend' in the future.

Restraining freebies:

In theory, the restraints imposed by the Fiscal Responsibility and Budget Management (FRBM) Act should have acted as a check on populist spending.

But governments have found inventive ways of raising debt without it appearing in the budget books.

The 16th Finance Commission should lay down guidelines on the spending on freebies in the interest of long-term fiscal sustainability.

Equalisation provision:

It is essential to give priority to equalising the provision of education and health services in the overall framework of resource transfers.

Resource allocation to individual States could be guided by the equalisation principle, by utilising a limited number of criteria such as population, area, and distance.

Debt burden of centre and states:

The combined debt-GDP ratio of central and State governments peaked at 89.8% in 2020-21. Centre's debt-GDP ratio is 58.7%, and it is 31%.for states.

These numbers show improvements. But it was still above the corresponding FRBM norms of 40% and 20%.

What should be the way forward?

The Finance Commission should make recommendations that are simpler and more practical. It should also work with governments to understand and overcome their challenges.

Governments should prioritize these recommendations, gather needed resources, adjust grant conditions, and fill data gaps.

The 16th Finance Commission should lay down guidelines for when cesses and surcharges might be levied. It should suggest a formula to cap the amount that can be raised.

A mechanism is necessary for Finance Commissions to reevaluate their figures in response to the decisions made by the GST Council, or vice versa.

A loan council can be set up. It was recommended by the Twelfth Finance Commission. It should keep a watch on the loan magnitudes and profiles of the central and State governments.

The 16th Finance Commission should take a firm stance on States adhering to fiscal deficit limits. It can offer incentives to States that maintain fiscal discipline and penalties for those exceeding the fiscal deficit limits.

Sources: The Hindu (**Article 1** and **Article 2**), **Indian Express**

Indian Institute of Management (Amendment) Bill, 2023: Explained, pointwise

Introduction

Recently, the Indian Institute of Management (Amendment) Bill, 2023 was introduced in Lok Sabha. The Bill comes six years after the IIM Act, 2017 which declared the 20 IIMs across the country as "institutions of national importance" and conferred them with greater autonomy in both administration and academic functioning. The Bill represents the government's reconsideration of the autonomy of IIMs.

How are IIMs governed at present?

IIMs are registered as societies under the **Societies Registration Act, 1860** (or State Societies Registration Acts). Each society has a Memorandum of Association and rules specifying its objectives and the system of governance.

Currently, IIMs are allowed greater autonomy to be run by its **board of governors**, with each institute having 19 members including only one representative each from central and state governments.

The board has the power to take policy decisions related to the administration and working of the institutes. The chairperson of the board of governors is appointed by the board itself.

The board of governors is the **highest decision-making body** of each IIM. It has power to appoint search-cum-selection panels for appointments of new directors as well as decide their pay, create posts, establish departments, approve annual budgets and determine fees.

The **Director, who is the Chief Executive Officer** of the Institute, is appointed out of the panel of names recommended by a search-cum-selection committee constituted by the Board. The Board chairperson heads the search-cum-selection committee.

What are the issues with the current governance system?

Accountability issues: The 2017 Act requires the Board of Governors of the IIMs to commission an independent review of the institutes at least once every three years and place the report in the public domain. But even after 6 years, very few of the 20 IIMs have done so.

Absence of norms on key matters: The absence of clear norms on key matters, such as the appointment of the dean, has been a matter of concern.

Governance: There are variations in the level of governance among different IIMs with some lower ranked IIMs being accused of becoming private "fiefdoms" in which the director holds unchecked power.

What are the key provisions of the Indian Institute of Management (Amendment) Bill, 2023?

Visitor: The Bill designates the President of India as Visitor of every Institute covered by the Act.

Appointment of IIM Directors: The Bill mandates the Board of Governors to obtain the prior approval of the Visitor before appointing an Institute Director. The procedure for selecting the Director will be prescribed by the central government.

Removal of IIM Directors: The Bill provides that the Board will require prior approval of the Visitor before removing a director. The Bill also grants the Visitor the authority to terminate the services of the Director, as may be prescribed.

Appointment of the Chairperson of the Board of Governors: The Bill stipulates that the Chairperson of the Board will be nominated by the Visitor.

Inquiries against IIMs: The Bill confers the power of inquiry upon the Visitor. Based on the report of such inquiries, the Visitor may issue directions which will be binding on the Institute. The Board may also recommend such inquiries to the Visitor.

Dissolution of the Board: The Bill provides that the central government may prescribe the conditions and procedure for dissolving or suspending an Institute's Board.

Co-ordination Forum: The Bill provides that the Chairperson of the Co-ordination Forum for all the Institutes will be nominated by the Visitor. Chairpersons of all Institutes will be ex-officio members of the Forum.

Balancing autonomy and accountability

The bill has raised concerns among IIMs about direct government control and a potential dilution of their independence. Critics argue that introducing the concept of Visitor in IIMs is a way for the government to exercise direct control.

But after the 2017 Act, the office of the Director became very powerful, and it has attracted controversy many times. For example, at IIM Calcutta, the majority of faculty signed a petition against the Director's way of functioning.

The director became accountable to a Board of Governors in which the two government nominees played a passive role. Individuals who comprise the rest of the Board have no stakes in their respective institutions and no incentive to exercise the necessary oversight.

Some experts believe that the IIM Act created a situation where there were no meaningful checks and balances on the director. The government claims it aims to fix accountability through the Indian Institute of Management (Amendment) Bill, 2023.

What is the significance of IIMs?

The IIMs (IIM Calcutta and IIM Ahmedabad) were established in the early 1960s to train suitable managers for the public sector enterprises being established in pursuance of the Industrial policy.

Since then, more IIMs have been set up across different cities in India, each contributing to the growth and development of the nation.

IIMs contribute to the socioeconomic development of India by promoting entrepreneurship, supporting rural development initiatives, and conducting research that addresses societal challenges.

IIMs have been instrumental in shaping India's business landscape by producing exceptional business leaders, fostering innovation and entrepreneurship, and facilitating strong industry-academia collaborations.

What are the challenges IIMs facing?

Shortage of faculty: 493 teaching positions need to be filled up in the Indian Institutes of Management (IIMs) out of the sanctioned strength of 1566 (December 2022).

Research output: IIMs have lagged behind leading global business schools in publishing papers in internationally peer-reviewed management journals. The quantity and quality of research carried out in the IIMs has been inadequate.

Rising course fees: There has been a relentless rise in the fee for the MBA course, which is not related to the costs of the course.

Conclusion

The idea that government control is antithetical to the functioning of an educational institution is flawed. Government control has not kept the IITs from creating a brand that is way above that of the IIMs. The IIM brand itself flourished for six decades under government control because the IIMs enjoyed the fullest autonomy in all operational matters. It is the prospect of the brand being undermined by unaccountable boards and directors that should be a matter of concern. No public institution can be exempt from the principle of democratic accountability. And accountability to government and Parliament is preferable to no accountability at all.

Sources: The Hindu, Indian Express, PRS

E20 blending: Explained, pointwise

Introduction

Currently, a 10 per cent ethanol blend with petrol (E10) is available in India. The National Policy on Biofuels 2018, set an indicative target of 20% ethanol blending (E20) under the Ethanol Blended Petrol (EBP) Program by 2030. However, in 2021, the deadline was preponed to 2025-26 after the NITI Aayog released the expert committee report on ethanol blending titled 'Roadmap for Ethanol Blending in India 2020-25'.

E20 is a biofuel that has been gaining in popularity due to its environmental and economic benefits. E20 biofuel is a blend of 20% ethanol, which is derived from renewable sources such as corn, sugarcane, and other plant materials, and 80% traditional petroleum-based fuels.

What is the Ethanol Blended Petrol (EBP) Program?

The Ethanol Blended Petrol (EBP) program was launched in January 2003. The program seeks to achieve blending of Ethanol with petrol with a view to reducing pollution, conserve foreign exchange and increase value addition in the sugar industry enabling them to clear cane price arrears of farmers.

The procedure of procurement of ethanol under the EBP has been simplified to streamline the entire ethanol supply chain and remunerative ex-depot price of ethanol has been fixed.

To facilitate achieving new blending targets, a "grid" which networks distilleries to OMC depots and details quantities to be supplied has been worked out.

What is the need for E20 blending?

Energy security: India depends on imported fuel to meet its energy needs. In 2021-22, 86 percent of consumed fuel was imported. With such high import dependence, the country becomes highly vulnerable to global events like the Russia-Ukraine war or decisions of OPEC countries. Ethanol blending can reduce this dependence. The resultant reduced demand for fuel could save India about $4 billion annually.

Reducing emissions: Ethanol is a lesser pollutant. Use of ethanol-blended petrol decreases emissions such as carbon monoxide, hydrocarbons and nitrogen oxides. Higher reductions in CO emissions were observed with E20 fuel — 50 per cent lower in two-wheelers and 30 per cent lower in four-wheelers.

Extra income: The alternative use-case of sugarcane will help the farmers realize more income from their produce. Under Ethanol Blending Program, Oil Marketing Companies (OMCs) have paid sugar mills nearly Rs 81,796 crore for ethanol supplies in the last seven years (till 2022), which has helped mills to clear farmers' dues.

What are the challenges in achieving E20 blending?

Feedstock availability is a major challenge for ethanol blended fuel. Sugarcane is going to be the central and most reliable source of ethanol supply in the country. But the current surpluses in the crop may not continue into the future. In 2020, the Indian Sugar Mills Association (ISMA) revised its cane production estimate downwards thrice. Also, no surplus maize might be available for ethanol production if the growth of both food, feed and starch industry continues. In the case of rice, there emerges to be a trade-off between exports and rice for ethanol. Exports will have to be reduced to make space for oil marketing companies (OMCs) seeking rice for ethanol.

