

GS 2 NOTES

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FEATURES :

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- **To The Point Content, Concise, Easy to Revise**

Supplemented by Recommendations From International Bodies and Reports

NOTE : A LOT OF CONTENT IN GS2 OVERLAPS WITH INDIAN POLITY BY M. LAXMIKANTH WHICH ALL UPSC ASPIRANTS REFER ANYWAY, SO WE WON'T BE COVERING THAT IN OUR NOTES, OUR EFFORTS HAVE BEEN TO PROVIDE REST OF THE CONTENT WITH RESPECT TO UPSC MAINS GS2

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UPSC GS2 SYLLABUS : INDIAN CONSTITUTION—HISTORICAL UNDERPINNINGS, EVOLUTION, FEATURES, AMENDMENTS, SIGNIFICANT PROVISIONS AND BASIC STRUCTURE

Basic Structure Doctrine

Basics of the Basic Structure Doctrine

- According to the Constitution, Parliament and the state legislatures in India have the power to make laws within their respective jurisdictions.
- This power is not absolute in nature as the Constitution vests the power in Judiciary to check the constitutional validity of laws.
- Since framers of the constitution wanted to make the Constitution as an adaptable document hence they incorporated Art368 in the Constitution.
- **Article 368** of the Constitution gives the impression that Parliament's amending powers are absolute and encompass all parts of the document.

- But with the intention of preserving the original values & ideas of the Constitution, the Apex court has applied many brakes on legislative enthusiasm under the purview of Basic structure Doctrine .
- The phrase '**basic structure**' itself **cannot** be found in the Constitution.
- The Supreme Court recognized this concept for the first time in the historic **Kesavananda Bharati case in 1973**.

Kesavananda Bharati case

- In the Kesavananda Bharati case (1973), the Supreme Court **overruled its judgment** in the Golak Nath case (1967).
- In the Golak Nath case, the Supreme Court ruled that the **Fundamental Rights** are given a '**transcendental and immutable**' position and hence, the Parliament cannot abridge or take away any of these rights. A constitutional amendment act is also a law within the meaning of Article 13 and hence, would be void for violating any of the Fundamental Rights.
- In **Kesavananda Bharati Case**, the Supreme Court upheld **the validity of the 24th Amendment Act (1971)** and stated that Parliament is empowered to abridge or take away any of the Fundamental Rights.
- At the same time, it laid down a new doctrine of the '**basic structure**' (or '**basic features**') of the Constitution.
- It ruled that the constituent power of Parliament under **Article 368 does not enable** it to alter the '**basic structure**' of the Constitution.
- This means that the Parliament **cannot abridge or take away a Fundamental Right** that forms a part of the '**basic structure**' of the Constitution.

Various other Cases which Reaffirmed the Doctrine of Basic Structure

- **Indira Gandhi Case (1975) -** The doctrine of basic structure of the constitution **was reaffirmed**.
- Again, the **Parliament reacted** to this judicially innovated doctrine of 'basic structure' by enacting the **42nd Amendment Act (1976)**.
- This Act amended **Article 368** and declared that there is **no limitation** on the constituent power of Parliament and **no amendment can be questioned in any court** on any ground including that of the contravention of any of the Fundamental Rights.
- However, the Supreme Court in the **Minerva Mills case (1980)** invalidated this provision as it excluded **judicial review** which is a '**basic feature**' of the Constitution.
- Again in the **Waman Rao case(1981)**, the Supreme Court adhered to the **doctrine of the 'basic structure'** and further clarified that it would apply to **constitutional amendments** enacted after **April 24, 1973** (i.e., the date of the **judgement in the Kesavananda Bharati case**).

Features of Basic Structure

1. Supremacy of the Constitution
 2. Sovereign, democratic and republican nature of the Indian polity
 3. Secular character of the Constitution
 4. Separation of powers between the legislature, the executive and the judiciary
 5. Federal character of the Constitution
 6. Unity and integrity of the nation
 7. Welfare state (socio-economic justice)
 8. Judicial review
 9. Freedom and dignity of the individual
 10. Parliamentary system
 11. Rule of law
 12. Harmony and balance between Fundamental Rights and Directive Principles
 13. Principle of equality
 14. Free and fair elections
 15. Independence of Judiciary
 16. Limited power of Parliament to amend the Constitution.
 17. Effective access to justice
 18. Principles (or essence) underlying fundamental right
 19. Powers of the Supreme Court under Articles 32, 136, 141 and 142
 20. Powers of the High Courts under Articles 226 and 227.
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UPSC GS2 SYLLABUS : FUNCTIONS AND RESPONSIBILITIES OF THE UNION AND THE STATES, ISSUES AND CHALLENGES PERTAINING TO THE FEDERAL STRUCTURE, DEVOLUTION OF POWERS AND FINANCES UP TO LOCAL LEVELS AND CHALLENGES THEREIN.

BASICS OF DIVISION / DEVOLUTION OF POWER AMONG UNION AND STATES AND LOCAL LEVEL

- Decentralisation can be usefully understood as a political process whereby administrative authority, public resources and responsibilities are **transferred from central government agencies to lower-level organs of government or to non-governmental bodies**, such as community-based organisations (CBOs), 'third party' non-governmental organisations (NGOs) or private sector actors.
- Conceptually, important distinctions can be made among:
 - **deconcentrating**, in which political, administrative and fiscal responsibilities are transferred to lower units within central line ministries or agencies
 - **devolution**, in which sub-national units of government are either created or strengthened in terms of political, administrative and fiscal power

- **delegation**, in which responsibilities are transferred to organizations that are ‘outside the regular bureaucratic structure and are only indirectly controlled by the central government,’
- **privatization**, in which all responsibility for government functions is transferred to nongovernmental organizations (NGOs) or private enterprises independent of government

Political, Administrative and Fiscal Decentralization

Political decentralisation transfers policy and legislative powers from central government to autonomous, lower-level assemblies and local councils that have been democratically elected by their constituencies.

Administrative decentralisation places planning and implementation responsibility in the hands of locally situated civil servants and these local civil servants are under the jurisdiction of elected local governments.

Fiscal decentralisation accords substantial revenue and expenditure authority to intermediate and local governments

- However, democratic decentralisation implies more than the downward delegation of authority. Crucially, it entails a system of governance in which citizens possess the right to hold local public officials to account through the use of elections, grievance meetings and other democratic means.

Democratic decentralisation can be defined as meaningful authority devolved to local units of governance that are accessible and accountable to the local citizenry, who enjoy full political rights and liberty. It thus differs from the vast majority of earlier efforts at decentralization in developing areas, which go back to the 1950s, and which were largely initiatives in public administration without any serious democratic component.

WHY DO WE NEED DECENTRALISATION –

- In Enhancing the **opportunities for citizens to participate** in decision making process
- to promote and **use local knowledge for development** and to give greater sense of ownership to the stakeholders on the development
- to put in front the **informal local mechanisms for the management of resources**
- to promote **effective partnership between state and society** projects for their sustainability & enhance associational **activities at the lower level**
- to enhance the **cooperation between government and lower level associations and NGOs**

- to increase the **accountability of the officials** and the elected representatives and political institutions and to **enhance the responsiveness of government** as well as to enhance the transparency of government
- to **drain out the frustration of people** with political ambition to enable them to play officials roles and to **equip people with skill of negotiation and bargaining**. This will improve the collective action potential
- to start & **promote the planning, evaluation and monitoring from below** and will build the capacity of the people for the rediscovering the local dimension of development
- For improving the **efficiency in service delivery** and to recognize the potentials of the local governments
- to adhere to the **global demand of democratization**
- For converting the noise of the poor into voice of the **poor to promote equity, alleviate poverty and for empower women**

DECENTRALISATION AND POVERTY REDUCTION

- The case for democratic decentralisation is also predicated upon the notion that **greater participation in local political affairs will improve the quality and reach of government services**, particularly ones aimed at improving the lives of poor and politically marginal groups in society.
- Although there is of course great variation among cultures, countries and regions, we can identify a **number of roles that governments typically play in poor and predominantly rural areas**:
 - **one is the provision of public goods**, such as universal education and healthcare;
 - **a second is the provision of divisible goods**, such as irrigation, agricultural extension and credit;
 - **a third is the determination and enforcement of laws** regulating key economic inputs, such as land, labour and capital;
 - **a fourth and critical element is the recognition and protection of rights** allowing for organisation, association and entitlement in the eyes of the state
- Studies of decentralisation have shown that **devolution of authority can enhance systems of local governance** in a number of ways.
- First, the establishment and empowerment of local resource user groups (delegation or privatisation) can **improve the ways in which local people manage and use natural resources**, thereby improving the resource base on which poor people are often disproportionately dependent.
- Second, and related to this, collaboration between public agencies and local resource users can **produce 'synergistic' outcomes, in which citizens and civil servants cooperate to provide goods** that would be unobtainable were they acting alone. Classic examples of this would include joint forest management (IFAD, 2001), fisheries co-management and participatory watershed management.

- Third is the democratisation and empowerment of local administrative bodies can **enhance participation in decision-making fora**, particularly among groups that have traditionally been marginalised by local political processes.

DECENTRALISATION IN INDIA

- Decentralization can be defined as **transfer or dispersal of decision making powers**, accompanied by delegation of required authority to individuals or units at all levels of organization even if they are located far away from the power centre.
- The most significant step in this regard was taken by the **historic resolution of the Government of Lord Ripon in 1882**. Lord Ripon was the first to initiate what may be called decentralization discourse during the colonial regime.
- In India the **Panchayati Raj Institutions can set an example for the world to emulate** in the matter of democratic decentralization. On the first point of decentralization there are broadly three views.
- **The Balwantrai Mehta Report** favoured the block as being nearest to the people (1957). The **Sukhamoy Chakravarty (Economic Advisory Council, 1984) Report** on decentralization of planning considered even the district to be too small for proper area planning.
- **The Ashok Mehta Report (1978) on the Panchayati Raj**, however, categorically favoured the district because historically it had been the pivot of local administration for centuries and also because the requisite expertise for planning and related purposes could be mustered at this level and not lowered.
- **The Dantwala Report (1978) on block level planning** and the **Hanumantha Rao Report (1984) on district planning** endorsed this view in essence.
- The principal thrust of the Balwant Rai Mehta Committee report was **towards decentralization on democratic institutions** as an effort to shift decision centres close to the people to enable their active and continuous participation under local popular control.
- **The Ashok Mehta committee's** principal thesis was the functional necessity for decentralization of administration level closer to the people.
- **Both the Balwant Rai Mehta Committee report and the Ashok Mehta Committee reports** can be considered as landmarks in the history of democratic decentralization in India.
- With the introduction of the **73rd and the 74th Constitutional Amendments**, the decentralization has been democratised and the scope of democracy has expanded to include the women, OBCs and dalits at the grass root level.
- Prior to this the **dominant social groups exclusively dominated the institutions of local self-governance**. This defeated the very purpose of democracy. Democracy has to be grounded in the reality of society.
- This view of democracy can be termed as substantive **democracy**. In the past two decades, in India substantive democracy has found a significant place in the discourse on democracy.

Democratic Decentralisation in Rural Areas

- After independence, **rural development forms the crux of India's development strategy**. Rural development programmes **aim at the improvement of the living standards of the rural poor** by providing them opportunities for the optimum utilization of their potential through active participation in the development process.
- In order to improve the participation of rural people in the process of development and involvement in decision-making and decentralized planning, **the government of India has made 73rd Constitutional Amendment in 1992** to provide constitutional recognition to Panchayati Raj Institutions.
- The constitution through 73rd amendment, **visualizes panchayats as institutions of local self-governments**, it is subjected to the extent of devolution of powers and functions to the will of the state legislature. For the first time, self-government is located at the Panchayat level.
- The amendment provides for **decentralized governance at the district and even lower levels**. It has created people-centred institutions at the district, block and village level.
- The amendment devolved a **package of powers and functions, to Panchayati Raj institutions**. The eleventh schedule lists out 29 subjects to be transferred to panchayat raj bodies.
- The Panchayat Raj institutions are responsible for the **planning and implementation of programmes** related to social justice and economic development.
- The constitutional amendment has provided for the **establishment of the State Election Commission and State Finance Commission**. With the establishment of these commissions in the states, there is a considerable improvement in the process of democratic decentralization in rural areas.

73rd AMENDMENT ACT

- The 73rd Constitutional Amendment Act was **passed by the Parliament in April 1993**. The Amendment provided a **Constitutional status to the Panchayati Raj Institutions** in India through insertion of **Article 243 to Part IX of Indian Constitution**.
- The Act was enforced upon all the state governments through **Constitutional Amendment in Article 243 M**, that all states should amend their Panchayat Acts in conformity with the Constitutional provisions.
- It was meant to provide constitutional sanction to establish "**democracy at the grassroots level as it is at the state level or national level**"

ISSUES -

- The first lacuna with the 73rd CAA is that its **delegated powers and functions to the PRIs are subject to the federal division of powers** in the Seventh Schedule of the Constitution.

- The word 'may' (in Article 243G) implies that the sharing of power with panchayats depends on the **political will and political alignment** at the state level.
 - Under the constitutional scheme of devolution, the **state government enjoys the custody of the PRIs**. Moreover, the party politics subverts the constitutional scheme of democratic decentralization of power.
- **Article 243D also specifies the mandatory rotation** – it means that after the completion of tenure, there is no reservation even though they can contest the election.
 - These norms are **more detrimental to the SC and ST communities** because this gives rise to the concept of Shaking -Hands.
- With regard to the functional domain, the 29 **functions listed in the 11th Schedule are merely illustrative and indicative**.
 - **Most of the states have delegated only traditional civic functions** rather than developmental responsibilities.
- The new Amendment Act has devolved twenty-nine subjects as functions rather than activities or sub-activities of panchayats. The issue here is that **the fund allocation does not take into account the functions in toto**. The fund gets allocated to different varieties of activities within a function.
- The 73rd CAA has mentioned the mandatory establishment of the Gram Sabha. Article 243B defines the composition of Gram Sabha. However, **it fails to stipulate the powers and functions of Gram Sabha**. However, there is no uniformity in the statutes and functions of the Gram Sabha across the country.
- The **development functions supposed to be performed by the PR bodies** are still a distant dream. Many chairpersons and members of PR bodies feel deprived not because of their direct or indirect elections but **lack of meaningful stake in local governance**.
- The **traditional bodies like 'collectives' or 'gavki'** in Maharashtra and CVCs in Karnataka are functioning parallel to the village panchayats. In Maharashtra, gavki is dominated by the upper castes and elite landlords. Despite having no legal sanctity, **these bodies are more powerful than elected representatives at village level**.
 - The **Khap panchayat is another example** of the traditional body that exercises powers parallel to the village panchayat especially in Jat-dominated areas of North India.
- One of the main objectives of the 73rd CAA is to empower the weaker sections by offering the constitutional halo to the PRI bodies. However, in reality, **certain state governments are passing more and more obstructive laws against these sections of the society**.
- The Act offers little to the panchayats by way of functions, powers, and resources to shape them as "units" of self-government. **This has been left to each state legislature to determine**, and past experience has shown that the states are always reluctant to part with power.
- The reservation provision for chairpersons of panchayats could affect the smooth working of these bodies, and is **likely to be misused by the party in power at the**

state level to weaken the strongholds of opposition parties by reserving certain of these offices for ST, SC, and women.

- There has been a **prolonged delay by the state governments** in transferring these constitutionally desirable powers and functions to the local bodies by state legislation.
- The **lack of devolution of functional and financial powers** and the lack of will power of legislative and executive authorities made Panchayati raj a toothless tiger.
- **Governments have failed to protect the interests of the poor** and even failed to protect and strengthen the planning process at the micro level, such as in the development of agriculture, minor irrigation systems, social welfare, and so on.
- **Political considerations played a major role in patronage distribution** and the PR bureaucracy was not free to make objective decisions in distributing and administering annual grants to various panchayats.

SUGGESTIONS

- There should be a **clear-cut demarcation between** the state and Panchayati Raj bodies and also among the three-level local bodies.
- The Standing Committee on Rural Development recommended that the **Ministry should monitor the release and expenditure of Finance Commission grants** to ensure that there is no delay in their release.
 - It should also be ensured that **grants are utilised in a proper and effective manner**. Panchayats should also be encouraged to carry out local audits regularly so that Finance Commission grants are not delayed.
 - The center also needs to **financially incentivize states** to encourage effective devolution to the panchayats in functions, finances, and functionaries.
- The Ministry should make serious efforts towards **recruitment and appointment of support and technical staff** to ensure the smooth functioning of panchayats.
 - **Training should be provided to local representatives** to develop expertise so that they contribute more in planning and implementation of policies and programmes.
- It might be **wise to let conventions secure shares in panchayat leadership** for the disadvantaged groups rather than relying on a legislative stick.
- **States should adopt the concept of ‘activity mapping’**, wherein each state clearly delineates the responsibilities and roles for the different tiers of the government in respect to the subjects listed in the Schedule XI.
- **Karnataka has created a separate bureaucratic cadre for Panchayats** to get away from the practice of deputation of officials who often overpowered the elected representatives.
 - Such practices need to be replicated in other states for strengthening the true character of local self governance.
- It **needs to strengthen the planning process at the micro level** for overall rural development and provide opportunities for the poor to participate in decision-making in PR bodies.

- A **comprehensive concept of panchayati raj is needed**, one that has a political as well as development and planning component.
- There is a **need to set up the boundaries of the PRI bodies** so that they can function without any criss-cross of responsibilities.
- The new PRIs must be seen as the **third tier of governance**

Democratic Decentralization in Urban Areas

- India, like many other developing countries, has been **experiencing rapid growth in recent decades**. India's urban population, which was hardly 10 percent at the beginning of the 20th century, reached 31.16 % as per 2011 census.
- As there were the structural, functional & financial deformities hence from time to time **many committees and commissions are appointed** to suggest measures to revitalise them. Almost all committees recommended strengthening the Urban Local Bodies (ULBs).
- **To strengthen urban governance, parliament enacted the 74th Constitutional Amendment Act 1992.** This Act provided constitutional recognition as a milestone in the history of Urban Local Bodies.
- This amendment not only **provides a constitutional status to the urban local governments**, but also a number of other measures are incorporated to **strengthen their democratic functioning, resources and powers**.
- This Act is **intended to give a more focused thrust to decentralization** and the creation of a democratic governance structure in urban areas.

Democratic Decentralisation in Tribal and Schedule Areas

- Special provisions are made in the constitution through the **Fifth and Sixth schedules** to protect the interests of Tribals their autonomy and rights.
- The **Fifth Schedule envisages notification of tribal dominated areas as Scheduled areas** and the formation of Tribal Advisory Council at the state level.
- The **Sixth Schedule provides for establishing autonomous district councils and autonomous regions** empowered with legislative judicial, executive and financial powers.
- The government of India has appointed a **committee headed by Dileep Singh Bhuria** to work out the details as to **how structures similar to panchayati raj institutions can take shape in tribal and scheduled areas**. The following are the main recommendations of the committee.

Gram Sabha

- Every habitation community has a Gram Sabha which will **exercise command over natural regions, resolve disputes and manage institutions** under it, like schools and cooperatives.

Gram Panchayat

- Elected body of representatives of each Gram Saha, **also to function as an appellate authority** for unresolved disputes at lower level.

Block / Taluk Level Body

- This is **the next higher-level body suggested by the committee**. In addition to this the committee has suggested an elected body of autonomous district council at the district level with legislative, executive and judicial powers for tribal areas covered under the Sixth Schedule. **Bhuria Committee has also recommended the powers and functions of the three levels in detail.**
- The Committee also proposed in general terms that **the scheduled areas and tribal areas should be vested with adequate powers to deal with the problems** like growing indebtedness, land alienation, deforestation, ecological degradation, displacement on account of industrialization and modernization, excise policy, alcohol and drug addiction, hydel and water resources etc.
- In accordance with the recommendations of the Bhuria Committee, an Act was passed on 24th December 1996 **extending the provisions of part-IX of the Constitution relating to the Panchayats to the scheduled areas.**

ISSUES / CHALLENGES

Issues and Challenges faced by Indian Federalism

- **Regionalism:** Regionalism establishes itself through **demands for autonomy** on the grounds of language, basically. These demands are **usually never silent methods of request**, rather they tend to take major violent forms; disrupting the political and cultural environment of the nation as a whole.
 - The nation thus **faces the challenge of internal security in the form of insurgency** and this causes upheavals in the basic notion of Indian federation. **Regionalism or love for one's area**, despite India's tradition of successful federal rule over the years since independence, still raises its head in different parts of the country.
- **Division of Powers:** Article 200 (reservation of State Bills by the Governor for consideration of the President), emergency provisions under Article 352, 356 and 360 and compulsory compliance by the States with the executive power of the Centre under Article 256 and 257 **amount to centralisation of power which has been the major concern among the states.** Centralisation is as such a threat to Indian federalism.

- **Absence of Fiscal Federalism:** Despite the enlargement of the shareable pool under the 80th Amendment which includes all central taxes, the revenue accruals of the Centre and the **States have not seen any major changes.**
- **Asymmetrical sharing of revenue and resource crunch at the periphery** results in uneven development across the country. The current Goods and Services Tax measure is feared by many states **to be against fiscal federalism in India.**
- **Centralized Planning:** The vivid example of Centre's assumption of sole authority over the planning or Centralized planning is the **establishment of a Planning Commission, now known as NITI Aayog.** This committee is appointed by the centre; hence it **indirectly underlies the grounds of a state's dependency on the Centre for financial aid.**
 - Such hegemony over the financial planning of a country makes the Centre go **against the basic federal structure of India** as it becomes quite clear that Centralized planning as such **nullifies the primary rule of a federation and its requirement of the division of power** between the Centre and the State.
- **Unequal Representation of Units:** In India, **there is no such provision of an equal representation of states in the Rajya Sabha**, the Second Chamber and nor the states have any substantial say over the amendments done to the Constitution from time to time.
- **Indestructible Union with Destructible Units:** Unlike successful federations, India Constitution **doesn't have the provision for the secession of states from the Union of India.** The Union has been made indestructible with a view to protecting unity and integrity in a country like India.
 - However, this typical Indian arrangement checks the growing demand for secession from the Indian Union.
- **Governor's Office:** The most important power of the Governor which sometimes comes in conflict with the federal structure of the country is the power vested upon him by Article 154 of the Indian Constitution which states that **all the executive powers of the state are held by the Governor.**
 - Centre's visible arbitrariness in **misusing such constitutional office has been the subject of acrimonious debates** and divergent opinions in the country. The abuse of the power under Article 356 by the Central Government is replete in the political history of the country.
- **Single Constitution and Citizenship:** The quasi-federal structure of the Indian governments, as we know, requires the administration to be divided between the State and the Centre.
 - But the **inculcation of Single Citizenship and Single Constitution somewhere beats the sketch of such a structure.** The provision of Single Citizenship does not consider a citizen's identity as a member of a particular state. This **indirectly establishes that the most integral of powers still remains and shall always remain with the Centre alone.**

- **External Forces:** Not only insurgency but **violent forms of protest from external forces like neighbouring countries or otherwise** can pose a serious threat to the Indian federal structure.
 - The **North-Eastern states of the country are always in a zone of communal tension**; not only because of internal demand for autonomy and power but also because of a constant interference of China and other neighbours in the affairs of such Indian states. **The issue of Tamils in Sri Lanka still lingers as a problem for India.**
- **Language Conflicts:** Diversity in languages in India sometimes causes a blow to the federal spirit of the Constitution. **Trouble arises when the strongest unit of the federation attempts to force a particular language on others.**
 - The tussle for official language in India is still a burning issue. The southern states' opposition to Hindi as the official language of India has led to a deep-seated language crisis in India.
- **Physical Environment:** A federation in which the lines of communication are long and difficult has to face the difficulty of keeping in touch with all the units.
 - Moreover, **in the absence of good communication, the poorer units tend to develop a complex of neglect** and feel that they are receiving less than their fair share of resources for development. In India, the North- Eastern states are having similar feelings and creating problems for the federation.

SUGGESTIONS

Taking into account the present federal structure of India, and present requirements of the country, the following concrete suggestions can be emphasized in the background of observations.

Legislative Sphere

- While enlarging the scope of the states' sphere, it is necessary to preserve and strengthen the Union authority in subjects that could be carried out only by the Central authority and not by any single state, such as Defence, Foreign Affairs, including Foreign Trade, Currency and Communication and Economic coordination.
- Article 169 is giving power to abolish or create Legislative Councils which **should be vested exclusively in the State Legislative Assemblies** without the necessity of any Parliamentary legislation.
- Articles 200 and 201 which empower the Governor to reserve Bill passed by the Assembly for President's assent **should be done away with.**
- The **State's legislatures must be made supreme in the states' spheres** and no interference by the Centre in these spheres should be allowed on any ground.
- The provision to Article 213 (1) which makes it necessary to obtain the instructions of the President before the promulgation of Ordinance **should be deleted.**

- To protect the state autonomy, **an amendment to Article 248 should be made** to the effect that the legislature of a state should have exclusive power to make any law with respect to any matter not enumerated in the union or Concurrent List as against the present provision which reserves this right to Parliament. Thus **the residual powers of the federation should lie with the states and not with the Centre.**
- The state legislature which had passed a resolution enabling the Parliament to make laws **should have the power to either amend or repeal**. Hence Article 252 should be suitably amended.
- Articles 356 and 357 which enable the President to **dissolve a State Government or its Assembly or both should be deleted**. In the case of a Constitutional breakdown in a state, provision must be made for the democratic step of holding elections and installing a new government as in the case of the Centre.
- Before any Bill is introduced in Parliament in relation to any entry of the Concurrent List, **the Inter-State Council should be consulted**. If for any reason, its recommendations are rejected, it **should be rediscussed with reasons in Parliament and state legislatures.**

Administrative Sphere

- The **NITI Aayog should become a statutory body** created by the Parliament. It should consist of experts and act as an advisory body to the National Development Council. It should have the **freedom to plan to supervise implementation of plans, to advise as well as to criticize** without any inhibition.
- The **National Development Council should be given Constitutional status** entrusted with broad functions in relation to planning and development economic coordination to achieve the objectives mentioned in the preamble to the Constitution and Principles stated in the Directive Principles of State Policy.
- Article 302 empowers the Parliament to impose restrictions on trade and commerce not only relating to inter-state trade but also intra-state trade in public interest. **There is no point in empowering Parliament to impose restrictions on intra-state trade.** It is an exclusive sphere of the state.
- The **Central Reserve Police Force or any such force should not be deployed by the Centre in any state** except at the request or with the consent of the state concerned.
- The **Inter-state council should be constituted consisting of all the Chief Ministers or their nominees** with equal representation for all the states and the Prime Minister as its Chairman, **No other Union Minister should be a member of the Council.**
- The **Inter-State Council** in present form envisaged by Article 263 of the Constitution **will be ineffective and will not serve any purpose.** The recommendations of the Inter-State Council should **ordinarily be binding on the Centre and the States.**
- **All India services like the IAS, the-IPS etc.** whose officers are posted to the States but remain under the supervision and disciplinary control of the Central Government **must be abolished.** Hence Article 312 should be deleted.

- **There should be only Union Services and State Services** and recruitment to them should be made respectively by the Union Government and the State Government concerned. The **Central Government should have no jurisdiction over the personnel of the State services.**
- **National Emergency** (Articles 352 and 354) relating to proclamation of emergency and the consequential powers **should be restricted only to war and external aggression.** The same and also Article 355 should be amended accordingly.
- Emergency powers provided under **Articles 356 and 357** and Provision for issue of Directions by the Central Government to the state government under **Article 365 should be used in consultation with the Inter-state Council only.**

Financial Sphere

- The **state must be accorded more powers for imposing taxes** on their own and to determine the limit of the public borrowing in their respective fields.
- **Article 280** regarding the Finance Commission and distribution of revenues should be amended to provide **75 per cent of the total revenues raised by the Centre from all sources for allocation to different states** by the Finance Commission.
- The Finance Commission as envisaged in the Constitution examines the financial resources -and the needs of the states. But it does not discharge a similar function in relation to the finances of the Centre. It is necessary that **there should be a periodic assessment of the financial resources and the needs of the Central Government also.**
- The members of the Finance Commission should be **appointed in consultation with the Inter-state Council.**
- The **emoluments of Government** (Central and State) **should be uniform throughout the country**, making due allowance for local or special conditions.
- As regards loans and indebtedness of states, **there should be a federal Debt Commission which should examine the entire issue relating to the indebtedness of states.** Side by side there should also be a **Federal Development Bank** consisting of representatives of the Centre and the States.
- The power provided to the Union government under **Article 360 to issue a proclamation of financial emergency** in cases of threat to financial stability or credit of India **should be used in consultation with the Inter-State Council only.**

Other Considerations

- It should be expressly provided in the Constitution itself that the territorial integrity of a state should not be interfered with in any manner, except in accordance with any one of the following alternatives:
 - The **consent of the state Legislature** concerned should be obtained.

- The issue should be referred to and decided by a high level judicial **Tribunal**, to be consulted for the purpose with the consent of the contending parties and its decisions should be binding on all the parties.
- The **opinion of the people of the area or areas concerned** should be ascertained by holding a special poll.
- In order to enforce the principle of equality of federating units and to protect the principle of state autonomy, the **election to the Rajya Sabha also should be directly by the people**, at the same time as Lok Sabha Elections. **All states should have equal representations in the Rajya Sabha.**
- A **correct approach to the languages of people** is necessary in the interest of Indian Unity and promoting a sense of equality. The use of English in the field of administration, legislation, judiciary and as the medium of instruction in education should be discarded.

Contemporary issues in Federalism –

GOVT OF NCT ACT 2021 –

Recently, the Government of National Capital Territory (GNCT) of Delhi (Amendment) Act, 2021 came into force.