Infrastructure: Sugarcane is locally available in only some parts of India; thus, the supply chain needs to be strengthened to accomplish the Interstate movement of ethanol. There is a need to build extensive infrastructure for storage, transportation, and distribution of ethanol from the three states that produce it, Uttar Pradesh, Maharashtra, and Karnataka, to the rest of the country.

Modifying existing petrol engines to use E20: The estimated petrol vehicles stock in India is 212.7 million as of March 31, 2023, of which two-wheelers comprised 176.2 million, three-wheelers 21.8 million, and four-wheelers 14.7 million. The modifications mean significant costs and would need many skilled technicians. It will probably take years, creating considerable disruption in the economy.

Effluents: Higher ethanol production means more effluents that need mitigation. Vinasse is an organic waste of which 12 to 20 units are produced for each unit of ethanol from sugarcane. Grain produces half as much. Its treatment before disposal or use continues to be a complex struggle.

What are the advantages of biofuels?

Reduced dependence on fossil fuels: Biofuels, produced from renewable sources like food crops, can help reduce reliance on finite fossil fuels, thereby lowering greenhouse gas emissions and mitigating climate change.

Renewable energy source: Unlike non-renewable fossil fuels, food crops can be replanted and harvested annually, making biofuels a renewable energy source.

Support for agriculture: Growing food crops for biofuels can provide additional income to farmers and contribute to rural development.

Technological advancement: The development of biofuel technologies encourages research and innovation in the renewable energy sector.

What are the disadvantages of biofuels?

Food scarcity and rising prices: Diverting food crops for biofuel production can reduce the availability of these crops for human consumption, potentially leading to food scarcity and higher prices for food items.

Environmental impact: While biofuels are generally considered more environmentally friendly than fossil fuels, their production can still have negative impacts, such as deforestation, habitat destruction, and excessive water usage.

Competition for land: Growing crops for biofuels can compete with land needed for food production or conservation purposes, leading to deforestation and biodiversity loss.

Energy efficiency and emissions: Some biofuels may have low energy efficiency and still produce significant greenhouse gas emissions during their production and transportation, diminishing their environmental benefits.

Water resources: Large-scale cultivation of biofuel crops can put strain on water resources, potentially leading to water scarcity in some regions.

What should be the way forward to achieve E20 blending?

The country's commendable efforts to decrease fuel import reliance through its E20 mission are notable. However, the ambitious target of achieving this by 2025-26 raises concerns about potential challenges related to competition for crop and land resources between fuel and food crops. To ensure a reliable supply of feedstock for the distilleries, it is crucial to **devise a careful roadmap** that addresses these issues effectively.

India continues to have one of the largest populations of undernourished individuals globally, necessitating the expansion of acreages for pulses, oilseeds, and horticulture crops. **Enhancing crop yields** is of utmost significance, and this encompasses advancements in seeds and production techniques, particularly when these crops will be utilized for biofuel production.

Initiating a **land-use plan** would be beneficial. In the long run, it is essential to avoid using the existing crop land for fuel production. India has already experienced a decline in arable land. **Fallow land** increased by approximately 4.3 million hectares between 1978-79 and 2018-19. This land should be prioritised for producing crops for fuel.

Feedstock such as wheat straw, corn, wood, agricultural residues or municipal solid waste are typically lingo-cellulosic materials and are used as a source of bioethanol in second generation (2G) technology. The 2G technologies use crop residues, a waste that otherwise would be of no value. Therefore, more research and development efforts should be made to **make the 2G technologies commercially viable**.

There should not be a trade-off between achieving food and energy security. As both are critical, a strategic and a cohesive roadmap is the need of the hour.

Sources: Livemint, Business Standard, The Print

Age of consent: Explained, pointwise

Introduction

Recently, the Bombay High Court said that it is high time India considered reducing the age of consent for sex. The court pointed out that after the enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012, many adolescents are being prosecuted for consensual relationships with minor girls. While the Supreme Court and several High Courts have underlined concerns over criminalisation of adolescent sex, the 22nd Law Commission of India

is set to release its report on the minimum age of consent under the POCSO Act. These developments have revived the debate about the revision of the age of consent in India.

What is age of consent?

'Age of consent' refers to the legally defined age at which an individual is considered capable of granting consent for sexual activities. The age of consent was 16 prior to the enactment of POCSO Act.

The POCSO Act categorizes any sexual acts involving individuals under 18 as criminal offenses, irrespective of whether actual consent exists between the minors.

This is based on the legal presumption that individuals below 18 are incapable of providing consent in the legal context.

What are the salient features of POCSO Act?

The POCSO Act was passed in 2012. The Act was further amended in 2019 to introduce more stringent punishments, including the death penalty, for committing sexual crimes against children. This was done to deter perpetrators and prevent such crimes.

Following are the salient features of the Act:

- "Children" according to the Act are individuals aged below 18 years. The Act is gender-neutral.
- The Act defines different forms of sexual abuse including but not limited to sexual harassment, pornography, and penetrative & non-penetrative assault.
- The Act stipulates that such steps must be taken which makes the investigation process as child-friendly as possible and the case is disposed of within one year from the date of reporting of the offense.
- The Act provides for the establishment of Special Courts for the trial of such offenses and matters related to them.
- Section 42 A of the Act provides that in case of inconsistency with provisions of any other law, the POCSO Act shall override such provisions.
- The Act calls for mandatory reporting of sexual offenses. A false complaint with intent to defame a person is punishable under the Act.

Read more: **What is the POCSO Act?**

What are the judgements of various High Courts?

In **Vijayalakshmi vs State (2021)** the Madras High Court stated that punishing an adolescent boy, who enters into a relationship with a minor girl by treating him as an offender, was never the objective of POCSO Act.

In 2021, the Delhi High Court in **AK v. State Govt of NCT of Delhi** stated that the intention of POCSO was to protect children below the age of 18 years from sexual exploitation and not to criminalise romantic relationships between consenting young adults.

In **Dharmendra Singh v State Govt of NCT** (2020), the Delhi High Court has attempted to increase the chances of bail of an accused by issuing guidelines that pertain to close-in-age exemptions, available in statutory rape cases in most US states. Also known as the Romeo-Juliet

law, it provides a degree of protection to the offender where the age difference between him and the victim is within the stipulated limit.

A bench of Karnataka High Court urged the Law Commission of India to have a rethink on the criteria for age of consent, taking into consideration the ground realities.

Recent judgements

11. The Delhi High Court released a 25-year-old accused on bail on the premise that the 15-year-old girl had eloped with him on her own.
12. The Bombay High Court quashed the conviction of a 25-year-old man under POCSO on the grounds that he had consensual sex with the 17-year-old girl.
13. The Madras High Court not only quashed an FIR registered under POCSO and consequential criminal proceedings, but also directed the Director General of Police to produce the reports of all such pending cases before the Court.
14. The Madhya Pradesh High Court quashed an FIR registered under POCSO and all criminal proceedings on the basis that the sexual relationship was consensual. The Court recommended that the Indian government consider reducing the age of consent of the female prosecutor from 18 to 16 years.

What are the issues with current age of consent?

Tool to control girls: An analysis of romantic relationships from Assam, Maharashtra and West Bengal revealed that in 80% of cases, the girls' family lodged a complaint under POCSO when she had eloped with a partner or a pregnancy came to light. At least 17 High Courts across the country have quashed cases of consensual relationships under POCSO Act. Women's rights activists claim that the POCSO Act has become a tool for families to control girls, especially where inter-faith and inter-caste relationships are involved.

Victimisation of the "consenting" girl: POCSO, Medical Termination of Pregnancy act and the Child Marriage Act create a complex socio-legal web. This deprives the minor girl of the rights to dignity, liberty, sexual and reproductive health, and undermines her privacy.

Ignores social reality: The criminalization of adolescent sexuality ignores social reality. According to the NFHS-5, for instance, 39 per cent women had their first sexual experience before turning 18. NFHS-5 also provides additional evidence of sexual engagement among unmarried adolescent girls. It reports contraception use by 45 per cent of unmarried girls in the age group of 15-19 years.

Burden on courts: The number of juveniles (especially those between the ages of 16 and 18) apprehended under the POCSO Act in the country has seen a staggering jump of 180 per cent between 2017- 2021 according to the National Crime Records Bureau's report. The data says that in 2021, 53,873 cases were filed under the Act, and these cases formed 36 per cent of all crimes against children. Officials and activists say that slapping Pocso cases on cases of adolescent love affairs is clogging the system, which already has too many pending cases to deal with.

What should be the way forward?

There is need to evolve a **separate procedure for children** while dealing with POCSO cases.

The Bureau of Police Research and Development could **analyse the cases of consensual sex**, age-wise, across States and help the Central government in taking a decision of reducing the age of consent based on that study.

Some **leverage should be allowed to the judiciary to interpret consent** in cases of the victim being of lower age based on the child's understanding of consequences.

The Supreme Court must step in to quickly resolve the gap between the laid down law (as understood by the investigating agencies) and the different interpretations by the High Courts.

The **severe punishments under POCSO should be re-examined** to ensure that they are deterrents but not excessively harsh.

Conclusion

The courts have rightly said that it is high time the legislature looked into the grey area resulting in criminalising consensual teenage relationships, by reducing the age of consent from 18 to 16 years. This will ensure reforms and access to sexual and reproductive health services to adolescents, along with comprehensive sex education to help them make informed decisions.