Key provisions of the Government of National Capital Territory of Delhi Act, 1991

- Delhi's current status as a Union Territory with a Legislative Assembly is an outcome of the **69th Amendment Act through which Articles 239AA and 239BB were introduced** in the Constitution.
- **Article 239AA** provides that the Union Territory of Delhi be called the National Capital Territory of Delhi and its administrator shall be known as Lt. Governor.
- This provides Delhi with an Assembly, fully elected, and a Council of Ministers responsible to the Assembly. It stipulated that the Delhi Assembly could legislate on all matters in the State List as well as the Concurrent List except land, police and public order..
- **Article 239AB** provides that the President may by order suspend the operation of any provision of Article 239AA or of all or any of the provisions of any law made in pursuance of that article. This provision resembles Article 356 (President's Rule)
- For all practical purposes, the GNCTD Act outlines the powers of the Assembly, the discretionary powers enjoyed by the L-G, and the duties of the Chief Minister with respect to the need to furnish information to the LG.

Rationale – this act came in force to remove the barriers of GNCT Act 1991 as there was -

- **No structural mechanism** - Section 44 of Act deals with the conduct of business and there is no structural mechanism for effective time-bound implementation of the said section.
- **No clarity on role** - Section 44 of the 1991 Act says that all executive actions of the L-G, whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the LG.
- **No clarity on subject matter** - Further, there is no clarity as to what proposal or matters are required to be submitted to Lieutenant Governor before issuing an order thereon.

Key provision of the Act

- According to GNCT Act 2021, the **legislation, the "government" in Delhi means the "Lieutenant Governor."**
- The Delhi government will **now mandatorily** have to take the opinion of the L-G before taking any executive action.
- The Act **defines the responsibilities of the elected government** and the L-G along with the "constitutional scheme of governance of the NCT" interpreted by the Supreme Court in recent judgements regarding the division of powers between the two entities.
- It will also seek to ensure that the L-G is "**necessarily granted an opportunity**" to exercise powers entrusted to him under proviso to clause (4) of Article 239AA of the Constitution.
 - Now the Council of Ministers headed by a Chief Minister for the NCT to "aid and advise the Lieutenant Governor" in the exercise of his functions for matters in which the Legislative Assembly has the power to make laws.
- Now the rules made by the Legislative Assembly of Delhi to be "consistent with the rules of the House of the People" or the Lok Sabha.

Criticism

- **Attempt to curtail the power** - It is an unholy attempt to curtail the powers of a democratically elected Government
- **Against federalism** - It is an affront not only to the will of the people but to the spirit of federalism
- **Against spirit of SC ruling** – The handing of power over executive powers to the Lieutenant Governor, the government has acted against the spirit of the Supreme Court ruling that aimed to safeguard the elected government of Delhi from undue interference or obstacles from the Lieutenant Governor.
- **Subsumes independence** - The amendment stipulates that the State government shall obtain the Lieutenant Governor's opinion on its decisions before taking executive action on them.
- **Kiosk during emergency** - This prevents the government from urgently acting in case of an emergency as it would have to wait for the Lieutenant Governor's assent/viewpoint.
 - Significantly, the Lieutenant Governor is not obliged to give his opinion to the State government within a time frame.
- **Enhances the political exploitation** - Critics argue that the Lieutenant Governor could politically exploit these unbridled powers to hamper the government's administrative work and thus turn the political tides against the incumbent if he so desires.

The stand of Union Government

- **Increase in administrative efficacy** - This will increase the administrative efficiency of Delhi and will ensure a better relationship between the executive and the legislator. This is a technical Bill. This is not a Bill related to politics.
- **More transparency** - It will bring accountability and overall transparency in governance.

- **Removal of ambiguities** - The amendments have been brought to remove ambiguities in the existing Act and stressed that changes in the law have been sought in the spirit of what has been said in a Supreme Court judgement.
- **Define the responsibilities** - It will further define the responsibilities of the elected government and the L-G, in line with the constitutional scheme of governance of Delhi.

View of Supreme Court -

- In the Government of NCT of Delhi vs Union of India in 2018 the Constitution Bench of the Supreme Court held that the government was not under obligation to seek the concurrence of the Lieutenant Governor on its decisions and that any differences between them should be resolved keeping in view the constitutional primacy of representative government and cooperative federalism.
- The Supreme Court ruled that the Lieutenant Governor should attempt to resolve the differences within the framework of the law and the Transaction of Business Rules before he decided to refer a matter to the President.

ASSAM MIZORAM BORDER DISPUTE –

Introduction

The violent clashes on the Assam-Mizoram border in Lailapur are a result of the continuing confrontation between the two states.

What happened there ? -

- Mizoram has accused the Assam Police of entering its territory, while videos of armed young Mizo men in battle fatigues and helmets were reported from the Mizoram side, which reported no injuries.
- A cautious and calibrated intervention by the centre is desired to restore peace and normalcy in the region, along with significant support from the two-state governments.

Confrontations in the Past

- There have been confrontations over territory in the northeast region in the past. For instance, at least 28 policemen were killed in **clashes on the Assam-Nagaland border** in June 1985.
- The **NSCN's (National Socialist Council of Nagaland) demand for a Greater Nagaland or Nagalim** - Which includes parts of Assam, Manipur, and Arunachal Pradesh. It has been a major roadblock in the resolution of the Naga issue.
- **Manipur has had its share of inter-state disputes** resulting in destructive economic blockades.
- The Assam-Mizoram border has been restive, particularly since last year, necessitating the deployment of paramilitary forces.

Reasons behind the Assam-Mizoram border dispute and Inter-State Border Tensions

- **Issues of Demarcation** - The fault lines created by Britishers as per their commercial interests. In the process, sensitivities of local communities regarding land were either ignored or suppressed.
 - The border dispute can trace its origins to the demarcation of Lushai Hills from the Cachar plains by the British in 1875. The British had drawn the boundary in consultation with Mizo chiefs.

- The Mizos do not accept this demarcation
- **The political Conversation** – The political conversations that target migrants and “outsiders”. This shrinks the space and scope for fluid borders and fixes the identities of people as per the region, to realize its cultural and economic potential.
- **The failure of Constitutional Machinery** - the events point to a failure of the constitutional machinery, empowered to de-escalate tensions at the border.
 - The presence of central paramilitary forces should have helped maintain the peace, but it didn't happen.
- **Struggle for resources** - Economic competition for land, engendered by a lack of non-farm jobs across the Northeast region, is also enhancing bitterness among states.
- **Other issues** - The other issues that complicate the situation on the border include the transportation of illegal drugs that travel via Mizoram to Assam and other parts of the country.

Implications of conflict -

- **Widening the Trust Deficit** - It hinders the probability of Interstate cooperation in the future due to enhanced trust deficit. This is testified by competing claims on the issue.
- **Increases Hatred in masses** - Such instances tend to increase feelings of animosity between the residents of Mizoram and Assam.
- **Inclination towards China** - China will be watching these fights with relish. The state which feels more betrayed can be manipulated by China for its vested interests.
- **Domino Effect** - If prudent action is not taken and violators are not duly punished, then such clashes will be seen on other disputed borders in the northeast region.

Way Forward -

- There is **no sure-shot and quick solution possible** to the border disputes between various states without a spirit of give and take, and a civic engagement brokered by the Union government.
 - For this to happen, **governments should, first, try to stop violence of any kind and restrain partisans** engaging in such activity in their respective States.
- The **whole stretch of reserve forests has to be freed of** encroachments from either side.
- The state leaders must nurture the peace, put in place institutional mechanisms to prevent breakdowns, and negotiate a way out of long-standing disputes.
- The Home Ministry must ensure that the Assam-Mizoram border situation should first be **subject to de-escalation and then return to the status quo**.
- The **Constitution's mechanisms for addressing inter-state disputes should be duly used**. This includes activating an Inter-State Council (Article 263) or asking the Supreme Court to adjudicate (Article 131).

Further, a time-bound court-monitored commission involving local communities in joint demarcation exercises should be announced.

CENTRE STATE RELATION DURING COVID 19 –

Indian federalism can be exemplified by the terms like cooperative federalism, bargaining federalism or quasi-federalism. However, in most of times, Indian federalism has been conflicting rather than cooperative, which can be reflected in, central government being discriminatory in its attitude towards the states with oppositional political background.

Federal Issues During the Pandemic -

- **The Inconvenient Federalism** - On account of the Central government being the sole agency to regulate the production and distribution of the vaccine and oxygen, it was the exclusive responsibility of the centre to ensure adequate and judicious distribution.
 - However, **many states are complaining of discrimination on distribution of the vaccination**, supply of medicines, availability of oxygen, etc.
 - This would not only add to the **financial burdens of the states that are already squeezed** but also could give rise to conflicts between different states.
- **More centralisation of Powers** – With the invocation of Epidemic Diseases Act and the Disaster Management Act, the Central govt got the powers to deal with the pandemic.
 - However, state consultation is a legislative mandate cast upon the centre under these acts and binding COVID-19 guidelines are being issued by the Centre to the States.
- **Issues of migration during Covid** - First wave of Covid-19 witnessed the mass exodus of the migrant workers into their home states like Uttar Pradesh, Bihar.
 - Moreover, the sustenance of agricultural, industrial and construction activities would be difficult in the absence of a majority of the workforce in the backdrop of the lifting of restrictions, given these workers are going back to their hometowns.
 - If both centre and state governments had taken lessons from the first wave, the devastating effects of this crisis could have been minimised.

What should be done ?

- **Relaxing FRBM Norms** - The limits imposed by the FRBM Act, regarding the market borrowings by the states, be relaxed, is a step in the right direction.
 - However, these borrowings can be backed by sovereign guarantee by the Union Government.
- **Need of Cooperative Federalism** - An approach to tackle the Covid crisis would still need Centre's intervention and guidance in a facilitative manner, where the Centre would communicate extensively the best practises across states, address the financial needs effectively, and leverage national expertise for scalable solutions.
- **Long Term Measures** - Management of disasters and emergencies (both natural and manmade) should be included in the List III (Concurrent List) of the Seventh Schedule.
- **Making the Inter-state Council permanent** - Also, the government should consider making the Inter-State Council a permanent body.

GST COMPENSATION –

According to the GST Compensation Act, 2017 the States are guaranteed to compensation for any loss of revenue in the first five years of GST implementation, until 2022, using a cess levied on sin and luxury goods.

What is compensation cess?

- It is specified in GST (Compensation to states) Act 2017 which assumes that the GST revenue of each State would grow at 14% every year, from the amount collected in 2015-16, through all taxes subsumed by the GST.
- Every state that has collected less than the specified level will be compensated only for the shortfall. This amount he paid every 2 Months based on provisional accounts, and adjusted every year after the State's accounts were audited by the Comptroller and Auditor General.

Compensation cess fund

It was created to compensate for the shortfall of state revenue arising due to GST. An additional cess would be imposed on certain items and this cess would be used to pay compensation.

- The items are pan masala, cigarettes and tobacco products, aerated water, caffeinated beverages, coal and certain passenger motor vehicles.
- The GST Act states that the cess collected and “such other amounts as may be recommended by the [GST] Council” would be credited to the fund.

During lockdown the economic activities were nearly stopped hence compensation of loss was not possible by Centre govt hence Centre allowed states to borrow from market but by means of Centre .

Merits of Centre enabled borrowing -

- **Separate borrowing window** - The earlier proposal was for a special window to be facilitated by the RBI and the Centre, but states would have had to tap the window separately.
- **Equal interest rate** - One of the primary concerns for earlier mechanism was that it leads to differential rates with a wide variance in interest rates between the states with more debt and those with less debt.
- **Higher yields** - Also, the yields for state development loans (SDLs), which is the tool for market borrowing by states, are generally at a premium, higher than the yield on the central government's G-Secs.

way forward

- The Finance Ministry is now engaged in dialogue with the opposing states to join the scheme.
- Economists say the borrowing issue has only been resolved for the compensation shortfall for this fiscal.
- It remains to be seen how this issue will be resolved for the next fiscal, given that tax revenues are expected to grow at a lower rate than the 14% growth guaranteed to states under the compensation mechanism of GST.

FARM LAWS – Enacted, Latter Repealed, Included in Notes as questions can still be asked

The 3 farm laws had been enacted to enhance the public – private partnership and aimed to change the way agricultural produce is marketed, sold and stored across the country. They are mostly focussed on the forward linkages to the agricultural sector.

The following are the three acts passed and their salient provisions –

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 -

- **Framework for contract farming** - It aims to create a national framework for contract farming. For this it lays down a legal framework for farmers to enter into written contracts with companies and produce for them.
- **Framing written agreements** – Prior to the production or rearing of any produce the written farming agreement be made. It lists the terms and conditions for supply, quality, grade, standards and price of farm produce and services.
- **Defines the Dispute Resolution** - This act defines a dispute resolution mechanism by providing the three-level dispute settlement mechanism— Conciliation Board, Sub-Divisional Magistrate and Appellate Authority.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 -

- **Enhancing the agriculture sale** - This aimed to scale up the agricultural sale and marketing outside the notified Agricultural Produce Market Committee (APMC) mandis for farmers, removes barriers to inter-State trade and provides a framework for electronic trading of agricultural produce. It expands the scope of trade areas of farmers' produce from select areas to "any place of production, collection, aggregation".
- **Do away with any fees** - Any levying of the market fee, cess, or levy on farmers, traders, and electronic trading platforms for the trade of farmers' produce conducted in an 'outside trade area' will not be collected by states.
- **Break the monopoly** - The act seeks to break the monopoly of government-regulated mandis and allow farmers to sell directly to private buyers.

Essential Commodities (Amendment) Act, 2020 -

- **Removes the essential commodity list** – This act removes the cereals, pulses, oilseeds, edible oils, onions and potatoes from the list of essential commodities. It will deregulate the production, storage, movement and distribution of these food commodities.
- **Removal of Stock holding limit** – This act will also remove stock holding limits on such items except under "extraordinary circumstances".
- **Regulation during emergency** - The union government is allowed regulation of supply during war, famine, extraordinary price rise and natural calamity of grave nature and annual retail price rise exceeding 100% in horticultural produce (basically onions and potatoes) and 50% for non-perishables (cereals, pulses and edible oils), while providing exemptions for exporters and processors at such times as well.
- **Stock limit price** - It requires that imposition of any stock limit on agricultural produce be based on price rise. It will allow agribusinesses to stock food articles and remove the government's ability to impose restrictions arbitrarily.

The voice in favour of Farms Acts -

- **Transforming the agriculture** – these acts will act as the watershed moment in the history of Indian agriculture that could initiate a complete transformation of agriculture. The new farm acts are expected to benefit all the stakeholders — farmers, industry and consumers.