Sources: The Hindu (**Article 1** and **Article 2**)

Import restrictions: Explained, pointwise

Introduction

The government has recently imposed restrictions on the import of laptops, tablets, and personal computers. According to a notice issued by the Directorate General of Foreign Trade, the import of electronic goods falling under HSN 8471 (a category) will now be classified as "Restricted," allowing imports only against valid licenses for restricted imports. Earlier, imports were allowed without restrictions. This sudden policy reversal warrants a discussion on import restrictions.

Note: Under Section 3 of the Foreign Trade (Regulation and Development) Act, 1992, the Central Government is empowered to make provisions related to imports and exports.

What are some recent instances of import restrictions?

Laptops, tablets, and personal computers: To promote domestic manufacturing and boost national security by curbing imports from China. The items under licensing accounted for about $8.8 billion of imports in 2022-23, about three-fifths of it from China.

Gold jewelry and articles: In July 2023, the government restricted imports of certain gold jewelry and articles to control swelling trade deficit.

Pneumatic Tyres: In June 2020, the government had imposed curbs on the imports of certain pneumatic tires due to continuing rise in import of tires from China. The decision was made to promote domestic manufacturing.

Colour televisions: In July 2020, the government had imposed restrictions on imports of colour televisions. This was aimed at promoting domestic manufacturing and cut inbound shipments of non-essential items from countries like China.

What are the WTO rules on import licensing?

The **WTO Agreement on Import Licensing Procedures** (Import Licensing Agreement) sets out rules for all Members on the use of import licensing systems to regulate their trade.

The agreement's main purpose is to promote **transparency, predictability, and fairness** in the administration of import licensing procedures.

The agreement aims to **prevent the arbitrary use of import licensing** by member countries, which could potentially create barriers to trade and undermine the principles of the WTO.

The agreement says import licensing should be **simple, transparent and predictable.** For example, the agreement requires governments to publish sufficient information for traders to know how and why the licences are granted.

It also describes how countries should **notify the WTO** when they introduce new import licensing procedures or change existing procedures.

The agreement offers guidance on how governments should assess applications for licenses.

WTO provides certain **exceptions and flexibilities** to its member countries which allow members to take certain measures that might otherwise be considered trade-restrictive under specific circumstances.

Article XXI of the GATT allows members to take measures that they consider necessary for the protection of their essential **security interests**.

Article XII of the GATT allows members to impose restrictions on trade to safeguard their external financial position and **balance of payments**.

What are the positive impacts of import restrictions?

Self-reliance: One of the main goals of import restriction policies is to protect domestic industries from foreign competition. By making it more difficult to import goods, these policies can help to level the playing field for domestic businesses. This can allow them to grow and prosper.

Job creation: Import restrictions can also help to create jobs in the domestic economy. By making it more difficult for businesses to import goods, these policies can encourage businesses to produce these goods domestically. This can lead to an increase in employment as businesses expand their operations.

National Security: If a nation becomes reliant on international imports, it also becomes defensively weak due to the possibility of disruption of critical supplies. Import restrictions and substitution is used as a policy tool so that a country is largely self-reliant in order for it to be able to react in a time of war. In case of electronics, there is also possibility of exposure to hidden spyware.

What are the negative impacts of import restrictions?

Higher prices: Import restrictions can affect the final price of a product as it can limit the supply and competition. Consumers will have to buy from more expensive domestic suppliers. Because the supply is limited, the level of demand will drive up prices.

Harm domestic industries: Domestic industries neither get the opportunity nor the incentive to grow due to lack of competition. This means more and more dependence on protectionist policies for survival. Once these policies are in place, it could get difficult to remove them.

Transfer of welfare: The Indian experience of pre 1991 reforms suggests that state support for enterprise can remain longer than needed as sunset clauses are rolled over, resulting in a net transfer of welfare from people to favoured parties.

Stagnation of technological advancements: As domestic producers don't need to worry about foreign competition, they have no incentive to innovate or spend resources on research and development (R&D) of new products.

Rollback from 1991 liberalisation: Import licensing could increase the space for bureaucratic discretion. Such controls on economic activities will only diminish the vibrancy of the economy that was unleashed after the '91 reforms.

Global image: The world needs a reliable supply chain and there is a growing global trust in India. But arbitrary and inconsistent restrictions will undermine the country's efforts to entice value chains away from China.

What should be the way forward?

The government should focus on creating conditions that **encourage integration of India with global value supply chains** and take advantage of the 'China plus one' approach being adopted by many multinationals.

Trade relations have acquired a geopolitical dimension and opportunities should be grabbed while global value chains move away from China.

Once a global edge is achieved for domestic industries, public support should be rolled back and the focus should be on promoting exports.

The emphasis should be placed on **fostering innovation, advancing research and development, and promoting entrepreneurship** within the nation. These efforts will equip Indian enterprises to effectively vie in the industries that will define the future.

A trade policy that is both **clear and consistent** is needed attract multinationals to Make in India.

Strengthen domestic manufacturing while also prioritizing export growth and fostering research to achieve greater self-reliance.

Trade barriers must be deployed with caution. Import licensing but could work for India if wielded well as part of a strategy for local manufacturing.

Sources: **Business Standard**, **Times of India**, **Indian Express**

Digital Personal Data Protection Bill, 2023: Explained, pointwise

Introduction

Recently, the Digital Personal Data Protection Bill, 2023, was introduced in Parliament. The Bill was tabled after nearly five years of negotiations involving the government, technology companies and civil society representatives. It lays out procedures on how corporations and the government itself can collect and use information and personal data of India's citizens.

What was the need for the Digital Personal Data Protection Bill, 2023?

Personal data is information that relates to an identified or identifiable individual. Businesses as well as government entities process personal data for delivery of goods and services.

Processing personal data allows understanding preferences of individuals, which may be useful for customisation, targeted advertising, and developing recommendations. Processing personal data may also aid law enforcement.

Unchecked processing may have adverse implications for the privacy of individuals, which has been recognised as a fundamental right. It may subject individuals to harm such as financial loss, loss of reputation, and profiling.

As technologies like Artificial Intelligence advance and permeate various aspects of daily lives, the potential for extensive data collection, analysis, and manipulation grows exponentially.

Without effective data protection measures, individuals' personal information is at risk of being exploited, leading to privacy breaches, identity theft, and other malicious activities.

Currently, India does not have a standalone law on data protection. Use of personal data is regulated under the Information Technology (IT) Act, 2000.

In the Puttaswamy judgement of 2017, the Supreme Court upheld the right to privacy, In the same year, the government constituted the Justice B. N. Srikrishna committee on Data Protection to examine issues relating to data protection in the country. The Committee submitted its report in 2018.

Based on the recommendations of the Committee, the Personal Data Protection Bill, 2019 was introduced in Lok Sabha. The Bill was referred to a Joint Parliamentary Committee which submitted its report in December 2021.

In August 2022, the Bill was withdrawn from Parliament. In November 2022, a Draft Bill was released for public consultation. In August 2023, the Digital Personal Data Protection Bill, 2023 was introduced in Parliament.

What are the key features of the Digital Personal Data Protection Bill, 2023?

Applicability: The Bill applies to the processing of digital personal data within India where such data is: (i) collected online, or (ii) collected offline and is digitised. It will also apply to the processing of personal data outside India if it is for offering goods or services in India.

Consent: Personal data may be processed only for a lawful purpose after obtaining the consent of the individual. Notice must be given before seeking consent. Consent may be withdrawn at any point in time. Consent will not be required for 'legitimate uses' defined in the Bill. For individuals under 18 years of age, consent will be provided by the parent or the legal guardian.

Rights of data principal: An individual whose data is being processed (data principal), will have the right to: (i) obtain information about processing, (ii) seek correction and erasure of personal data, (iii) nominate another person to exercise rights in the event of death or incapacity, and (iv) grievance redressal.

Duties of data principal: Data principals will have certain duties. They must not: (i) register a false or frivolous complaint, and (ii) furnish any false particulars or impersonate another person in specified cases. Violation of duties will be punishable with a penalty of up to Rs 10,000.

Obligations of data fiduciaries: The entity determining the purpose and means of processing, (data fiduciary), must: (i) make reasonable efforts to ensure the accuracy and completeness of data, (ii) build reasonable security safeguards to prevent a data breach, (iii) inform the Data Protection Board of India and affected persons in the event of a breach, and (iv) erase personal data as soon as the purpose has been met and retention is not necessary for legal purposes (storage limitation). In the case of government entities, storage limitation and the right of the data principal to erasure will not apply.

Transfer of personal data outside India: The Bill allows transfer of personal data outside India, except to countries restricted by the central government through notification.

Exemptions: Rights of the data principal and obligations of data fiduciaries (except data security) will not apply in specified cases. The central government may, by notification, exempt certain activities from the application of the Bill. These include: (i) processing by government entities in the interest of the security of the state and public order, and (ii) research, archiving, or statistical purposes.

Data Protection Board of India: The central government will establish the Data Protection Board of India. Key functions of the Board include: (i) monitoring compliance and imposing penalties, (ii) directing data fiduciaries to take necessary measures in the event of a data breach, and (iii) hearing grievances made by affected persons. Board members will be appointed for two years and will be eligible for re-appointment. Appeals against the decisions of the Board will lie with TDSAT (Telecom Disputes Settlement and Appellate Tribunal).

Penalties: The schedule to the Bill specifies penalties for various offences such as up to: (i) Rs 200 crore for non-fulfilment of obligations for children, and (ii) Rs 250 crore for failure to take security measures to prevent data breaches. Penalties will be imposed by the Board after conducting an inquiry.

What are the concerns related to the Digital Personal Data Protection Bill, 2023?

Exemptions: The Supreme Court in Puttaswamy judgement has held that any infringement of the right to privacy should be proportionate to the need for such interference. Exemptions for the State may lead to data collection, processing, and retention beyond what is necessary. This may not be proportionate and may violate the fundamental right to privacy.

Risk of surveillance: The Bill empowers the central government to exempt processing by government agencies from any or all provisions, in the interest of the security of the state and maintenance of public order. The Bill does not require government agencies to delete personal data, after the purpose for processing has been met. Using the above exemptions, on the ground of national security, a government agency may collect data about citizens to create a 360-degree profile for surveillance.

Regulating harm arising from processing of personal data: The Bill does not regulate risks of harms arising out of processing of personal data. The Srikrishna Committee has observed that harm is a possible consequence of personal data processing. Harm may include material losses such as financial loss and loss of access to benefits or services. It may also include identity theft, loss of reputation, discrimination, and unreasonable surveillance and profiling.

Right to data portability and the right to be forgotten not provided: The Bill does not provide for the right to data portability and the right to be forgotten. The 2018 Draft Bill and the 2019 Bill introduced in Parliament provided for these rights. The Joint Parliamentary Committee, examining the 2019 Bill, recommended retaining these rights. The Srikrishna Committee observed that a strong set of rights of data principals is an essential component of a data protection law. These rights are based on principles of autonomy, transparency, and accountability to give individuals control over their data.

Cross-border transfer of data: The Bill provides that the central government may restrict the transfer of personal data to certain countries through a notification. This implies the transfer of personal data to all other countries without any explicit restrictions. This mechanism may not provide adequate protection. In the absence of robust data protection laws in another country, data stored outside India may be more vulnerable to breaches or unauthorised sharing with foreign governments as well as private entities.

Independence of the Data Protection Board: A short term appointment (2 years) with the scope for re-appointment may affect the independent functioning of the Board. In the case of Tribunals, the Supreme Court (2019) had observed that short-term along with the provisions of re-appointment increases influence and control of the Executive.

Provisions for children: Under the Bill, a child has been defined as a person under 18 years of age. In other jurisdictions like the USA, UK and European Union, the age varies from 13 to 16 years. The Bill requires all data fiduciaries to obtain verifiable consent from the legal guardian before processing the personal data of a child. A sizable number of children will need to seek parental consent for services they can easily access right now. There are questions about how data processing entities will verify the age of children and obtain parental consent. If every data fiduciary will have to verify the age of everyone signing up for its services, anonymity in the digital sphere may be reduced.

What are the positive aspects of the Digital Personal Data Protection Bill, 2023?

Understandable and accessible: The Bill is written in concise, straightforward and uncomplicated manner with minimum use of legal jargon and liberal use of illustrations. This makes it more understandable and accessible to the public.

Principles-based approach: Due to the pace of innovation and disruption in the tech sector, the Bill focusses on principles and outcomes rather than modes and processes. This will enhance the longevity of the bill and also give businesses flexibility in achieving compliance.

Light-touch approach: Businesses will benefit from the light-touch and facilitative approach of the Bill towards personal data protection. This signifies the trust reposed by the government in the private sector to act as responsible custodians of the personal data of their customers.

Impetus for startup ecosystem: The rationalized and minimally intrusive data protection regime will attract global tech investments. The Bill will be a boon for startups as they are to be

exempted from certain obligations, upon notification. This will provide further impetus to the startup ecosystem and boost its global competitiveness.

What is the data protection laws in other countries?

According to UNCTAD, 71 percent of countries had put in place legislation to secure the protection of data and privacy. Africa and Asia show different levels of adoption with 61 and 57 per cent of countries having adopted such legislation.

Read more: **What are the data protection laws in other countries?**

How India's proposed law is different from other jurisdictions?

Publicly available data exempt: The Bill does not protect data that is made publicly available by an individual or anyone else. Data protection norms around the world extend obligations to publicly available data too.

Consent managers are licensed: Consent managers will help individuals give and manage their consent, across different businesses. This is perhaps the first instance of a privacy law recognising and regulating such entities.

Cross-border data flows made flexible: The Bill allows data transfers outside India or offshore data processing. But in a departure from global regimes, the Bill does not set out any conditions for transferring data.

Children's data: Many global laws treat children under 13, and those between 13 and 17 differently, based on risks and harms. Under the Bill, all children under 18 are treated alike.

Conclusion

An all-encompassing digital governance framework goes beyond just having a strong data protection law. It necessitates addressing various interrelated aspects like cybersecurity, competition, artificial intelligence, and more. The European Union's strategy, which includes supplementary measures like the Data Act, Digital Services Act, Digital Markets Act, and the AI Act, offers valuable lessons in achieving comprehensive regulation in this regard.

Sources: **Times of India**, **Indian Express**, **Livemint**, **PRS**

Critical Minerals in India and Mines and Minerals (Development & Regulation) Amendment Bill, 2023 : Explained, pointwise

Introduction

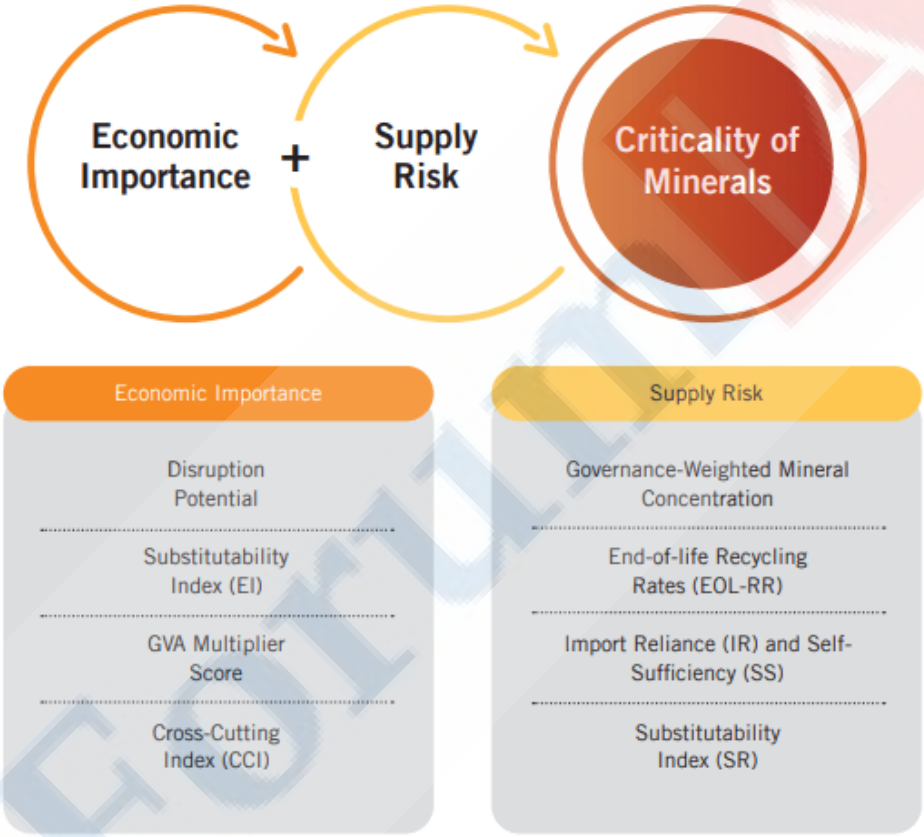
Critical minerals, in India and around the world, form the bedrock of contemporary technology. They are integral to the creation of products like solar panels, semiconductors, wind turbines, and advanced batteries used for storage and transportation. In essence, the shift towards renewable energy is impossible without these critical minerals. This is why securing their supply chain has become a top priority for leading economies.

Therefore, to create a sustainable supply chain of critical minerals, government has moved amendments to **Mines and Minerals (Development and Regulation) Act, 1957**, by Mines and Minerals (Development & Regulation) Amendment Bill, 2023. Let's have a discussion on the

availability of critical minerals in India and how the new bill will be helpful in maintaining the supply chain.

What are critical Minerals?

Each country has its own classification of critical minerals depending on levels of economic development, industry requirements, national interests and security concerns, technology, market changes and natural resource endowment. For most of the countries, the criticality is judged by **two main parameters, economic importance and supply risk**. In Indian context also, the same two parameters were taken into consideration.



As per the definition in the report by Ministry of Mines,

Critical minerals are those minerals which are essential for economic development and national security, the lack of availability of these minerals or even concentration of existence, extraction or processing of these minerals in few geographical locations may lead to supply chain vulnerability and disruption.

The s**even-member Committee** constituted by Ministry of Mines has **identified a set of 30 critical minerals** for India. These are Antimony, Beryllium, Bismuth, Cobalt, Copper, Gallium, Germanium, Graphite, Hafnium, Indium, Lithium, Molybdenum, Niobium, Nickel, PGE, Phosphorous, Potash, REE, Rhenium, Silicon, Strontium, Tantalum, Tellurium, Tin, Titanium, Tungsten, Vanadium, Zirconium, Selenium and Cadmium.