- **Enhancing the bargaining power** - Since the most farmers who are small and marginal farmers, don't have the means to either bargain for their produce to get a better price or invest in technology to improve the productivity of farms, will be benefitted by these laws.
- **Establish the marketing domain** – With the creation of much more integrated market, creating competition, and enhancing efficiency and effectiveness of the marketing domain of the agricultural sector, these acts will develop the new marketing domain.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020

- **Removing the problems of APMC act** - As the APMC act had led to centralization and was thought to be reducing competition and participation, with undue commissions, market fees, and monopoly of associations damaging the agricultural sector, this law repeals such lacunae.
 - The act seeks to break the monopoly of government-regulated mandis and allow farmers to sell directly to private buyers by circumventing the APMCs. The new laws provide full autonomy for farmers to sell their produce.
- **The realization of higher price for farmers** - With the increase in the **freedom of choice of sale of Agri-produce for the farmers** and this could help the farmers in getting a better price for their produce because of more choices of markets.
 - This would **allow small and marginal farmers to sell their produce at market and competitive prices**.
 - The private players will buy the farmers' produce even at their farm gates.
 - The farmers will get the farmers to get **better prices through competition and cost-cutting on transportation**.
 - The farmers will be able to get a greater share of the price being paid by the customers, which currently stands at a lowly 15%.
 - This would help in raise rural incomes and aim of Doubling farmer income by 2022.
- **Vision of One India, one agricultural market** – by promoting the barrier-free inter-state and intra-state trade with provisions of electronic trading, this will promote the creation of One-India, One Agriculture Market.
 - This could help correct the **regional disparities in demand and supply** of the agricultural produce.
 - This could help farmers of **regions with surplus produce to get better prices and consumers of regions** with shortages, lower prices.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 -

- **Risk mitigation** – As the Contract farming will transfer the risk of market unpredictability from the farmer to the sponsor, this will help small and marginal farmers.
 - It reduces the risk of price and marketing costs on small and marginal farmers.
- **Better pricing** - Contract farming will help farmers reduce the cost of marketing and improve their incomes.
 - Farmers will engage in direct marketing thereby eliminating intermediaries resulting in the better realization of price.

- **In enhancing farm productivity** - With the access of modern technology & better inputs , the farm productivity will be enhanced and also reduce input cost .
 - Contract farming agreements between companies and farmers are **already operational in crops** of particular processing grades like PepsiCo is using this for lay's & Uncle Chips.
 - The processors/exporters in these cases typically not **only undertake assured buyback at pre-agreed prices, but also provide farmers with seeds/planting material** and extension support to ensure that only produce of the desired standard is grown.
- **Encouraging the private sector participation** - The act will encourage private sector participation in procurement and reduce the government burden of procuring.
 - Contract farming can ensure uninterrupted sources for their production and also secure the purchaser from market price fluctuations.
- **Creating level playing fields** - The framework of contract farming will empower farmers to engage with the contract buyers on a level playing field without any fear of exploitation.
 - The **mutually agreed remunerative price framework** is envisaged under the act. This provision is touted to protect and empower farmers.
 - **Sale, lease or mortgage of farmers' land is totally prohibited and farmers' land** is also protected against any recovery.
 - Farmers have been provided with adequate protection.
 - An **effective dispute resolution mechanism** has been provided with clear timelines for redressal.

Essential Commodities (Amendment) Act (ECA) 2020 –

- **Enhancing the private investment** - Through ECA amendment, the deregulation will help attract private sector/foreign direct investment into the agriculture sector.
- **Improve the infrastructure** - The private investment would help build supply chain infrastructure for the agricultural sector. This could help facilitate the supply of Indian farm produce to national and global markets.

The voice against the Farm Acts

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 -

- **Against the federalism** – As the agriculture and markets are State subjects (entry 14 and 28 respectively in List II) the acts are being seen as a direct encroachment upon the functions of the States and against the spirit of cooperative federalism enshrined in the Constitution.
 - While union govt argued that Trade & Commerce in food is part of the concurrent list, thus giving it constitutional propriety.
- **Fears for MSP system** – Many farmers feared that that the new proposed system will end the minimum support price regime.
 - They fear that **encouraging tax-free private trade outside the APMC mandis will make these notified markets unviable**, which could lead to a reduction in government procurement itself.
 - The **creation of private mandis will drive agriculture business towards private mandis, ending government markets, intermediary systems and APMCs**.

- Critics view the dismantling of the monopoly of the APMCs as a sign of ending the assured procurement of food grains at minimum support prices (MSP).
- This could **lead to the increasing clout of private buyers** and could lead to low bargaining powers of the farmers.
- **Lack of statutory support in the acts for the MSP** is a major point of concern, especially for farmers from Punjab and Haryana, where 65% of wheat (2019) is procured at MSP by the Food Corporation of India and state agencies.
- **The impact on state revenues** – As agricultural Mandis are the major source of revenue for state governments. The diversion of agricultural trade towards private mandis could lead to the loss of states' revenues.
 - Some states are concerned about the loss of revenue from mandi taxes and fees, which currently range from 8.5% in Punjab to less than 1% in some States.
- **Effect of middlemen** - Middlemen working with APMC and traders will be affected.
 - Without strong institutional arrangements, laissez-faire (no economic interventionism) policy may harm lakhs of unorganised small farmers.
- **Cases of fraud** - More than 200 farmers from four districts in Madhya Pradesh were allegedly defrauded of over Rs 5 crore by traders.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 -

- **Leads to Exploitation** - As the small and marginal farmers are unable to understand the terms of the contract may lead to the exploitation of such farmers.
 - The **lack of bargaining power of farmers** with big companies is also a major concern.
 - Many people are **apprehensive about formal contractual obligations owing to the unorganised nature** of the farm sector and lack of resources for a legal battle with private corporate entities.
- **Issues of price fixation mechanism** - The Price Assurance Act, while offering protection to farmers against price exploitation, does not prescribe the mechanism for price fixation.
 - There is apprehension that the free hand given to private corporate houses could lead to farmer exploitation.

Essential Commodities (Amendment) Act, 2020 -

- **The threat of food insecurity** – Since the easing of regulation of food items would lead to exporters, processors and traders hoarding farm produce during the harvest season, when prices are generally lower, and releasing it later when prices increase. This could undermine food security.
- **Increased volatility of food items** – The irrational volatility in the prices of essentials and increased black marketing.
- **No clear guidelines** - As this act proposes a price trigger mechanism for invoking ECA. However, it involves a wide range for a price trigger to invoke the ECA. Many things are left vague. Price triggers or price levels do not have a reference to a locality.

Farm Acts – Critical analysis

What Constitution Says ?

- **Article 246** – This places “agriculture” in entry 14 and “markets and fairs” in entry 28 of the State List.
- The **entry 42 of the Union List** empowers the Centre to regulate “inter-State trade and commerce”.
- While trade and commerce “within the State” is under **entry 26 of the State List**.
- The **Entry 26 is subjected to the provisions of entry 33** of the Concurrent List – under which the Centre can make laws that would prevail over those enacted by the states.
 - Entry 33 of the Concurrent List covers trade and commerce in “foodstuffs, including edible oilseeds and oils, fodder, cotton and jute”.

Agriculture per se would deal with everything that a farmer does — right from field preparation and cultivation to also the sale of his/her own produce.

- The act of primary sale at a mandi by the farmer is as much “agriculture” as production in the field. “Trade” begins only after the produce has been “marketed” by the farmer.

Way forward -

The promulgation of farm acts are a step in the right direction and there is the need to ensure the effective implementation of the same. The following measures could help address some of the concerns regarding the farm laws.

- **Preserving the safety net Mechanism** - The move to enlarge the market for agricultural produce is welcome but this should be supplemented by measures that will help preserve the existing ‘safety net’ mechanisms like MSP and public procurement.
- **Empowering the Farmers** – Since farmers will have the freedom to choose where to sell, but may not have the knowledge to negotiate the best terms with a private company. The state should work towards empowering the farmers in this direction.
- **Infrastructural development** - The government must create enabling infrastructure to enable the farmers to do barrier-free trading of agricultural commodities.
- **Simplification of price determination** - The method of determining prices, including guaranteed price and additional amount, should be provided in the agreement as annexures. The government must ensure suitable provisions to ensure that the prices are not below the MSP.
- **Concept of guaranteed price** - In case of prices subjected to variations, the contract agreement must include a guaranteed price to be paid for such produce, and a clear reference linked to the prevailing prices or any other suitable benchmark prices for any additional amount over and above the guaranteed price, including bonus or premium.
- **Grievance redressal** - There should be time-bound redressal of grievances.

Why Such farm laws are needed -

- India has **surplus in most Agri-commodities** but farmers have been unable to get better prices due to lack of investment in cold storage, warehouses, processing and export.
 - This is because the entrepreneurial spirit gets dampened due to Essential Commodities Act.

- Farmers suffer huge losses when there are bumper harvests, especially of perishable commodities.
 - Hence, the legislation will help drive up investment in cold storages and modernization of food supply chain.
 - It will help both farmers and consumers while bringing in price stability.
 - It will create competitive market environment and also prevent wastage of Agri-produce that happens due to lack of storage facilities.
-

UPSC GS2 SYLLABUS : SEPARATION OF POWERS BETWEEN VARIOUS ORGANS DISPUTE REDRESSAL MECHANISMS AND INSTITUTIONS

BASICS OF SEPERATION OF POWER PRINCIPLE

- The separation of powers is imitable for the administration of federative and democratic states. Under this rule the state is divided into three different branches-legislative, executive and judiciary each having different independent power and responsibility on them so that one branch may not interfere with the working of the other two branches.
- Basically, it is the rule which every state government should follow in order to enact, implement the law, apply to specific cases appropriately.
- If this principle is not followed then there will be more chances of misuse of power and corruption.
- If this doctrine is followed then there will be less chance of enacting a tyrannical law as they will know that it will be checked by another branch. It aims at the strict demarcation of power and tries to bring the exclusiveness in the functioning of each organ.

Background

- The term “separation of powers” or “trias –politica” was initiated by Charles de Montesquieu. For the very first time, it was accepted by Greece and then it was widespread use by the Roman Republic as the Constitution of the Roman Republic.
- Its root is traceable in Aristotle and Plato when this doctrine became the segment of their marvels. In 16th and 17th-century British politician Locke and Justice Bodin, a French philosopher also expressed their opinion regarding this doctrine.

- **Montesquieu was the first one who articulated this principle scientifically,** accurately and systemically in his book “Esprit des Lois” (The Spirit of Laws) which was published in the year 1785.

Meaning

- The definition of separation of power is given by different authors. But in general, the meaning of separation of power **can be categorized into three features:**
 - Person forming a part of one organ should not form the part of other organs.
 - One organ should not interfere with the functioning of the other organs.
 - One organ should not exercise the function belonging to another organ.
- **The separation of power is based on the concept of trias politica.** This principle visualizes a tripartite system where the **powers are delegated and distributed among three organs** outlining their jurisdiction each.
- The **doctrine of separation of power in a rigid sense** means that when there is a proper distinction between three organs and their functions and also there should be a system of check and balance.
- The **doctrine of separation of power in a broad sense** means that when there is no proper distinction between three organs and their functions.

Objectives of Separation of Powers

The following are the fundamental objectives of the doctrine of separation of powers:-

- Firstly, **it aims to eliminate arbitrariness, totalitarianism and tyranny** and promote an accountable and democratic form of government.
- Secondly, **it prevents the misuse of powers** within the different organs of the government.
 - The Indian Constitution provides certain limits and boundaries for each domain of the government and they are supposed to perform their function within such limits.
 - In India, the Constitution is the ultimate sovereign and if anything goes beyond the provisions of the constitution, it will automatically be considered as null, void and unconstitutional.
- Thirdly, **it keeps a check on all the branches** of the government by making them accountable for themselves.
- Fourthly, **separation of powers maintains a balance among the three organs of government** by dividing the powers among them so that powers do not concentrate on any one branch leading to arbitrariness.
- Fifthly, this principle allows all the branches to specialize themselves in their respective field with an intention to enhance and improve the efficiency of the government.

Doctrine of Separation of Powers

In any democratic country like India, all the three organs of the government are supposed to be accountable for their very function and duties.

- The doctrine of separation of powers provides that the three organs of the government are independent of each other and are subject to their own functions.
- In India, It is only through the process of checks and balances can the organs of the government allow the doctrine of separation of powers to be activated.
- The checks and balances should be carried out on one organ by the other two organs in order to bring in an equitable relation among the three organs of the government to restrict arbitrary use of powers by any one organ of the government.
- The doctrine of separation of powers provides help to the judiciary to bring in strong accountability on its part to uphold the correctness of the judiciary.
- The doctrine instead makes the work easier for stronger judicial accountability to take a shape.

Landmark judgments

- **SP Gupta vs Union of India** - The Supreme Court in S.P. Gupta v. Union of India rejected the claim made by the Central Government to extend protection against disclosure of confidential documents to the public in general.
 - The court clearly mentioned that disclosure of documents is only restricted to those documents that are contrary to the interest of the public in general and not any other documents.
- **Mid-Day Journalists case** – In this case, there was the involvement of corruption in the decision made by the judges. The Midday journalists were convicted for contemplating the court for publishing certain evidence against one Justice who had passed the order to seal all commercial properties in and around the residential areas of Delhi.
- **K.veeraswami vs Union of India Case** - In the case of K. Veeraswami v. Union of India and Others, the Supreme Court of India compounded the problem associated with judicial accountability.
 - The Supreme Court held that no investigation of a civil or criminal offence can be carried out by a judge belonging to the Supreme Court or the High Courts without taking the written approval from the Chief Justice of India.
- **Sarojini Ramaswami vs Union of India case** - In the case of Sarojini Ramaswami v. Union of India & Ors, the impeachment issued by the apex court failed badly due to the lack of majority vote from the Houses of the Parliament.
 - This case brought to light the drawbacks of the judiciary and the need for strong judicial accountability to keep in check such issues happening in the future.

Separation of Powers And The Indian Constitution:

- It is often understood that in our country the debate about the separation of powers dates as long back as the Constitution itself. It was extensively debated in the Constituent Assembly.

- It was **not given constitutional status in our Constitution** finally but it does clearly seem that the constitution of India has been made keeping the separation of powers doctrine in mind, but nowhere is this explicitly stated or embraced by the constitution itself.
- Since ours is a parliamentary system of governance, though an effort has been made by the framers of the constitution to keep the organs of the government separated from each other, but **a lot of overlapping and combination of powers has been given to each organ.**
- The **legislative and executive wings are closely connected with each other**, due to this; the executive is responsible to the legislature for its actions and derives its powers from the legislature.
- The **head of the executive is the President**, but a closer look shows that **he is only a nominal head** and the real power rests with the Prime Minister and his Cabinet of ministers as in Article 74(1).
- In certain situations the **President has the capacity to exercise judicial and legislative functions**. For example, while **issuing ordinances** (Art 143), the judiciary too performs administrative and legislative functions.
- The **parliament too may perform judicial functions**, for example if a president is to be impeached both houses of Parliament are to take an active participatory role.
- Thus **all three organs act as a check and balance to each other** and work in coordination and cooperation to make our parliamentary system of governance work.
- India being an extremely large and diverse country needs a system like this **where all organs are responsible to each other as well as coordinated to each other**, otherwise making governance possible becomes a very rigid and difficult task.
- It is important to note that the **separation of powers is still an important guiding principle of the constitution**. Most noteworthy is our judicial system which is completely independent from the executive and the legislature.
- **According to Article 13**, the High Courts and Supreme Courts have the power of judicial review which empowers them to declare any law passed by the parliament unconstitutional if it so decides.
- **As in regard to the judges, they are extremely well protected by the Constitution**, their conduct is not open to discussion in the Parliament and their appointment can only be made by the President in consultation with the Chief Justice of India and the judges of the Supreme court.

Judicial Approach towards Separation of Power in India

- The very first judgement with relation to the separation of powers was given by **Mukherjee J. in the case of Ram Jawaya Kapur v. State of Punjab**. He concluded that-
 - “The Constitution of India has not acknowledged the doctrine of separation of power emphatically but the functions and powers of all the organs have been adequately distinguished.