Present status of critical minerals in India

For the majority of the critical minerals, India is dependent upon other countries. For some of the critical minerals, India is 100% import dependent, as shown in the table below:

Sl. No.	Critical Mineral	Import dependency (2020)	Major Import Sources (2020)
1.	Lithium	100%	Chile, Russia, China, Ireland, Belgium
2.	Cobalt	100%	China, Belgium, Netherlands, US, Japan
3.	Nickel	100%	Sweden, China, Indonesia, Japan, Philippines
4.	Vanadium	100%	Kuwait, Germany, South Africa, Brazil, Thailand
5.	Niobium	100%	Brazil, Australia, Canada, South Africa, Indonesia
6.	Germanium	100%	China, South Africa, Australia, France, US
7.	Rhenium	100%	Russia, UK, Netherlands, South Africa, China
8.	Beryllium	100%	Russia, UK, Netherlands, South Africa, China
9.	Tantalum	100%	Australia, Indonesia, South Africa, Malaysia, US
10.	Strontium	100%	China, US, Russia, Estonia, Slovenia
11.	Zirconium(zircon)	80%	Australia, Indonesia, South Africa, Malaysia, US
12.	Graphite(natural)	60%	China, Madagascar, Mozambique, Vietnam, Tanzania
13.	Manganese	50%	South Africa, Gabon, Australia, Brazil, China
14.	Chromium	2.5%	South Africa, Mozambique, Oman, Switzerland

What are the Challenges of critical minerals supply?

Concentration of minerals: The extraction or processing of critical minerals is concentrated in a few geographical locations, leading to import dependency and potential supply chain disruptions. **For example,** China owns most of the cobalt mines in the Democratic Republic of Congo, which produces 70% of the world's cobalt. China also has the largest reserves of Rare Earth Elements (REEs), followed by Vietnam, Brazil, and Russia.

As presented in the table above, India is 100% import-dependent on countries including China, Russia, Australia, South Africa, and the U.S. for the supply of major critical minerals.

High Cost: Deep-seated minerals such as gold, silver, copper, zinc, lead, nickel, cobalt, platinum group elements (PGEs), and diamonds are harder and more costly to explore and mine compared to surface or bulk minerals. It forces India to import these minerals.

Global trade tensions, as seen in the case of US and China trade wars, have proved to be detrimental for the interest of India. It led to slow down of the global economy. In these tensions,

industries face policy uncertainty, which discourage their expansion and is detrimental for their economic interest.

The pandemic caused disruptions in the supply chain, affecting global trade and the supply of critical minerals to dependent nations like India. It also led to a temporary shortage of semiconductors.

The Russia-Ukraine war highlighted the vulnerability of global supply chains, demonstrating that no country should be entirely dependent on another for essential items. Russia is a significant producer of nickel, palladium, titanium sponge metal, and the rare earth element scandium, while Ukraine is a major producer of titanium.

Developing countries at loss: While the developed countries get out of crisis, it is the developing countries that suffer most from any global incidence. For instance, after Russia – Ukraine war, China and Russia became strategic partners, developed countries have created Minerals Security Partnership (MSP) and G7's Sustainable Critical Minerals Alliance. Developing countries will have to choose among them.

What is the Need of Critical Minerals?

They are essential for the transition to a clean energy economy. Critical minerals are used in a variety of clean energy technologies, such as electric vehicles, wind turbines, and solar panels. As the world transitions to a clean energy economy, demand for critical minerals is expected to grow significantly.

They are used in a variety of other products. Critical minerals are also used in a variety of other products, such as **electronics, semiconductors, and medical devices**. This means that a disruption in the supply of critical minerals could have a significant impact on a wide range of industries.

Critical Minerals are also used in smart electronics; defence and aerospace equipment; telecommunication technologies and so on.

What is the need of the Mines and Minerals Amendment Bill, 2023?

For regulation, the MMRD Act classifies mining-related activities into: (i) reconnaissance, which involves a preliminary survey to determine mineral resources, (ii) prospecting, which includes exploring, locating, or proving mineral deposits, and (iii) mining, the commercial activity of extraction of minerals.

India has explored just 10% of its Obvious Geological Potential (OGP), less than 2% of which is mined, and the country spends less than 1% of the global mineral exploration budget. **Most exploration projects have been carried out by the government agency** Geological Survey of India and other Public Sector Undertakings (PSUs).

India's mining policy had kept private-sector explorers away from greenfield exploration of minerals for some years. It means they could only get licenses to **further prospect and mine resources** that had been explored by a government entity.

Union Minister of Mines Pralhad Joshi noted that while Indian PSUs were doing good at exploring surface and bulk minerals like coal and iron ore, **they had not done well with deep-seated and critical minerals**. It was due to the high cost and long duration of risky projects, along with the pressure to increase the supply of bulk minerals.

In Australia and other jurisdictions globally, private mining firms take risks to find potential mines. They are called known as **junior explorers**. Once mines are found, they can sell these to bigger mining companies, who then develop and run these mines.

How Mines and Minerals Amendment Bill, 2023 aims to tackle the challenges of Critical Mineral supply in India?

The bill allows private sector investment in the exploration of critical and deep-seated minerals in the country.

Firstly, the Bill excludes at least six previously mentioned atomic minerals from a list of 12 which cannot be commercially mined. Being on the atomic minerals list, the exploration and mining of these six — lithium, beryllium, niobium, titanium, tantalum and zirconium, was previously reserved for government entities.

Secondly, The Bill introduces a **novel license category** aimed at **fostering exploration** by private sector players at the **reconnaissance and prospective stages.**

It is termed an **exploration license**. This license will be awarded by State governments through **competitive bidding.** It will span for five years initially with the potential for a **two-year extension.**

In these bidding rounds, qualified explorers will bid for a desired percentage of the **auction premium**. This premium will eventually be paid by a **mining lease holder** upon successfully exploiting a mine unearthed through State government-led exploration.

Third, Allowing retention of part of the exploration area: It also specifies the maximum area for exploration; activities in up to 1,000 sq km will be allowed under a single exploration license. It also states that the licencee will be allowed to retain up to 25% of the originally authorized area after the first three years after submitting a report to the State government stating reasons for retention of the area. The MMRD Act currently requires exploration licencees to relinquish the entire exploration area after three years, unless they are granted a mining lease.

Fourth, state government will grant the exploration licence through competitive bidding. While the central government will frame rules for exploration licensing.

Fifth, the exploration licence will be issued for five years. A licencee may request for extension of up to two years.

Sixth, Auctioning of mining leases for critical and strategic minerals: The MMRD Act currently allows the state governments to auction mining leases for all minerals. The MMRD Amendment Bill gives the central government the power to auction mining leases for specified critical and strategic minerals, such as gold, silver, copper, zinc, lead, nickel, and cobalt.

What are the challenges with the bill?

Gestation period: The main way a private company with an exploration license can earn revenue is through a share of the premium paid by the miner. This only happens after a successfully discovered mine is auctioned and operational. This process could take years due to government clearance timelines. **For example**, Ghorabhurani-Sagasahi Iron Ore Mine, a greenfield captive mine, was auctioned in 2016. Despite being a bulk mineral, production only started in late 2021, nearly six years later, due to the time taken to receive necessary clearances.

Uncertain payment: The explorer won't know how much revenue they'll receive as the auction premium will only be known when a mine is successfully auctioned.

In a 2012 ruling, the Supreme Court observed that large capital investments go into discovering natural resources through exploration and mining contracts. Companies would only want to spend large amounts if they're assured of utilizing any discovered resources. In the new bill, only the government can auction what an explorer has discovered. This is unlike other global jurisdictions, where private explorers can sell their discoveries to miners, themselves.

Conclusion

Private players always get motivated by the profit they are going to make. If government want them to participate in the exploration of critical minerals in India, it needs to provide them certainty of the revenue stream from that investment, then only, india's efforts towards self-sufficiency will be successful.

Source: **The Hindu** , **PIB**

Delhi Services Bill: Explained, pointwise

Introduction

Recently, the Parliament passed the Government of National Capital Territory of Delhi (Amendment) Bill, 2023, (commonly called Delhi Services Bill) that gives the central government control over bureaucrats in the Delhi government. It amends the Government of National Capital Territory of Delhi Act, 1991. The Bill repeals the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023, and will apply retrospectively from the date of promulgation of the ordinance.

Why was the Delhi Services Bill introduced?

The **question of power-sharing** between the Delhi government and central government has been raised before the Supreme Court on several occasions.

In May 2023, a five-judge Constitution Bench ruled that the **Delhi government has legislative and executive powers over administrative services** in the national capital.

The question before the Court was whether the Delhi government (headed by the elected Chief Minister) or the Lieutenant Governor (appointed by the President) would have control over services and civil servants in Delhi.

The Court ruled that the Delhi government will have control over services in Delhi. Such control will not extend to the subjects of police, public order, and land, over which the central government has exclusive powers.

The 2023 judgement also **reaffirmed a 2018 judgement** where the Supreme Court had ruled that the LG did not have independent decision-making powers and was bound to follow the aid and advice of the Council of Ministers.

After the Supreme Court's judgment on control over services in Delhi, the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 was promulgated by the Central Government. The Delhi Services Bill repeals the Ordinance.

What are the key features of the Delhi Services Bill?

National Capital Civil Services Authority: The Bill establishes the National Capital Civil Services Authority to make recommendations to the Lieutenant Governor of Delhi (LG) on certain matters related to services. These include: (i) transfers and postings, (ii) matters related to vigilance, (iii) disciplinary proceedings.

The Authority will consist of the: (i) Chief Minister of Delhi as Chairperson, (ii) Principal Home Secretary of the Delhi government and (iii) Chief Secretary of the Delhi government. The central government will appoint both the Principal Home Secretary and Chief Secretary. All decisions of the Authority will be based on a majority vote of the members present and voting. The quorum for a meeting is two people.

Powers of the Lieutenant Governor: The Bill stipulates that in areas where LG is authorized to exercise discretion, the LG will make decisions based solely on his discretion. It expands the discretionary role of LG by giving him powers to approve the recommendations of the Authority or return them for reconsideration. In the case of a difference of opinion between the LG and the Authority, the former's decision will be final.

Matters to be submitted to the LG: Certain matters must be submitted to the LG, through the Chief Minister and the Chief Secretary, for his opinion prior to the issue of any order. These include proposals affecting: (i) the peace and tranquility of Delhi, (ii) relations between the Delhi government and the central government, Supreme Court, or other state governments, (iii) summoning, prorogation, and dissolution of the Legislative Assembly, and (iv) matters on which LG is to give an order in his sole discretion.

Duties of Secretaries: Additionally, the Department Secretary concerned must bring certain matters to the notice of the LG, the Chief Minister, and the Chief Secretary. These include matters which may bring the Delhi Government into controversy with the central or any state government, the Supreme Court, or High Court of Delhi.

How is the Delhi Services Bill different from the Ordinance?

The bill removes the **Section 3A** of the ordinance that held that the Delhi legislative assembly will not have control over services under Entry 41 of List II of the Seventh Schedule of the Constitution which includes the State public services and State Public Service Commission.

The Bill states that the **power to appoint authorities, boards, commissions, statutory bodies, or office bearers** will be with the President for any law of Parliament, and with the LG for any law of Delhi legislature. The Ordinance in this regard had stated that the power to appoint authorities, boards, commissions, statutory bodies, or office bearers will lie with the President under any law.

The bill also does away with the provision included in the Ordinance that required the Civil Services Authority to submit an **annual report** to the central government and Delhi government, which will be tabled in Parliament and the Delhi Legislative Assembly.

While the ordinance stated that any matter of administrative importance which the President or the Delhi Chief Minister may consider necessary will be submitted to the LG prior to the issue of any order; the bill states that only matters of administrative importance which the chief minister may consider necessary will be submitted to the LG prior to the issue of any order.

What are the concerns related to Delhi Services Bill?

Contradicting the principles of parliamentary democracy: The decisions of the National Capital Civil Services Authority will be based on a majority, and therefore creates the possibility for the Union government appointed members to overrule the decisions of the chief minister. Further, the Bill grants LG the power to override the recommendations of the Authority. Therefore, the Bill effectively gives the central government powers over services in Delhi. This may violate the triple chain of accountability, which is an essential feature of parliamentary democracy.

The Democratic government rests on a triple chain of accountability: (i) civil servants are accountable to ministers, (ii) ministers are accountable to legislatures, and (iii) legislatures are accountable to the electorate. A democratically elected government must be able to have control over and hold accountable public officers posted in the service of his government. By separating the first link of the triple chain of accountability, the Bill may be contradicting the principles of parliamentary democracy.

The LG may not be bound to act on the aid and advice of the Council of Ministers: As per Article 239AA, the LG has to act on the aid and advice of the Council of Ministers, except when exercising his functions in his discretion. The provisions of the Bill may violate the principle of the LG acting on the aid and advice of the Council of Ministers on matters within the executive competence of the latter. They also contradict the 2018 judgement of the Supreme Court which stated that the decision-making power lies with the elected government.

For example, under the Government of National Capital Territory of Delhi (GNCTD) Act, 1991, the LG has the power to summon, prorogue, and dissolve the legislative assembly. However, he is bound to act on the aid and advice of the Council of Ministers. The Bill allows the LG to override the decision of the Council of Ministers and exercise sole discretionary powers on these matters. This implies that the Chief Minister may not be able to convene a session of the Assembly for any essential government business.

Certain terms in the Bill are unclear: The Bill specifies that in certain matters, the LG will act in his sole discretion. It is unclear how 'sole discretion' of the LG is different from 'discretion'. Under the Bill, the concerned department secretary must bring certain matters to the notice of the LG, the Chief Minister, and the Chief Secretary. These include matters which may bring the Delhi Government into controversy with the central or any state government, the Supreme Court, or High Court of Delhi. It is not clear what matters would be considered controversial.

Breaks the usual chain of command: The bill also allows department secretaries to take matters to LG, chief minister and chief secretary without consulting the minister concerned. This would break the usual chain of command as issues related to the ministry would have no input from the minister concerned. This also may go against the principle of collective responsibility of the cabinet.

Conclusion

The administrative apparatus of the Delhi government is likely to get streamlined once the Delhi Services Bill, 2023, is implemented as it will bring clarity on the issue of control of services in the national capital.

The Bill may be challenged in the Supreme Court. In July, the apex court referred the ordinance, which preceded the Delhi services bill, to a constitutional bench. It remains to be seen if the Bill clears the basic structure test.

Sources: Deccan Herald, The Wire, PRS

Small Modular Reactors: Explained, pointwise

Introduction

The Paris Agreement goals and SDG 7 has prompted an overhaul in worldwide energy supply technologies. With the advent of clean energy transition, there has been a great thrust towards adopting cleaner energy options to move towards the net zero emissions scenario by the respective countries. Apart from Renewable Energy, nuclear is also being explored as a clean energy option. Conventional Nuclear Powerplants have generally suffered from time and cost overruns. As an alternative, several countries are developing small modular reactors (SMRs) to complement conventional Nuclear Powerplants. India is also taking steps for development of SMRs to fulfill its commitment to Clean Energy transition.

Note: A clean energy transition refers to the process of shifting from conventional, fossil fuel-based energy sources to cleaner and more sustainable alternatives.

Why nuclear power is needed to supplement renewable energy?

The transition from coal-fired power generation to clean energy poses major challenges. **Solar and wind energy alone will not suffice** to provide affordable energy for everyone.

In decarbonised electricity systems with a significant share of renewable energy, the addition of at least one firm power-generating technology can improve **grid reliability and reduce costs**.

The **grid integration costs of nuclear powerplants are lower** than those associated with variable renewable energy (VRE) sources like solar and wind, because NPPs generate power 24×7 in all kinds of weather.

What are Small Modular Reactors?

As per the International Atomic Energy Agency (IAEA), the SMRs are advanced nuclear reactors with a **power generation capacity ranging from less than 30 MWe to 300 MWe**. SMRs are:

Small – physically a fraction of the size of a conventional nuclear power reactor.

Modular – making it possible for systems and components to be factory-assembled and transported as a unit to a location for installation.

Reactors – harnessing nuclear fission to generate heat for electricity production or direct application.

At present, nearly **80 SMR designs** are under development and licensing stages, and a few of them are at deployment and operational stages globally.

Broadly, SMRs are classified as:

- **Land based water cooled SMRs**: SMRs in this category include the water cooled SMR designs having different configurations of Light Water Reactor (LWR) and Pressurized Heavy Water Reactor (PHWR) technologies for on-land applications.
- **Marine based water cooled SMRs**: SMRs in this category include the water-cooled SMR designs for deployment in a marine environment.
- **High-temperature gas-cooled SMRs (HTGRs):** SMRs from this category can provide very high temperature heat of more than 750 degrees Celsius and thereby higher efficiency in electricity generation.
- **Liquid metal-cooled fast neutron spectrum SMRs (LMFRs):** SMRs in this category include designs based on fast neutron technology with different coolant options including helium gas and liquid metal coolants like sodium, lead and lead-bismuth.
- **Molten salt reactor SMRs (MSRs)**: SMRs in this category are based on molten fluoride or chloride salt in the role of coolant.
- **Microreactors (MRs)**: MRs are very small SMRs designed to generate electrical power typically up to 10 MW(e). Different types of coolant, including light water, helium, molten salt and liquid metal are adopted by microreactors.

Both public and private entities are actively engaged to realize Small Modular Reactor (SMR) technology's implementation before the end of this decade. As of now, two SMR projects have reached at operational stage globally: (i) The SMR named **Akademik Lomonosov** floating power unit in the Russian Federation (ii) The SMR named as **HTR-PM demonstration SMR** in China.

How Small Modular reactors are different from conventional nuclear powerplants?

SMRs are designed with a **smaller core damage frequency** (the likelihood that an accident will damage the nuclear fuel) and **source term** (a measure of radioactive contamination) compared to conventional NPPs.

SMR designs are also **simpler** than those of conventional NPPs and include several passive safety features, resulting in a lower potential for the uncontrolled release of radioactive materials into the environment.

The **amount of spent nuclear fuel stored in an SMR project will also be lower** than that in a conventional nuclear power plant.

What are the benefits of Small Modular Reactors?

SMRs are adaptable and scalable: SMRs are adaptable and can be scaled up or down to supply more or less power. It can also be used to supplement existing power plants with zero-emission fuel or to help repurpose ageing thermal power stations.

Refueling interval: SMR-based power plants might only need to refuel every three to seven years, as opposed to every one to two years for traditional plants. Some SMRs have a 30-year without refueling operating life expectancy.

Compact design: Land requirements in the case of SMRs are less as compared to land requirements for large reactors and renewable energy sources. SMRs are anticipated to reutilize parts of ageing/decommissioned fossil fuel based power plants.

Safety features: Extensive use of passive safety features in SMR designs, which rely on the laws of physics to shut down and cool the reactor under abnormal circumstances, provide inherent

safety. In most cases, these technologies don't need a power supply and can handle accidents without the assistance of a person or a computer.

Economical: SMRs require a low capital outlay and/or a phased capital expenditure. They have the adaptability to allow co-generation, supply heat for desalination and manufacturing etc.

SMRs are flexible: SMRs can be integrated with Renewable Energy to fulfill the need for flexibility, producing energy services, and low-carbon co-products. These can include electricity, hydrogen, synthetic fuels, hot process gases or steam. When coupled with variable energy sources SMRs can mitigate fluctuations on a daily and seasonal basis.

What are the challenges associated with Small Modular Reactors?

Technology choice issue: A large number of SMR technology alternatives are evolving at present, which are too many for sustained growth of SMR industry. A large number of technologies, if adopted for deployment at the same time, could not only create regulatory challenges for the nuclear industry but also take away some degree of cost optimization. The choices must narrow down to a few SMR designs.