- Thus it would not be wrong to say that Indian constitution does not behold assumptions rather it **works in a flexible manner** considering the needs of the country.
- So, the **executive can exercise the law-making power only when delegated by the legislature** and it is also empowered to exercise judicial powers within the limits. But on an all, no organ should exercise its power beyond the provision of the constitution.”
- In the case of **I.C Golakhnath vs. State of Punjab**, the Constitution brings in actuality the distinct constitutional entities i.e. namely, the **Union territories, Union and State**. It also has three major instruments namely, **judiciary, executive and legislature**.
- It **demarcates their jurisdiction minutely** and expects them to exercise their function without interfering with others functions. They should function within their scope.
- In the case of **Indira Gandhi vs. Raj Narain**, the court held that, “In our Constitution the doctrine of separation of power **has been accepted in a broader sense**. Just like in American and Australia Constitution where a rigid sense of separation of power applies is not applicable in India.

Provisions that Substantiate Separation of Power

- **Article 53(1) and Article 154 of the Indian Constitution** clearly say that the Executive powers of the Union and the States are vest in the President and Governor respectively and shall only be exercised directly by him or through his subordinate officers.
- **Article 122 and Article 212 of the Indian Constitution** state that the courts cannot inquire in the proceedings of Parliament and the State Legislature. This ensures that there will be no interference of the judiciary in the legislature.
- **Article 105 and Article 194 of the Indian Constitution** specify that the MPs and MLAs cannot be called by the court for whatever they speak in the session.
- **Article 50 of the Indian Constitution** encourages the separation of judiciary from the executive in the states.
- **Article 245 of the Indian Constitution** gives authority to Parliament and State Legislature for making laws for the whole country and the states respectively.
- **Article 121 and Article 211 of the Indian Constitution** state that the judicial conduct of any judge of the Supreme Court or High Court shall not be discussed in Parliament or State Legislature.
- **Article 361 of the Indian Constitution** specifies that the President and the Governor are not accountable to any court for exercising their powers and performance of duties in his office.

Criticism of Theory of Separation of Powers

- **Complete Separation is not possible:** The government is a single entity. Its three organs can never be completely separated. The legislative, executive and judicial functions are interdependent and interrelated functions and hence cannot be fully separated.

- **Complete Separation is not desirable:** Complete separation of three organs of government is neither possible nor desirable. It is not desirable because without mutual coordination these cannot carry out its functions effectively and efficiently. Complete separation of powers can seriously limit the unity and co-ordination needed by the three organs.
- **Impracticable in itself:** We cannot fully use separation of powers. The function of law-making cannot be entrusted only to the legislature. The needs of our times have made it essential to provide for law-making by the executive under the system of delegated legislation. Likewise, no one can or should prevent law-making by the judges in the form of case law and equity law.
- **The three Organs of Government are not equal:** The Theory of Separation of Powers wrongly assumes the equality of all the three organs of the government. The legislature of the state is always regarded as the primary organ of government.
 - The work of the government begins by law-making. However, in actual practice the executive acts as the most powerful organ of the government. The judiciary is the weakest of the three organs, yet it is always held in high esteem by the people. Hence the three organs are neither equal nor equally respected.
- **Separation of Powers can lead to deadlocks and inefficiency:** Separation of powers can lead to deadlocks and inefficiency in the working of the government. It can create a situation in which each organ can get engaged in conflict and deadlocks with other two organs.
- **Liberty does not depend only upon Separation of Powers:** The critics reject the view that liberty can be safeguarded only when there is a separation of powers among the three organs of the government.
 - They argue that in the absence of fundamental rights, independence of judiciary, rule of law, economic equality and a spirit of democracy, there can be no liberty even when there may be present full separation of powers.
- **Separation of Functions and not of Powers:** The name 'Separation of Powers' is wrong because this theory really advocates a separation of functions. Power of the government is one whole. It cannot be separated into three separate parts. It is at the back of the functions of all the three organs of government.
- The theory of separation of powers is really a theory of separation of functions. Thus, the theory of Separation of Powers has several limitations. **All scholars accept that absolute and rigid separation of powers is neither possible nor desirable.** Three organs of government cannot be and should not be totally separated into unrelated water-tight compartments.

Separation of Powers and Checks and Balances:

- Further for using the theory of Separation of Powers, **we need the adoption of another theory i.e. the theory of Checks and Balances.** Under this theory each organ, along with its own power, enjoys some **checking powers over the other two organs.** In the process a system of checks and balances governs the inter-organ relations.

- The theory of Checks and Balances holds that **no organ of power should be given unchecked power in its sphere**. The power of one organ should be restrained and checked with the power of the other two organs. In this way **a balance should be secured** which should prevent any arbitrary use of power by any organ of the government.
- The legislative power should be in the hands of the legislature but the **executive and judiciary should have some checking powers over it** with a view to prevent any misuse or arbitrary use of legislative powers by the legislature. Likewise, **the executive powers should be vested with the executive** but legislature and judiciary should be given some checking powers over it.
- The **same should be the case of the judiciary** and its power should be in some respects checked by the legislature and executive. In other words, each organ should have some checking power over the other two organs and there should prevail a balance among the three organs of government.
- In fact, **the theories of Separation of Powers and Checks and Balances always go together**. These have been together in operation in the US Constitution.
- The theories Separation of Powers and Checks and Balances have to **adopt simultaneously**.

DISPUTE RESOLUTION MECHANISMS

Alternative Dispute Resolution (ADR) Mechanisms

- Alternative Dispute Resolution (ADR) is innovative methods to resolve disputes which are raised among the parties, through an amenable settlement through negotiations and discussions.
- It is different from the traditional methods of dispute resolution where it has not been possible to initiate any process of negotiation or arrive at a mutually agreeable solution.
- In India, Art 14 & Art 21 provides the basis of ADR . Under Art 39A , which engravess justice and free legal aid can also be achieved by the ADR.
- Alternative dispute redressal methods are being **increasingly acknowledged in the field of law and commercial sectors** both at National and International levels. Its diverse methods can help the parties to resolve their disputes at their **own terms cheaply and expeditiously**.
- Alternative dispute redressal techniques can be **employed in several categories of disputes**, especially civil, commercial, industrial and family disputes.
- ADR can be **instrumental in reducing the burden of litigation on courts**, while delivering a well-rounded and satisfying experience for the parties involved.
- It provides the **opportunity to "expand the pie"** through creative, collaborative bargaining, and fulfill the interests driving their demands.

Advantages of Alternative Dispute Resolutions

- The resolution of disputes takes place usually in private – **helping maintain confidentiality.**
- **Procedural flexibility saves valuable time and money** and absence of stress of a conventional trial.
- **This often results in creative solutions**, sustainable outcomes, greater satisfaction, and improved relationships.
- The possibility of ensuring that **specialised expertise is available in the tribunal** in the person of the arbitrator, mediator, conciliator or neutral adviser.
- It offers **greater direct control over the outcome**. Personal relationships may also suffer less.
- Further, it is more **viable, economic, and efficient.**

Types of Alternative Dispute Resolution

ADR is generally classified into the following types:

ARBITRATION:

- Arbitration, a form of alternative dispute resolution (ADR), is a technique for the resolution of disputes outside the courts, where the **parties to a dispute refer it to one or more persons – arbitrators**, by whose decision they agree to be bound.
- It is a resolution technique in which **a third party reviews the evidence in the case and imposes a decision** that is **legally binding** for both sides and enforceable.
- There are **limited rights of review and appeal of Arbitration awards.**
- Arbitration is **not the same as judicial proceedings and Mediation**. Arbitration can be either voluntary or mandatory.

Advantages of Arbitration

- It is **often faster than litigation** in Court.
- It can be **cheaper and more flexible** for businesses.
- Arbitral proceedings and an arbitral award are **generally nonpublic, and can be made confidential.**
- When the subject matter of the dispute is highly technical, **arbitrators with an appropriate degree of expertise can be appointed** as one cannot choose a judge in litigation.

Disadvantages of the Arbitration

- Arbitrators may be **subject to pressures from the powerful parties.**
- If the Arbitration is mandatory and binding, the **parties waive their rights to access the Courts.**
- There are **very limited avenues for appeal**, which means that an erroneous decision cannot be easily overturned.

- Arbitration awards themselves are **not directly enforceable**.

CONCILIATION

- Conciliation is an alternative dispute resolution process whereby the **parties to a dispute use a conciliator**, who meets with the parties separately in order to resolve their differences.
- **Conciliation is a voluntary proceeding**, where the parties involved are free to agree and attempt to resolve their dispute by conciliation.
- The process is **flexible, allowing parties to define the time, structure and content** of the conciliation proceedings. These proceedings are rarely public.
- **They are interest-based**, as the conciliator will when proposing a settlement, not only take into account the parties' legal positions, but also their commercial, financial and /or personal interests.
- Conciliation involves discussions among the parties and **the conciliator with an aim to explore sustainable and equitable resolutions** by targeting the existent issues involved in the dispute and creating options for a settlement that are acceptable to all parties.
- The **conciliator does not decide for the parties**, but strives to support them in generating options in order to find a solution that is compatible to both parties.

MEDIATION:

- Now, worldwide mediation settlement is a **voluntary and informal process** of resolution of disputes.
- It is a **simple, voluntary, party centered and structured negotiation process**, where a neutral third party assists the parties in amicably resolving their disputes by using specified communication and negotiation techniques.
- Mediation is a process where it is **controlled by the parties themselves**.
- The **mediator only acts as a facilitator in helping the parties to reach a negotiated settlement** of their dispute. The mediator makes no decisions and does not impose his view of what a fair settlement should be.

The Chief Advantages of the Mediation are: -

- The agreement which is that of the parties themselves;
- The dispute is quickly resolved without great stress and expenditure;
- The relationship between the parties are preserved; and
- The confidentiality is maintained.

JUDICIAL SETTLEMENT:

- **Section 89 of the Civil Procedure Code** also refers to the Judicial Settlement as one of the modes of alternative dispute resolution. Of course, there are no specified rules framed so far for such settlement.
- Of course, it has been provided therein that **when there is a Judicial Settlement the provisions of the Legal Services Authorities Act, 1987 will apply.**
- It means that in a Judicial Settlement the **concerned Judge tries to settle the dispute** between the parties amicably.
- If at the instance of judiciary any amicable settlement is resorted to and arrived at in the given case then **such settlement will be deemed to be decree** within the meaning of the Legal Services Authorities Act, 1987.

Alternative Dispute Resolution in INDIA

LOK ADALAT

The **Alternate Dispute Resolution system** has been an integral part of our nation. Lok Adalats are based on a system which **originated in the ancient times and continues even today** in the form of Gram Panchayats.

Jurisdiction

- It can settle disputes between parties in respect of:-
 - **Any case pending before;** or
 - **Any matter which is falling under the jurisdiction** of, and is not brought before, any Court for which the Lok Adalat is organised.
 - The Lok Adalat can settle disputes and **help arrive at terms of compromise even in criminal cases** which are compoundable under the relevant laws.

Powers

- The powers of Lok Adalat, while trying a suit are given under the **Code of Civil Procedure, 1908** with respect to the following matters:-
 - **Power to summon and enforce** the attendance of any witness and to examine him/her under oath.
 - Powers to enforce the **discovery and production of any document**
 - Powers to **receive evidence on affidavits**
 - Power for **requisitioning of any public record** or document or copy thereof, from any court.
 - Every Lok Adalat shall have the power to **specify its own procedure** for the determination of any dispute coming before it.
- Lok Adalats have the **power to solve criminal cases** under the provisions of **The Indian Penal Code, 1860.**

PROBLEMS WITH LOK ADALATS

- Even though Lok Adalats continue to be accepted today, **they have not met many of their initial goals**. The decline of Lok Adalats started in the late 1980s. **For example**, the state of Rajasthan, a leader in the Lok Adalat movement, only reported holding seven sessions in 1987, compared to a peak of 154 sessions the year before.
- Initially, people supported the Lok Adalat system because of popular dissatisfaction with the time and cost of litigation in the formal court system. However, **over time, fewer Lok Adalats were held because of a severe lack of resources**, which prevented adequate administration of Lok Adalats despite their growing demand.
- Once legislation was passed to provide additional resources, such as conferring greater power to Lok Adalats and allowing for more referrals to the Lok Adalat system, **the very reasons that initially attracted people to the system, dissipated** as Lok Adalats were increasingly viewed as **just another arm of the formal justice system**.
- The forum **no longer provides the swift and fair justice** upon which people had come to rely. Some of the issues that affected disputants include: poor relationship between judges and lawyers, unpreparedness, and pressure to settle.
- Further, **judges may be hostile toward the presence of lawyers** in these forums because they may negatively impact settlement agreements.
- In many instances, **judges and lawyers do not work together** to facilitate settlements in the best interest of their clients, resulting in unfair outcomes for disputants.
- **Rural villagers prefer settlement through an informal medium**. However, when Lok Adalats incorporate parts of the formal justice system, as legislation like the Legal Services Authorization Acts sought to do, parties make **poorly-informed decisions because of their preference for conciliation**.
- In rural Lok Adalats, there are numerous unsuccessful attempts at conciliations because **judges and lawyers fail to understand the relationship between disputants**.

SUGGESTIONS

- First, **India should devote a proportionally comparable amount of resources to ADR** to countries such as Australia, the United Kingdom, the United States.
- An **influx of staff, funding, and facilities would allow Lok Adalats to run more effectively**, make them structurally sound, and increase public confidence in them. **Technology could also be utilized** in all aspects of the process to improve access and efficiency.
- Second, **Lok Adalats should use Australia as an example and better incorporate the characteristics of conciliation** specific to each locality. Lok Adalats should incorporate the processes and characteristics of conciliation most used in each locality in order to compel parties to use Lok Adalats so that they have a more positive and permanent effect. Lok Adalats would be far more effective if they **incorporated the parties and village elders into the process in the way the NPs did**.