Finance: The SMR industry is yet to realize fully developed operational fabrication facility for large scale serial manufacturing of SMR components. Such facility may necessitate a very large investment. There are also challenges in mobilizing finance for technology development, licensing and construction of prototype plants.

Licensing challenges: Newly developed SMR technologies may find it difficult to accommodate in the existing licensing process. The lack of experience with innovative designs within the nuclear safety regulatory organisations presents a substantial problem in examining and approving the safety standards.

Radioactive waste: SMRs also produce radioactive waste from spent fuel and require spent fuel storage & disposal facilities. Apart from the technological and cost aspects of such a requirement, this requirement can also lead to socio-political resistance.

Safeguards challenges: There is also a need to have a robust safeguards approach in place for novel technology.

Public perception and engagement: Nuclear power has faced traditional opposition due to the potential consequences of a nuclear disaster. Creating awareness is a challenge.

What are the legal and regulatory changes required for Small Modular Reactors?

The **Atomic Energy Act** will need to be amended to allow the private sector to set up SMRs.

To ensure safety, security, and safeguards, **control of nuclear fuel and radioactive waste** must continue to lie with the Government.

The government will also have to **enact a law to create an independent, empowered regulatory board** with the expertise and capacity to oversee every stage of the nuclear power generation cycle.

The Department of Atomic Energy must **improve the public perception of nuclear power** in India by better disseminating comprehensive environmental and public health data of the civilian reactors.

What should be the way forward?

Standardization of designs of components and modules will facilitate adoption of SMRs at large scale.

The existing **safety assessment methodology should be updated** for the concept of multi-module designs and emergency planning zones of SMRs.

Availability of **low-cost finance**, inclusion in green taxonomy and utilization of innovative financing instruments such as blended finance, green bonds, etc. are required to catalyze private investment.

Availability must be ensured of required **skilled personnel** across the value chain (engineering, design, testing, inspection, construction, erection and commissioning) for multi-module plants.

Strategic partnerships will be the key to successful technology development and deployment of SMRs on a large scale. Collaboration among national laboratories & research institutions, academic institutions, private companies and government departments is necessary.

These collaborative efforts would be required to be extended at the **International Atomic Energy Agency** level to coordinate with respective countries for developing an ecosystem for greater benefits.

Conclusion

SMR may complement large-size reactors to increase the nuclear share in energy mix and achieve Net Zero Emissions goals. The government will have to play a major role in consensus building towards nuclear energy by engaging relevant stakeholders.

Sources: The Hindu, Niti Aayog, IAEA

Smartphone Ban in Schools: Explained, pointwise

Introduction

The use of smartphones among students is rising due to digital revolution, especially post Covid-19. Recently, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has called for prohibiting smartphones in schools. A recent advisory issued by the Delhi government has highlighted the need for all stakeholders connected with school education to arrive at a consensus on the minimum use of mobile phones in the school environment. These developments have started a discussion on whether a complete smartphone ban in schools is necessary.

Which are the countries restricting mobile use in schools?

UNESCO says that one in four countries now have a ban or some sort of restriction on smartphone use in schools.

The **Netherlands** will ban mobile phones from classrooms in 2024. **Finland** announced a similar measure in June 2023.

Schools in United States' **Ohio, Colorado, Maryland, Connecticut, Pennsylvania, Virginia and California** banned the devices in class in 2023. Several schools in the US have had a cellphone ban since 2020.

China halted the use of mobile phones in schools in February 2021.

Schools in Australia's **Tasmania** introduced a mobile phone ban in 2020.

In 2018, **France** prohibited mobile phones for elementary and middle school students.

The **United Kingdom** has earlier supported banning mobile phones in schools.

While **India** does not have a legal ban on smartphones in schools, state governments and school administrations take their own call on the matter.

What is the evidence from India about smartphone usage among school students?

The **State of Elementary Education in Rural India report**, released in August 2023, found the following:

- Around 49.3% of students in rural India have access to smartphones.
- However, a significant portion, 76.7% of these students primarily use their phones for entertainment purposes, such as playing video games and watching movies.
- Only 34% of smartphone-accessible students use their devices for study-related downloads, while 18% access online learning through tutorials.

What are the arguments in favour of smartphone ban in schools?

Digital devices cause **distraction in classes**. UNESCO said there was evidence that excessive mobile phone use was linked to reduced educational performance. Studies using data from large-scale international assessments, such as **PISA**, indicate a negative association between excessive ICT use and student performance.

According to a 2015 London School of Economics research, **banning mobile phones at schools resulted in higher test scores,** with low-performing students benefiting the most.

Research published by the University of Chicago found that the **mere presence of cellphones reduces the cognitive capacity of people**.

A study conducted in Spain said that **banning mobile phones in schools led to a fall in bullying incidents**. Similar results were found by researchers in Norway.

UNESCO report also said that high levels of screen time had a **negative effect on children's emotional stability**. Psychologists also advocate that mobile phones are addictive in nature, and can hinder concentration and social skills, and cause increased anxiety and mental illness.

The **Annual Status of Education Report (ASER)** has repeatedly highlighted **poor learning outcomes** in Indian schools. In this context, use of smartphones in classrooms will further worsen the situation.

Introducing mobile phones in schools may **exacerbate existing social disparities**. Not all students have equal access to smartphones or reliable internet connections outside of school. This can create a **digital divide**, where some students benefit from the educational advantages of mobile phones while others are left at a disadvantage.

What are the arguments against smartphone ban in schools?

A complete mobile ban may not be a solution, especially in an increasingly digital age.

In 2014, a UNESCO study found that **smartphones in developing nations could help millions to read who have no access to educational and reading material**.

According to the report on mobile readers in developing countries, about 62 per cent of respondents said they were reading more using their mobile phones. The report suggested that mobile reading could potentially benefit women living in countries where they face cultural or social obstacles to accessing books.

Research by the University of Warwick in 2017 found that mobile phone apps can **revolutionise school learning in developing countries** where educational resources are scarce.

Mobile phones also act as a mode of communication between parents and their children in schools, and some families encourage pupils to carry the devices for **safety reasons**.

The **National Education Policy (NEP) 2020** emphasizes the use of technology and digital learning. In this context, a complete ban on smartphones in schools will go against the NEP's approach towards technology.

What should be the way forward?

Instead of a complete ban, an **age restriction** can be put on when students can bring phones into the classroom.

More **face-to-face interaction** must be promoted to maintain academic integrity and to foster a healthy learning atmosphere.

Students must be given **digital literacy** and sensitised to the pros and cons of smartphone usage. In the age of AI, they should be made aware of how to smartly use devices.

Governments should **put learners first**, and policy-makers must come up with some kind of **school safety policy**.

Conclusion

Digital technology, including artificial intelligence, should always be subservient to a human-centred vision of education, and never replace face-to-face interaction with teachers and neglect the social dimension of education. The digital revolution holds immeasurable potential but, just as warnings have been voiced for how it should be regulated in society, similar attention must be paid to the way it is used in education.

Sources: The Hindu, Firstpost,

Elephant conservation: Explained, pointwise

Introduction

As World Elephant Day is celebrated, India takes pride in its significant elephant numbers. Elephant conservation has been largely a success story as India is home to about 30,000 elephants, which is more than 60% of the global wild Asian elephant population. The population in India is distributed across southern, northeastern, east-central and northern regions. While the number of elephants in India has increased in the past few years, the species is listed as 'Endangered' on the IUCN Red List of threatened species. India acknowledges the importance of elephants by recognising them as National Heritage Animal.

What is the role of elephants in the ecosystem?

Elephants serve a critical role in the ecosystem and are therefore known as a **keystone species**. Keystone species are those that provide vital ecosystem services, many of which are essential for the survival of other species in the community.

Seed dispersal: Elephants consume a wide variety of fruits, nuts, and plants. As they travel, they excrete the undigested seeds along with their dung. This process helps in dispersing seeds over large distances, contributing to plant regeneration and biodiversity.

Water Hole Creation: Elephants dig for water and create new watering holes, which allow them to survive during the dry season. These water sources benefit a wide range of species, including smaller mammals and birds, especially in arid regions.

Nutrient Cycling: Elephants consume a large quantity of vegetation daily, and their dung is rich in nutrients. When elephants move through the landscape, they deposit these nutrients in various areas, contributing to nutrient cycling and enhancing soil fertility.

Create new paths: Elephants are known as "ecosystem engineers" due to their ability to shape their environment. They create pathways through dense vegetation, which benefits other species by providing easier access to resources. Similarly, elephants pull down and uproot thorny bushes, which further helps in clearing safe pathways for smaller animals. The clearance of some thorny bushes also allows more light to reach the ground, which promotes the growth of new plant species and reduces competition.

Finding natural salt licks: Elephants use their sense of smell to detect areas in the ground that have large quantities of minerals. These salt lick sites are not only used by elephants, but also other herbivores who may need to increase their mineral intake.

What are the challenges in elephant conservation?

Habitat Loss and Fragmentation: Habitat loss is widely considered a major threat to Indian elephants. From expanding human settlements and mining to converting land to plantations and linear infrastructure, many activities can block migratory elephant routes and drive them into smaller subpopulations. When animals are forced into smaller pockets of populations, they risk losing genetic diversity and have a higher chance of dying from disease and natural disasters. When accounting for climate change projections, scientists predict that the elephant population in the country could lose over 40% of its habitat by 2070.

Elephant corridors: Elephant herds are known to migrate across 350-500 sq. km. annually. As elephant habitats have been fragmented, the pathways connecting them—called corridors—have become increasingly important for allowing elephants to access resource. But anthropogenic pressures have also contributed to extreme degradation of large parts of elephant corridors. As per the latest estimate, 101 elephant corridors exist in the country, with many facing the threat of being cut off.

Human-Elephant Conflict: Increasingly fragmented landscapes are driving the elephants more frequently into human-dominated areas. Elephants raid plantations and crop fields in their quest for food or move between forest patches, giving rise to more man-animal conflicts. They lead to the death and injury of human beings and retaliatory killings of elephants. On average, about 500 humans and 100 elephants are killed every year across the country in such confrontations. This is amongst the biggest threats to the survival of elephants in the wild.

Poaching: Poaching remains a threat to elephants. Since only males have tusks, poaching has resulted in a highly skewed male-female ratio in many areas. In some areas, the normal level of 1:12 (male-female) has been distorted to 1:100. This abnormality seriously affects the genetic viability of the populations. Poaching for meat, skin and other products like tail hair also threatens elephant populations, especially in northeast India.

Insufficient funds: Project Elephant's budgetary allocation has remained around Rs 30-35 crore on average for several years now. The Rs 35 crore allocated in FY 2022-2023 is effectively just Rs 1.09 crore per year per reserve, whose average size is 2,400 sq.km.

Other challenges: There are 33 elephant reserves in India but they don't promise greater standards of protection of elephant habitats because they are not recognised under any law. As a result, governments easily divert elephant reserves and corridors for various projects, although mining and linear infra projects are especially destructive.

The environment ministry is yet to implement several expert committees' recommendations. For example, the **elephant task force (ETF)** submitted its report in 2010 but the government has implemented none of these recommendations. In 2019, the elephant cell under Project Elephant formed a committee to prepare a '**National Elephant Action Plan'**, to frame time-bound strategies and action plans to manage and conserve elephants. The action plan is still not ready.

What are the legal protections given to the Asian elephants?

The Asian Elephant has been given the highest level of protection in India by its inclusion in **Schedule 1** of the **Wildlife (Protection) Act 1972**.

Asian Elephants are also included in Appendix I of the **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**.

In 2019, with the efforts put in by the Indian Government, the Indian elephants have now been included in the **Appendix I** of the **Convention of Migratory Species (CMS).**

What are the steps taken by the government for elephant conservation?

Project Elephant was launched by the Central Government in 1992 as a Centrally Sponsored Scheme with following objectives: 1. To protect elephants, their habitat & corridors 2. To address issues of man-animal conflict 3. Welfare of captive elephants. The Ministry of Environment, Forest and Climate Change provides the financial and technical support to major elephant range states in the country through Project Elephant.

Note: Recently, Project Elephant has been merged with Project Tiger. A common allocation will fund both. The administrative setup for the two schemes will continue to exist separately.

Various other **Centrally Sponsored schemes** being implemented by the Ministry of Environment, Forest & Climate Change (MoEF&CC) contribute to the improvement in the natural habitat of elephants by augmenting water sources, planting of fodder trees, regeneration of bamboo etc.

The Compensatory Afforestation Fund Act 2016 and the Rules made there under also provide for use of the fund for development of wildlife habitats, including for elephants, establishment of animal rescue centres, etc.

To reduce human-elephant conflict and to avoid retaliatory killing of elephants, **compensation** is being provided to local communities for loss of their property and life caused by wild elephants.

The Government also provides **crop insurance** to the farmers for their crops being damaged by wild animals under Pradhan Mantri Fasal Bima Yojana.

An **advisory on dealing with human-wildlife conflict** has been issued by the Ministry in February 2021.

To **minimise the adverse impact of existing railway lines** on elephants and other wildlife, recently, 110 critical sites over 1,800 km on existing railway lines were identified by MoEF&CC and state forest departments. Mitigation strategies will be undertaken on these sites with the cooperation of railway ministry.

The MoEF&CC's **Land Use Land Cover analysis** of elephant reserves for states will offer a detailed approach towards elephant conservation.

What should be the way forward for elephant conservation?

The Elephant Task Force report laid out an actionable and progressive framework for elephant conservation. Its recommendations are still relevant.

Elephant reserves should be accorded the status of being '**ecologically sensitive areas'** under the Environmental (Protection) Act 1986.

A statutory body in line with the National Tiger Conservation Authority, named the **National Elephant Conservation Authority** (NECA) should be formed.

To create a more co-ordinated and science-based mitigation strategy for human-elephant conflict, a permanent **Conflict Management Task Force** should be formed for the review of existing conflict mitigation strategies and recommend site-specific strategies at the reserve level.

All the **elephant corridors should be notified** by respective state governments.

Different **'no-go' and 'slow-go'** zones should be created in the elephant reserves for the regulation of developmental activities.

Financial support should be increased considerably for elephant conservation as elephants need large areas to move around and protecting such large landscapes needs money.

Sources: Times of India, The Wire

Bharatiya Nyaya Sanhita Bill: Explained, pointwise

Introduction

The government has introduced three bills- Bharatiya Nyaya Sanhita (BNS) Bill 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS) Bill 2023, and Bharatiya Sakshya (BS) Bill 2023 to replace the Indian Penal Code (IPC) 1860, Criminal Procedure Act 1898, and the Indian Evidence Act 1872 respectively. The Union Home Minister, while introducing these laws, remarked that these laws were made 160 years ago with an aim to create an atmosphere in favour of the British authority in London. Here we take an in depth look Bharatiya Nyaya Sanhita (BNS) Bill 2023 which seeks to replace the IPC.

Brief history of IPC

The 164-year-old IPC, which defines crimes and prescribes their punishment, is at the heart of Indian criminal justice system. The architect of this law was an English lawyer, Thomas Babington Macaulay.

The Charter Act, 1833, established a law commission (1834), and Macaulay was appointed its chairman. It is in this position that he embarked on consolidating and codifying the criminal laws of India.

The codification of criminal laws was needed as a mix of Hindu, Muslim and British laws was applicable across the country.

Then there was the problem of the same crime having a different punishment depending on whether it took place in the presidency of Calcutta, Madras or Bombay.

Also, the British lawmakers had not codified their criminal law, so there was no template to follow.

It is in this context that the IPC was drafted. It was enacted by the British colonial government in 1860 and came into effect in 1862.

What is the need for the Bharatiya Nyaya Sanhita (BNS) Bill?

For a long period, it has been a recognized that a revamp the criminal justice system in India is necessary. The existing laws, stemming from the colonial era, no longer represent the present-day dynamics and aspirations of Indian society.

The Law Commission of India had recommended reforms to India's criminal justice system in its various reports.

Committees like the Bezbaruah Committee, Viswanathan Committee, Malimath Committee, Madhav Menon Committee had also recommended reforms.

The Parliamentary Standing Committee on Home Affairs had also recommended reforms in its 111th report in 2005, 128th report in 2006, and 146th report in 2010.

In 2020, the Ministry of Home Affairs (MHA) has constituted a national level committee for reform in criminal law under Ranbir Singh, former Vice Chancellor of National Law University (NLU), Delhi.

The government reviewed the existing criminal laws with an aim to strengthen law and order and also focus on simplifying legal procedure so that ease of living is ensured to the common man.

What are the key provisions of the Bharatiya Nyaya Sanhita (BNS) Bill?

Sedition: With respect to IPC, section 124-A deals with offence of sedition, prescribing sentence of life imprisonment or imprisonment which may extend to three years, to which fine may be added. Meanwhile, the BNS Bill's provision 150 under the chapter pertaining to offences against the State covers acts endangering sovereignty, unity and integrity of India.

Mob lynching: The BNS Bill has incorporated a specific provision for mob lynching and stipulated punishment ranging from seven years in jail to the death penalty for those convicted of the crime.

Terrorism: Terrorism is listed as separate offence. Terrorist acts have been defined as acts that disturb public order; intimidate the general public; or threaten the unity, integrity and security of India. Commission of such acts, either by use of explosives, or by destroying property or critical infrastructure etc can attract a minimum imprisonment of five years, life imprisonment and even death in some cases.

Organized crime: The bill provides a comprehensive definition for 'Organised Crime' – including the offences of kidnapping, robbery, trafficking, and other economic and cyber crimes, when committed by a group of individuals, whether as members of a crime syndicate or for such a syndicate.

Community Service: The BNS also calls for community service as a punishment for petty offences, which will be the part of penal code for the first time. The introduction of community service makes it a bit similar to the US, where the punishment is given for offences like vandalism, petty theft, and drunk driving.

What are the concerns with Bharatiya Nyaya Sanhita (BNS) Bill?

Ambiguity: The bill omits the offence of sedition by name. However, a new offence has been added that criminalises exciting secession, armed rebellion, subversive activities or encouraging separatist feelings. The framing of this provision has a striking resemblance to that of sedition. It continues to criminalise ambiguous acts of 'exciting secession' and 'encouraging separatist feelings', without defining subversive, secessionist and separatist activities.

No break from colonial legacy: Presented as a method to distance from the colonial inheritance, the bill, in reality, makes minimal progress in this objective. While Macaulay's IPC rested on the principle that punishments instill fear, deterring criminal activity, the bill reinforces this principle. It does so by continuing to rely on long-term imprisonments and the death penalty, by adding and increasing mandatory minimum sentences for certain offences, and by retaining vague definitions for offences against the state as well as for defamation.

Conclusion

Asa the Bill is referred to a parliamentary standing committee, one hopes that steps will be taken to minimise vagueness and looseness of definitions, and to bring the bill more fully in step with changes in society and advent of new technologies.

Sources: Times of India, The Hindu, Indian Express