- Third, **using specialists other than judges** ensures that all interests and concerns of the parties can be addressed, which was one of the original goals of Lok Adalats. **A well-rounded panel of judges is the most suitable format for Lok Adalats.**
- Fourth, in order to re-introduce the Lok Adalats system and show how effective it can be, **the Indian courts should encourage mandatory referral to Lok Adalats.** Mandatory referrals can help parties overcome their prejudices or lack of understanding of the process.
- Fifth, **there needs to be requirements for attendance and good faith participation by the parties.** This would result in a single focus on reaching an appropriate conciliation between the parties without ulterior motives distorting the process.
- Sixth, **Indians need to be better informed about the Lok Adalats system and resolution possibilities.** Parties that are represented or underrepresented must also be provided with knowledge during the mediation process in order to make informed decisions regarding negotiations and the outcome.
- Ultimately, the Lok Adalats system should look much different than it currently does. Lok Adalats should be **held on a consistent basis.** Lok Adalats should use the **Internet and cellular technology to inform people** of when they will be held, to facilitate payment of settlements, and for other necessary communications. **A judge, a social worker, and local community member should sit on the panel.**

GRAM NYAYALAYA

- **India's judicial system is characterized by systemic problems**, including corruption, delays, pendency, increasing costs, limited legal aid, and a lack of appropriately trained lawyers and judges.
- **To overcome these problems the Law Ministry had set up Gram Nyayalayas in 2009** with an aim to provide a cost-effective forum at the grass-root level for the poor living in villages to settle legal matters. It was established by the Gram Nyayalayas Act, 2008.
- Gram Nyayalayas are mobile village courts in India **established under Gram Nyayalayas Act, 2008 for speedy and easy access to the justice system** in the rural areas of India.
- They are aimed at providing **inexpensive justice to people in rural areas at their doorsteps.** The Act came into force on October 2, 2009 i.e. the birth anniversary of Mahatma Gandhi.
- **Gram Nyayalaya is a mobile court and exercises the powers of both Criminal and Civil Courts;** i.e., the seat of the Gram Nyayalaya will be located at the headquarters of the intermediate Panchayat, but they will go to villages, work there and dispose of the cases.
- It can try **criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the Gram Nyayalaya Act** and the scope of these cases can be amended by the Central as well as the State Governments, as per their respective legislative competence;

- The Gram Nyayalaya are supposed to **try to settle the disputes as far as possible** by bringing about conciliation between the parties and for this purpose, it can make use of the appointed conciliators.
- The judgement and order passed by the Gram Nyayalaya are **deemed to be a decree** and to avoid delay in its execution, the **Gram Nyayalaya can follow summary procedure for its execution.**
- **Gram Nyayalaya are courts of Judicial Magistrate of the first class** and its presiding officer (Nyayadhikari) is **appointed by the State Government** in consultation with the High Court of the State concerned.
- The Nyayadhikaris who will preside over these Gram Nyayalayas are **strictly judicial officers** and will be drawing the same salary and deriving the same powers as First Class Magistrates working under High Courts.
- The Gram Nyayalaya **will not be bound by the rules of evidence provided in the Indian Evidence Act, 1872** but shall be guided by the principles of natural justice and subject to any rule made by the High Court.
- **Appeal in criminal cases shall lie to the Court of Session**, which shall be heard and disposed of within a period of six months from the date of filing of such appeal.
- **Appeal in civil cases shall lie to the District Court**, which shall be heard and disposed of within a period of six months from the date of filing of the appeal.

Why Gram Nyayalayas failed in India –

- The usual constraints of **financing and state capacity remain, of course very low & reluctant.**
- There have also been elements of **reluctance on the part of police officials, lawyers and other functionaries** in even bringing cases to the Gram Nyayalayas.
- However, a bigger issue seems to concern the fact that many states **have over the years gone ahead and established regular courts at the Taluk level thereby lessening the need for such institutions.**
- Gram Nyayalayas also **exist in a grey area** wherein as much as they help expand the formal legal setup, they simultaneously **divert from mainstream legal system tenets** as well, thus acting as a handicap on their wider adoption.
- It all boils down to the fact that Gram Nyayalayas have simply been **relegated to the side-lines by most state governments** in their pecking order of policy priorities.
- **Resource allocation remains low or non-existent, there's been no serious investment** that has been made in terms of infrastructure and other provisions and even the awareness in general among all stakeholders involved remains extremely limited.

ISSUES

- Many of the stakeholders including the litigants, lawyers, police officers and others are **not even aware about the existence of Gram Nyayalayas** in the district court

premises and no conferences or seminars have been organised for creating awareness about this institution.

- **The Gram Nyayalaya uneasily straddles two approaches to legal system reform:** expansion of the formal legal system and diversion from the mainstream legal system. Both these approaches rest on an understanding of a legal system which are conceptually inadequate and empirically suspect.
- Furthermore, the spirit of the legislation includes the establishment of Gram Nyayalayas where it would be of maximum possible benefit to the villagers, but in practice, **some of the Gram Nyayalayas are established with parallel jurisdiction in towns, along with other regular courts.** Gram Nyayalaya is sometimes present at the premises of the district court, which destroys the sole purpose of making such courts.
- There is **ambiguity and confusion regarding the specific jurisdiction** of Gram Nyayalayas, due to the existence of alternative forums such as labour courts, family courts, etc.
- There has been **no comprehensive empirical assessment of the success** of diversion strategies towards reducing delay in the formal legal system.
- The **number of cases disposed of by Gram Nyayalayas is negligible** and that they do not make any substantial difference in the overall pendency in the subordinate courts.
- Other reasons for the institution falling short of expectations have been the **lack of cooperation from lawyers and Public Prosecutors.** The reasons cited range from lack of economic viability or incentives/allowance to security issues, **unsafe location of a Gram Nyayalaya** (sometimes being close to a forest, where crime rates are high), etc.

Suggestions For Optimising The Efficiency Of Gram Nyayalayas

- **Creation of a regular cadre of Gram Nyay Adhikari**, this could be made a compulsory service for a certain period for a newly recruited judicial officer to the regular cadre of first class judicial magistrates or civil judges.
- **Training of Gram Nyay Adhikari:** Apart from the legal and procedural requirements of Gram Nyayalayas, training may also include the local language of the community amongst whom they are posted.
- **Establishment of permanent Gram Nyayalayas:** Gram Nyayalayas may be established in every Panchayats at intermediate level or group of contiguous Panchayats at intermediate level depending upon the number of disputes which normally arise from that area.
- **Creation of awareness among various stakeholders**
- **The Jurisdiction of the Gram Nyayalayas may be redefined** in order to remove the ambiguities regarding the jurisdiction of Gram Nyayalayas, and the Act amended.
- Infrastructure and Security: Separate buildings for the functioning of the Gram Nyayalaya as well as for the accommodation of the Gram Nyayadhikaris and other staff need to be constructed. Provision also has to be made for providing adequate security.

INTERSTATE RIVER WATER DISPUTE –

India has only 4% of water resources to sustain its 18% of world population . These resources are unevenly distributed which results in frequent loggerheads over the distribution of rivers in the country.

- The Inter-State River Water Disputes are one of the most contentious issues in the Indian federalism today. For Example - Cauvery Water Dispute and the Satluj Yamuna Link canal etc..
- To resolve the issues various Inter-State Water Disputes Tribunals have been constituted so far, but they had their own problems.

History of River Water Disputes Tribunals

- 1st inter-state water disputes tribunal was the Krishna Water Disputes Tribunal formed in 1969 in chairmanship of R.S.Bachawat. The states involved were Karnataka, Andhra Pradesh and Maharashtra.
 - However the 2nd Krishna water dispute tribunal was formed in 2004.
 - Due to the formation of Telangana , this state also became the party and hence the case is pending in the Supreme Court.

Active River Water Dispute Tribunals in India

- Ravi & Beas Water Tribunal (1986) – Punjab, Haryana, Rajasthan
- Mahadayi Water Disputes Tribunal (2010) – Goa,Karnataka, Maharashtra
- Vansadhara Water Disputes Tribunal (2010) – Andhra Pradesh & Odisha.
- Mahanadi Water Disputes Tribunal (2018) – Odisha & Chattisgarh

The constitutional provision related to water -

- Water is a **State subject as per entry 17 of the State List** and thus states are empowered to enact legislation on water.
- Entry 17 of State List deals with water i.e. **water supply, irrigation, canal, drainage, embankments, water storage and water power.**
- **Entry 56 of Union List** empowers the Union Government for the regulation and development of inter-state rivers and river valleys to the extent declared by Parliament to be expedient in the public interest.
- According to **Article 262**, provides that the Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- Parliament has enacted two laws according to Article 262 –
 - **River Board Act, 1956** - The purpose of this Act was to enable the Union Government to create Boards for Interstate Rivers and river valleys in consultation with State Governments. The objective of Boards is to advise on the inter-state basin to prepare development schemes and to prevent the emergence of conflicts.

- **Inter-State Water Dispute Act, 1956** – if any particular state approaches the Union then the Central Government should try to resolve the matter by consultation among the aggrieved states. In case, if it does not work, then it may constitute the tribunal.

The composition of the River Water Tribunal

- River Water Tribunal is constituted by the Chief Justice of India and it consists of the sitting judge of the Supreme Court and the other two judges who can be from the Supreme Court or High Court.

The Present Mechanism to resolve the inter-state river water disputes in India

- The mechanism is governed by the Inter-State Water Disputes Act, 1956, but this tribunal be formed only on request of state govt only after if central govt is not able to solve the issue.
- The act was amended in 2002, to include the major recommendations of the Sarkaria Commission.
- The amendments mandated a one year time frame to setup the water disputes tribunal and also a 3 year time frame to give a decision.

Major issues with Inter-state water dispute Tribunal -

- **Delay in dispute resolution** - For example, Godavari water dispute, the request was made in 1962, but the tribunal was constituted in 1968 and the award was given in 1979 which was published in the Gazette in 1980.
 - The Cauvery Water Disputes Tribunal, constituted in 1990, gave its final award in 2007.
- **Opaque Institutional Framework** - Due to the Opacity in the institutional framework and guidelines that define these proceedings; and ensuring compliance the award which is final and beyond the jurisdiction of Courts, either States can approach Supreme Court under Article 136 (Special Leave Petition) under Article 32 linking issue with the violation of Article 21 (Right to Life).
- **Composition issues** – Many states questions the composition of the tribunal that it is not multidisciplinary and it consists of persons only from the judiciary.
- **Absence of data** - The absence of authoritative water data that is acceptable to all parties currently makes it difficult to even set up a baseline for adjudication.
- **Shift in approach** - The shift in tribunals' approach, from deliberative to adversarial, aids extended litigation and politicisation of water-sharing disputes.
- **Politics of water** - The growing nexus between water and politics have transformed the disputes into turfs of vote bank politics.
 - This politicisation has also led to increasing defiance by states, extended litigations and subversion of resolution mechanisms.
 - For example, the Punjab government played truant in the case of the Ravi-Beas tribunal.
- **More complexities** – There is too much discretion at too many stages of the process. This is Partly because of procedural complexities involving multiple stakeholders across governments and agencies.

Issues with the Inter State River Water Dispute Act, 1956

- **Multiple Tribunals** - Since under this act , each dispute has to have separate tribunal hence there are currently 8 tribunals.
- **Lack of Robust Governance** – Since in this act, there is no time limit for adjudication or publication of reports. There is lack of clarity in the institutional framework and guidelines that define these proceedings to ensure compliance.
- **Complicated & long Proceedings** - Only three of the eight tribunals have actually given awards accepted by the states. Tribunals like those on the Cauvery and Ravi Beas have been in existence for over 26 and 30 years respectively without any award.
- **Non -Multidisciplinary system** - These are not multidisciplinary and it consists of persons only from the judiciary. There is no upper age limit for the chairman or the members.
- **Lack of data** - The absence of authoritative water data that is acceptable to all parties currently makes it difficult to even set up a baseline for adjudication.
- **Subversion of resolution mechanisms** - Though award is final and beyond the jurisdiction of Courts, either States can approach Supreme Court under Article 136(Special Leave Petition) under Article 32 linking issue with the violation of Article 21 (Right to Life).
- **Complicated process involving too much discretion** - India's complicated federal polity and politicisation of water issue all leads to procedural complexities involving multiple stakeholders across governments and agencies.

Amendment to the Interstate River water dispute Act 1956 in 2002

This amendments brought some changes in act as –

- The tribunal has to be **constituted within one year of the request**.
- The tribunal should **give the award within 3 years and in some exceptional cases, within 5 years**.
- If the award is not immediately implemented, the concerned parties can seek clarification within three months.
- The tribunal award will have the same force as an order or decree of the Supreme Court.
The award is final and above the SC's jurisdiction.
 - However, the states could still approach SC through Article 136 (Special Leave Petition)
 - Private persons could approach the SC under violation of Article 21 (Right to Life).

The Inter-State River Water Disputes (Amendment) Bill, 2021

In order to further streamline the adjudication of inter-State river water disputes, the new amendments was placed which has following provisions -

- **Tribunal with permanent establishment** - The bill places the provisions to constitute a standalone Tribunal with permanent establishment and permanent office space and infrastructure so as to obviate the need to set up a separate Tribunal for each water dispute which is invariably a time consuming process.
- **Establishment of Dispute Resolution Committee** – There is a provision for establishment of a Dispute Resolution Committee (DRC) by the Central Government for resolving amicably, **the inter-State water disputes within a maximum period of one year and six months**.

- **Tribunal for adjudication** - Any dispute, which cannot be settled by negotiations, shall be referred to the Tribunal for its adjudication.
 - The dispute so referred to the Tribunal shall be assigned by the Chairperson of the Tribunal to a Bench of the Tribunal for adjudication.
- **No requirement of publishing in gazette** - Under the Bill, the requirement of publication of the final decision of tribunal in the official gazette has been removed.
- **Decision be final & Binding** - The Bill adds that the decision of the bench of the tribunal will be final and binding on the parties involved in the dispute
- **Transparent data collection** - The Bill also calls for the transparent data collection system at the national level for each river basin and a single agency to maintain data bank and information system.

Key issues with the Bill -

- **Issues with DRC** – since the role of DRC has been elevated to Proactive and will be headed by Secretary rank officer hence There is challenge to make the DRC process neutral and ensure meaningful participation by states that are party to a river water dispute
- **DRC may become a political tribunal** – Since this aims at a politically negotiated settlement, river water disputes are deeply political at their core. Its raison d'être is to avoid legal adjudication, not to supplement it. There are doubts whether this can be achieved
- **Loggerheads with Judiciary** - As there was appeal against the Cauvery water dispute in court. The court had in December 2016 said that it was within its jurisdiction to hear appeals after the centre and Puducherry opposed the appeals, saying that the Constitution of India expressly disallows the apex court from intervening in interstate river water disputes.
 - The bill has to resolve this conundrum first. In simple terms, the Supreme Court says it has jurisdiction over interstate river water disputes while the legislature says it doesn't.
- **Selection of Tribunal Judges** – Since there is provision to select Tribunal judges by a select committee which comprises the prime minister or a nominee as the Chairperson, the Minister of Law and Justice, the Minister of Jal Shakti and the Chief Justice of the Supreme Court.
 - This composition will now risk states politicising not just the disputes, but their adjudication by the tribunal.
 - This creates a situation where the dispute could escalate to the Supreme Court.

UPSC GS 2 SYLLABUS : COMPARISON OF THE INDIAN CONSTITUTIONAL SCHEME WITH THAT OF OTHER COUNTRIES

INDIAN CONSTITUTION AND UK CONSTITUTION:-

INDIAN CONSTITUTIONAL MODEL	UK'S CONSTITUTIONAL MODEL
DIFFERENCES	
<ul style="list-style-type: none"> India has republican system where the head of state i.e. President is elected 	<ul style="list-style-type: none"> The UK has British monarchical system where the head of the system i.e. The King or Queen enjoys hereditary position
<ul style="list-style-type: none"> India has written constitution 	<ul style="list-style-type: none"> UK has unwritten constitution
<ul style="list-style-type: none"> India has federal system 	<ul style="list-style-type: none"> UK has unitary system
<ul style="list-style-type: none"> In India power is divided between Centre and the states 	<ul style="list-style-type: none"> In UK total power is with the Centre
<ul style="list-style-type: none"> In the Indian Judiciary system, the concept of 'Basic Structure' has provided a potent tool to the Judiciary by which it can scuttle down any Executive or Legislative action, which it deems as against the basic spirit of the Constitution. 	<ul style="list-style-type: none"> The British system lacks the concepts of 'Basic Structure' makes amending power of the Parliament supersede any judicial pronouncement.
<ul style="list-style-type: none"> Indian system incorporates the Common Law System along with the statutory and regulatory laws. 	<ul style="list-style-type: none"> British legal system is completely based on 'Common Law System'
<ul style="list-style-type: none"> In India, the Prime Minister may be a member of any of the two Houses of Parliament 	<ul style="list-style-type: none"> In Britain, the Prime Minister should be a member of the Lower House (House of Commons) of the Parliament.

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|---|--|
| <ul style="list-style-type: none">• In Indian Parliamentary system there is harmony between legislature and executive | <ul style="list-style-type: none">• In British Parliamentary form executive is responsible towards legislature |
|---|--|

SIMILARITIES

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|---|
| <ul style="list-style-type: none">• The judiciary is considered the highest interpreter of the Constitution |
| <ul style="list-style-type: none">• Actions of the executive can be declared to be outside their constitutional powers. |
| <ul style="list-style-type: none">• Off late, there has been a splurge in judicial activism in Britain and the judiciary is becoming more and more active. A similar evolution of judiciary has been noticeable in the Indian case too. |
| <ul style="list-style-type: none">• Lower house is powerful in both the countries. |
| <ul style="list-style-type: none">• Both the countries have Bicameral parliament |
| <ul style="list-style-type: none">• Both the countries have the cabinet system of Ministers |
| <ul style="list-style-type: none">• In both countries the Council of Ministers is responsible towards the lower house |

INDIAN CONSTITUTION AND US CONSTITUTION:-

INDIAN CONSTITUTIONAL SYSTEM	USA'S CONSTITUTIONAL SYSTEM
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DIFFERENCES	
<ul style="list-style-type: none"> India is an Executive federation. This means that states are important at the executive level only. 	<ul style="list-style-type: none"> USA is a Legislative federation. This means that States have dominance in law making.
<ul style="list-style-type: none"> India has parliamentary form of government 	<ul style="list-style-type: none"> USA has presidential form of government
<ul style="list-style-type: none"> India is an indestructible union of destructible states 	<ul style="list-style-type: none"> USA is an indestructible union of indestructible states
<ul style="list-style-type: none"> Interdependence of Centre and state govt. Neither of them is independent of the other. Centre usually has the role of big brother 	<ul style="list-style-type: none"> Both the Centre and state are completely independent. They are complete governments
<ul style="list-style-type: none"> Asymmetrical federalism – <ul style="list-style-type: none"> States have been given representation in Rajya Sabha on the basis of their population. Articles 370, 371 provide special provisions to few states. 	<ul style="list-style-type: none"> Symmetrical federalism – all states are given equal representation in Senate
<ul style="list-style-type: none"> The President of India is the executive head of the Indian government. He is indirectly elected by the legislators of Centre and states, and is not accountable to the Parliament. 	<ul style="list-style-type: none"> The President is powerful and not accountable to the House of Congress.
<ul style="list-style-type: none"> President can be elected for multiple number of terms 	<ul style="list-style-type: none"> President can be elected only for two terms at max.

<ul style="list-style-type: none"> In India, a bill is introduced in the House and the first reading takes place and then it is referred to the Committee 	<ul style="list-style-type: none"> In USA, a bill is introduced and then directly referred to the committee, before even the first reading
<ul style="list-style-type: none"> Doctrine of Separation of Power is adopted in Indian Constitution, but it is only between the Executive and Judiciary. 	<ul style="list-style-type: none"> The US Constitution strictly adheres to the doctrine of Separation of Power
<ul style="list-style-type: none"> Allows only single citizenship 	<ul style="list-style-type: none"> Allows dual citizenship (one for state and other for country itself)
<h3>SIMILARITIES</h3>	
<ul style="list-style-type: none"> Both countries have written constitution 	
<ul style="list-style-type: none"> Both have Bicameral legislature 	
<ul style="list-style-type: none"> Both have a system of judicial review 	
<ul style="list-style-type: none"> Both have a process for impeachment of President 	
<ul style="list-style-type: none"> Both of them follow principle of checks and balances 	
<ul style="list-style-type: none"> Both have the concept of Fundamental rights in their constitutions 	
<ul style="list-style-type: none"> Constitutions of both countries have preamble in them 	
<ul style="list-style-type: none"> Both countries have a defined process for the removal of Supreme court judges. (India has taken it from USA) 	

INDIAN CONSTITUTION AND FRENCH CONSTITUTION:-

INDIAN CONSTITUTIONAL MODEL	FRENCH CONSTITUTIONAL MODEL
DIFFERENCES	
<ul style="list-style-type: none"> India has pseudo federal form of government. 	<ul style="list-style-type: none"> It has a unitary form of government and the nature of the government is called as semi-Presidential type.
<ul style="list-style-type: none"> In India parliament has supremacy in law making and the President only the made law can be sent for approval towards the President. 	<ul style="list-style-type: none"> The French Parliament does not have supremacy even in law making. There is a list for which the legislature can make laws, whereas the rest of the matters are taken care of by the President (i.e. he makes the laws).
<ul style="list-style-type: none"> Prime Minister is not assistant to President but is responsible for most major decisions to be taken for country 	<ul style="list-style-type: none"> Prime Minister is assistant to President
<ul style="list-style-type: none"> The Prime Minister is appointed to a proper election and the President does not appoint him directly. Only in exceptional cases - i.e if govt. falls before its term President can call on the opposition leader to form the government. 	<ul style="list-style-type: none"> Prime Minister is appointed by the President The person appointed as PM must enjoy the confidence of the House
<ul style="list-style-type: none"> There is judicial supremacy 	<ul style="list-style-type: none"> Executive Supremacy

<ul style="list-style-type: none"> ● President is indirectly elected 	<ul style="list-style-type: none"> ● President is directly elected
<ul style="list-style-type: none"> ● Prime Minister presides over cabinet 	<ul style="list-style-type: none"> ● President presides over cabinet
<ul style="list-style-type: none"> ● Prime Minister and Council of Ministers have to be the members of Parliament 	<ul style="list-style-type: none"> ● Prime Minister and Council of Ministers shall not be members of Parliament
<ul style="list-style-type: none"> ● Provision for Judicial review is present 	<ul style="list-style-type: none"> ● Provision for Judicial review is absent

SIMILARITIES
<ul style="list-style-type: none"> ● Both the countries have written constitution
<ul style="list-style-type: none"> ● Both the countries have republican constitutions
<ul style="list-style-type: none"> ● Both the countries have Bi-cameral legislature
<ul style="list-style-type: none"> ● Constitutions of both countries follow the ideals of liberty, equality and fraternity.

INDIAN CONSTITUTION AND JAPANESE CONSTITUTION:-

INDIAN CONSTITUTIONAL MODEL	JAPAN'S CONSTITUTIONAL MODEL
DIFFERENCES	

<ul style="list-style-type: none"> ● India has constitutional democracy 	<ul style="list-style-type: none"> ● Japan has model of constitutional monarchy
<ul style="list-style-type: none"> ● The Prime Minister is a person of party being elected with the majority. 	<ul style="list-style-type: none"> ● It is not enough for the PM to be just a leader from the majority party, he has to be elected by both the houses of the Parliament.
<ul style="list-style-type: none"> ● President is the head of the state 	<ul style="list-style-type: none"> ● Emperor is the head of the state
<ul style="list-style-type: none"> ● Indian constitution is federal in nature with unitary bias 	<ul style="list-style-type: none"> ● It is unitary in nature

SIMILARITIES	
<ul style="list-style-type: none"> ● In both countries the head of the cabinet is Prime Minister 	
<ul style="list-style-type: none"> ● In both countries the real executive is Cabinet 	
<ul style="list-style-type: none"> ● In both the countries constitution is regarded as the supreme law of land 	
<ul style="list-style-type: none"> ● Both the countries have parliamentary system 	
<ul style="list-style-type: none"> ● Both the countries follow single citizenship rule 	
<ul style="list-style-type: none"> ● Both countries follow the concept of 'Procedure Established by Law' 	
<ul style="list-style-type: none"> ● Both the countries have written constitution 	
<ul style="list-style-type: none"> ● In both the countries Supreme Court is the highest judicial authority of the nation 	

INDIAN CONSTITUTION AND CONSTITUTION OF RUSSIA:-

INDIAN CONSTITUTIONAL MODEL	RUSSIA'S CONSTITUTIONAL MODEL
DIFFERENCES	
<ul style="list-style-type: none"> • India has parliamentary form of government 	<ul style="list-style-type: none"> • Russia has Semi-Presidential system of government
<ul style="list-style-type: none"> • Authority of Prime Minister is strongest 	<ul style="list-style-type: none"> • Authority of the President is the strongest
<ul style="list-style-type: none"> • Dual citizenship is not recognized in India 	<ul style="list-style-type: none"> • Dual citizenship is recognized in Russia
<ul style="list-style-type: none"> • President is elected through indirect elections 	<ul style="list-style-type: none"> • President is elected through direct elections
<ul style="list-style-type: none"> • India has an integrated judiciary and follows the principle of separation of powers from legislature and executive. 	<ul style="list-style-type: none"> • There is not a Single Integrated Judiciary in Russia like in India. There is an independent Constitutional Court and Supreme Court at the apex.
SIMILARITIES	
<ul style="list-style-type: none"> • India and Russia are both republican countries 	
<ul style="list-style-type: none"> • Both countries have the concept of Fundamental rights provided to citizens in their constitutions 	
<ul style="list-style-type: none"> • Both the countries have federal structure 	

INDIAN CONSTITUTION AND CONSTITUTION OF SWITZERLAND:-

INDIAN CONSTITUTIONAL MODEL	SWITZERLAND'S CONSTITUTIONAL MODEL
DIFFERENCES	
<ul style="list-style-type: none"> • Executive is vested in President in India 	<ul style="list-style-type: none"> • Executive is vested in the Federal Council in Switzerland
<ul style="list-style-type: none"> • Judiciary has supremacy according to Indian constitutional model 	<ul style="list-style-type: none"> • Judiciary cannot rule invalid a federal law according to Switzerland constitutional model
<ul style="list-style-type: none"> • Party Government is Present 	<ul style="list-style-type: none"> • Party government is absent
<ul style="list-style-type: none"> • President is elected by electoral college 	<ul style="list-style-type: none"> • Federal Council is elected by Federal Assembly
<ul style="list-style-type: none"> • Referring bills for ratification to the people is not possible according to Indian constitutional model 	<ul style="list-style-type: none"> • Such referendum is possible according to Switzerland constitutional model
SIMILARITY	
<ul style="list-style-type: none"> • Both India and Switzerland follow principle of federalism 	

INDIAN CONSTITUTION AND CONSTITUTION OF CANADA:-

INDIAN CONSTITUTIONAL MODEL	CANADA'S CONSTITUTIONAL MODEL
DIFFERENCES	
<ul style="list-style-type: none"> • Dual citizenship is not allowed in Indian constitutional model 	<ul style="list-style-type: none"> • Dual citizenship is allowed in Canada's constitutional model
<ul style="list-style-type: none"> • India has a written constitution 	<ul style="list-style-type: none"> • Canadian constitution has written and unwritten elements both
SIMILARITIES	
<ul style="list-style-type: none"> • Both countries have federal structure with strong centres. 	
<ul style="list-style-type: none"> • Both the countries have supreme court as the highest court and final authority on civil, criminal and constitutional matters. 	

UPSC GS 2 SYLLABUS : PARLIAMENT AND STATE LEGISLATURES—STRUCTURE, FUNCTIONING, CONDUCT OF BUSINESS, POWERS & PRIVILEGES AND ISSUES ARISING OUT OF THESE.

ISSUES WITH PARLIAMENTARY FUNCTIONING

The parliamentary control over government and administration in India is more theoretical than practical. These are the following issues faced by the Parliament and State Legislature.

- **Frequent Adjournment** – The recent data shows that the Parliament sessions are adjourned frequently which ultimately hampers the efficiency of Parliament. For instance,
 - After the 2G scam, the winter session in December 2010, just recorded only 6% of work while the monsoon session in 2021 just worked only 21 hours in 21 days.
 - For the past 10 years, the Rajya Sabha has functioned for less than 25% of its scheduled time.

- **Lack of scrutiny of Bills/government policies** – The Committees formed in parliament are the important part of scrutiny but most bills passed in same they were introduced. For instance, in the recent monsoon session,
 - If we leave 1 or 2 bills ,the rest of the bills were passed on an average of 8 minutes.
 - During the 15th LS, 18% of bills were passed in the same session. In 16th LS, the count rose to 33%.
- **Less number of Bills sent to committees for scrutiny** - Only 12% of the government's legal proposals have been sent to committees for scrutiny in the current Lok Sabha. This number was 27% in the 16th (2014-19), 71% in the 15th (2009-14), and 60% in the 14th (2004- 09) Lok Sabha.
- **Lack of Parliamentary debate** – For example in Recent monsoon session 18 bills out of 20 were passed without any discussion .
- **Reduced working hours of Parliament** – For example past 10 years the Rajya Sabha has functioned for less than 25% of its scheduled time. And In 2020, Parliament sat in session for 33 days only.
- **Resort to money Bill route** - Several key pieces of legislation have been passed as Money Bills, despite the fact that they did not fit this category.
- **More demand of grants route** - Parliament's financial control is hindered by **the technical nature of the demands for grants**. The parliamentarians being laymen cannot understand them properly and fully.
- **No place for effective criticism** - The **majority** support enjoyed by the Executive in the Parliament **reduces** the possibility of **effective criticism**.
- **The rising use of Guillotine** - The increased recourse to '**guillotine**' reduced the **scope of financial control**.
- **More delegated legislations** - The growth of '**delegated legislation**' has reduced the role of Parliament in making detailed laws and has increased the powers of bureaucracy.
- **Ordinance culture** - The frequent **promulgation of ordinances** by the president **dilutes the Parliament's power** of legislation.

SUGGESTION

There are few changes that need to be made with time for better functioning of the Parliament as well as State Legislature

- The **non-disruption hours** where **crucial bills** can be passed and discussed should be **maximised**.
- Opposition must be given **clear days to drive and discuss the issues** that it wants.
- On '**Opposition days**' the agenda should be decided by **Opposition parties for discussion**; Opposition can introduce bills on these days.
- Each day a **specific time-frame** shall be maintained for discussion of any new or urgent issues in concurrence with the Speaker.
- The Opposition could also be allotted a **couple of hours at the starting or at the end** of the day to put their views forward.

- **Joint sessions of both Houses** could be held and bills being held up must be passed immediately to stop further **loss of tax-payer money**.
- **Laws** should be made to **avoid members** from **disturbing** smooth Parliament working.
- The **Constitution** should be **amended**, making it incumbent on all political parties to ensure that **Parliament functions and transacts business** at least for a **specified number of days**.
- Any party may be allowed to disrupt but it must be mandatory that the bills to be tabled must be tabled in the same session and **no ‘pass’ should be allowed**.
- More **space and respect** should be given to **private members bills**.
- Create a system that will enable MPs to hear the **viewpoints of affected citizens** and initiate appropriate **policy responses**.

ISSUES WITH STATE LEGISLATURES FUNCTIONING

- **Bills are passed with little or no discussion** in many state legislatures. While in Parliament, referring bills to the standing committees is the norm, most state legislatures do not have standing committees. The only examination of a bill, if any, happens on the floor of the House.
- There are any number of instances where bills are introduced and passed in state assemblies on the same day -so there is **not even a pretence of the need for MLAs to read, understand and deliberate on the provisions** of legislation they are supposedly passing. MLAs are often far more narrowly constituency-focused than MPs are.
- On average, **MLAs have lower education levels than members of Parliament**. There is no formal definition of a role of an MLA, and they mostly have no exposure to ideas such as the separation of powers between the executive and the legislature.
- At the time of elections, each of the contestants represents his party. But **after the elections, the chief minister becomes the leader of all MLAs in the House**. If an MLA needs some additional projects/ favours for his constituency he needs to be in the good books of the chief minister and his cabinet ministers.
- **It is obvious that state assemblies meet for very few days a year**. A case in point is the Punjab assembly which has met for an average of 19 days per year for a 10-year period between 1997 and 2007. Delhi was only marginally better averaging 21 days per year during the same period. Kerala has averaged some 50 days a year for several years now.
 - Some states like Karnataka have legislated that they should meet for at least 60 days a year, but since passing that legislation in 2005, **they have not managed to do so for even one year**. I am not even accounting for the time lost due to disruptions.
- **The poor behaviour of some MLAs** is only one aspect of the pitiable state of several of our state legislatures.
 - The other aspect of our state legislatures that goes largely unnoticed is **how poorly the secretariats of legislatures are equipped** and how several systems that are seen as essential in Parliament are nonexistent in states.

- Even to know the complete picture of how our legislatures function, you need data. And several state assemblies are **notoriously poor at putting out data** on the functioning of the institution or the MLAs.
- After one gets used to the quality of Parliament websites and the regularity of their updates, it would be shocking to see that there are **some state legislatures that do not even have functional websites**.
 - It has been observed that some state legislatures are **lagging behind by a couple of years in compiling the "resume of work"** which summarises the work done in a session of the legislature. So the first bottleneck in several instances is the inability to access data of the assembly.
- At the State level since the late sixties and in recent years at the Union level also, we have been faced with the **phenomena of governmental instability** resulting from hung houses and/or unprincipled defections by legislators.

SUGGESTIONS

- It is **necessary to ensure that the legislatures run smoothly**, and the speaker, as first among equals, has the biggest responsibility to ensure this.
- If there are rules and everyone knows that those rules will never be used to enforce discipline, then the rules will be broken, and repeatedly so. This **practice needs to be urgently reviewed**.
- The **proceedings of the committees can be monitored** and the public be kept informed on a regular basis.
- **Allowing the media to witness and report the proceedings of committees** which deal with matters of a larger public interest is a sure way to bring people closer to the legislature, thereby strengthening the legislature in the discharge of its oversight functions.
- A **more systematic approach to the planning of legislation is needed** to provide adequate time for consideration in committees and on the floor of the house as also to subject the drafts to thorough and rigorous examination by experts and laymen alike.
- The **Parliamentarians have to be like Caesar's wife, above suspicion**. They must voluntarily place themselves open to public scrutiny through a parliamentary ombudsman.
- It is a legitimate public expectation that **membership should not be converted into an office of lucrative gain** but remain an office of service. The question of salaries, allowances, perks and pensions of law makers should be looked into on a rational basis and healthy conventions built.
- The **Houses of State Legislatures with less than 70 members should meet for at least 50 days** in a year and other Houses for at least 90 days while the minimum number of days for sittings of Rajya Sabha and Lok Sabha should be fixed at 100 and 120 days respectively.
- **Better and more institutionalized arrangements are necessary** to provide the much needed professional orientation to newly elected members.

- **The findings and recommendations of the Public Accounts Committees be accorded greater weight.** A convention should be developed with the cooperation of all major parties represented in the legislature to treat the PACs as the conscience-keepers of the nation in financial matters.
- **Article 194(2) may be amended to clarify that the immunity enjoyed by Members of State Legislatures** under parliamentary privileges does not cover corrupt acts committed by them in connection with their duties in the House or otherwise.
- **The State AGs need to be given greater authority by the C&AG**, while maintaining its general superintendence, direction and control to bring about a broad uniformity of approach in the sphere of financial discipline.
- Some of the **archaic practises and time-consuming procedures** may not be suitable to present day needs of parliamentary institutions. They need to be revised accordingly.
- The best way to deal with issues of procedural reforms in a professional (and not political) manner is to have them **studied by a Study Group outside Parliament as was done in the U.K.**

LEGISLATIVE COUNCILS

- **India has a bicameral system** i.e., two Houses of Parliament. At the state level, the equivalent of the Lok Sabha is the **Vidhan Sabha or Legislative Assembly**; that of the Rajya Sabha is the Vidhan Parishad or Legislative Council.
- **Under Article 168**, states can have either one or two Houses of legislature. Article 169 leaves the choice of having a Vidhan Parishad to individual states.
- **As of now 6 states have Vidhan Parishads** — Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana, UP. Jammu and Kashmir had a Council until the state was bifurcated into the Union Territories of J&K and Ladakh.

Abolition of LC

- **Article 169(1)** of the Constitution allows Parliament to either create or abolish a Council in a state "if the Legislative Assembly of the State passes a resolution to that effect.
- Accordingly, **the Parliament can abolish a legislative council** (where it already exists) or create it (where it does not exist), if the legislative assembly of the concerned state passes a resolution to that effect.
- **Such a specific resolution must be passed by the state assembly by a special majority**, that is, a majority of the total membership of the assembly and a majority of not less than two-thirds of the members of the assembly present and voting.
- **This Act of Parliament is not to be deemed as an amendment of the Constitution** for the purposes of Article 368 and is passed like an ordinary piece of legislation (ie, by simple majority).

PROS OF HAVING LEGISLATIVE COUNCIL

- **A Check against Hasty Legislation:** The advocates of second chambers in the States emphatically assert that the second chambers in the States would be necessary to protect the interests of the people against the hasty and ill-considered legislation initiated and passed by the lower Houses.
- **Initiation of Non- Controversial Bills in Upper Chambers:** Since the popular chambers are generally flooded with work, due to the rapid growth in the functions of a modern Welfare State, a unicameral legislature cannot cope with the work and devote fully to the bills brought before it for enactment. Hence the bills of non-controversial nature can start their course in the Councils first.
- **Accommodation of Election Shy Talent:** Moreover, elderly, experienced and sober individuals, cannot bear the ordeal of electioneering neither campaign nor are they keen to indulge in vicious party politics. The legislative councils do accommodate such mature and serene personalities not only through the nominated quota at the disposal of the Governor but also through the quota reserved for teachers and the graduates.
- **Thorough Discussion on the Bills by More Mature and Seasoned Members:** The atmosphere in the Councils is comparatively serene. Political antagonism or factional rivalry is almost nonexistent in the Council. The emotional outbursts are also rare. Hence the standard of debates in the Legislative Councils is high and the pros and cons of the legislation in question are thrashed out dispassionately.
- **A Check on Despotic Tendencies of Lower Chamber:** It is argued by the supporters of the second chamber that the imposition of check on autocracy of the lower chambers is indispensable. In case of the Indian states, retention of second chambers or their creation is said to be all the more important, as India is inhabited by illiterate masses, most of whom are the electorates.
- **Hardly a Barrier:** Councils cannot put insuperable barriers in the way of Assemblies, as they can delay the Bills only for a period of four months. Such an interposition of delay is essential to crystallise public opinion on all Bills before they become an Act.

CONS OF HAVING LEGISLATIVE COUNCIL

- **Not an Effective Check:** It was emphasised that powers of the Legislative Councils are limited to the extent that they can hardly impose any effective check on the Assemblies. A check on hasty and ill-considered legislation emanating from the Assembly is possible in case the Council detain a Bill for a longer period.
- **Backdoor Entrance of the Defeated Members:** It is apprehended by the critics that a Legislative Council may be utilized to accommodate discredited party-men who may not be returned to the Assemblies. The nominated quota placed in the hands of the Governor may be used for enabling these defeated leaders to seek nomination to the Council and then their elevation to the Chief Minister ship.
- **Utility Doubtful:** The critics further point out that the very fact that some of the States, such as Punjab, Bihar and West Bengal decided to wind up bicameral legislatures and advocated strong abolition of second chambers goes to prove that the second chambers have doubtful utility. The provision for their abolition in the Constitution itself further

confirms that even the Constituent Assembly was doubtful about the utility of these chambers.

- **Costly Institution:** It was pointed out by the advocates of unicameralism that bicameralism in the States would be a Rolls Royce institution in the bullock-cart country. It would be an expensive experiment and a big drain on the State's exchequer.
- **Either Superfluous or Mischievous:** It is emphasised even now that if a majority of the members in the upper house belong to the same party which holds majority in the lower house, the upper house will become a mere ditto chamber.
- **A Heterogeneous Chamber:** The composition of the Legislative Council also has entailed a very severe criticism. A blend of direct election, indirect election and nomination makes the Council a hotchpotch of representation. A chamber so heterogeneously constituted, neither serves the purpose of a revisory chamber nor acts as an effective brake against hasty legislation.
- **Stronghold of Vested Interests:** A few of the critics are opposed to the retention of the Legislative Council as it serves only as a stronghold of vested interests, who are not expected to support progressive legislation. Instead they may block such legislation initiated by the popularly elected Legislative Assembly.

CONCLUSION

- Dr. Garner had rightly opined that to counterbalance the undue preponderance of the popular element "**a conservative force to curb the radicalism of the popular chamber**" is essential. The State Legislative Councils were established to serve such a purpose.
- It was expected that the Upper House consisting of graduates, teachers, outstanding persons in the fields of art, literature, science and social service, would **check-mate the radicalism of the lower House**. They were supposed to serve as a "**check upon democratic outbursts**" and provide an element of sobriety and second thought.
- However, **if there was any real benefit in having a Legislative Council**, all States in the country should, and arguably would, have a second chamber.
- The fact that there are **only seven such Councils suggests the lack of any real advantage**, apart from the absence of a broad political consensus on the issue.
- **The process of creating an Upper House is lengthy.** The State Assembly has to pass a resolution for the creation of the Council by a majority of its total membership. Thereafter, Parliament has to enact a law to create it.
 - Two Bills introduced in the Rajya Sabha in 2013 for establishing Legislative Councils in Assam and Rajasthan are still pending, **indicating the lack of support for such a move.**
- **The states of Punjab, Andhra Pradesh and West Bengal, have already abolished the Legislative Councils.** Time is not far off when all such second chambers will be abolished in the remaining states as they are acknowledged as Rolls Royce institutions in the bullock-cart country.'

PARLIAMENTARY PRIVILEGES

With the addition of 4th member in the Governor general's council in 1833, the Parliamentary privileges in India were seeded. A new type of legislative machinery came into existence. This laid the foundation of an institution that ultimately grew into a full-fledged law-making body by process of evolution.

- The official aversion to the legislature's privileges was diluted after the indirect election to the legislature was provided by the Indian Councils Act, 1909.
- The Government of India Act, 1935, provided that there should be freedom of speech in the legislature.
- Today, some of the privileges of Parliament, and its members and committees, are specified in the Constitution, and there are certain statutes and the rules of procedure of the House; others continue to be based on the precedents of the House of Commons.

The main articles of India's Constitution dealing with the privileges of Parliament are 105 and 122, and the corresponding articles for the states are 194 and 212.

- The Constitution has also extended the **parliamentary privileges** to those persons who are entitled to **speak** and **take part in the proceedings of a House of Parliament** or any of its committees. These include the **attorney general of India and Union ministers**.

The sources of privileges - The five sources of the privileges are -

- Constitutional provisions
- Various laws made by Parliament
- Rules of both the Houses
- Parliamentary conventions
- Judicial interpretations

Types of Parliamentary Privileges

The parliamentary privileges can be specified in 2 categories – one is , the specified and enumerated, and other is, the recognized but unremunerated.

- The first category includes –
 - Freedom of speech in each House of Parliament
 - Immunity from proceedings in any courts regarding anything said or voted by a member in parliament or any committee.
 - Immunity from liability regarding the publication by or under the authority of either House of Parliament, of any report, paper, votes or proceeding of either House.
- In the second category Includes –
 - All those privileges which are enjoyed by the House of Commons (UK) are also enjoyed by Lok Sabha and would continue to be in force unless they are modified and defined by Parliament by law.

Collective Privileges

The privileges belonging to each House of Parliament **collectively** are:

- It has the **right to publish its reports, debates and proceedings** and also the **right to prohibit** others from publishing the same. The **44th Amendment Act of 1978** restored the **freedom of the press** to publish true reports of parliamentary proceedings without prior permission of the House. But this is **not applicable** in the case of a **secret sitting of the House**.
- It can **exclude strangers** from its proceedings and hold **secret sittings** to discuss some important matters.
- It can make rules to **regulate its own procedure** and the **conduct of its business** and to adjudicate upon such matters.
- It can **punish members** as well as **outsiders** for **breach of its privileges** or its **contempt by reprimand, admonition or imprisonment** (also suspension or expulsion, in case of members).
- It has the **right to receive immediate information** of the arrest, detention, conviction, imprisonment and release of a member.
- It can institute **inquiries and order** the attendance of witnesses and send for relevant papers and records.
- The courts **are prohibited** to **inquire** into the proceedings of a House or its committees.
- **No person** (either a member or outsider) can be **arrested**, and **no legal process** (civil or criminal) can be served within the precincts of the House **without** the permission of the **presiding officer**.

Individual Privileges

The privileges belonging to the members **individually** are:

- They **cannot be arrested** during the **session of Parliament** and **40 days before** the beginning and **40 days after** the end of a session. This privilege is available **only in civil cases** and not in **criminal cases or preventive detention cases**.
- They have **freedom of speech** in Parliament. **No member** is liable to **any proceedings** in any court for anything said or **any vote** given by him in **Parliament or its committees**. This freedom is subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament.
- They are **exempted from jury service**. They can **refuse to give evidence** and appear as a **witness in a case pending** in a court when Parliament is in session.

ISSUES

- The parliamentary privileges **restrict the freedom of the press**, which is a fundamental right.
- There is hardly any doubt that a **member of Parliament accepts the bribe to influence the conduct** done by him/her as a member is a contempt of house, there is uncertainty

whether the **Parliamentary Privileges** is a bar to the prosecution of the members for law offences of bribery and corruption.

- **Salmon report commission** on the standard of code and conduct of parliament stated that the **statutory offence of corruption and bribery do not apply to the members** of either house of the parliament.
- There is also **misuse of the privileges given to them** because they do not have many restrictions on the rights.
- The Members of the parliament or State Legislature have the **power to be the judge of their own proceedings**, regulate their proceedings, what constitutes the breach and what punishment should be given for the breach, are solely decided by them.
- The **power vested in them is too wide as compared to the fundamental rights** vested in the citizens.
- **No comprehensive law has been till date enacted** by the parliament for the codification of parliamentary privileges. With no codification of the privileges, **they have gained an undefined power** because there is no expressed provision to state the limitations on their powers.
- The privilege from any civil arrest 40 days before and after the session and during the session results that they are **exempted from arrest for even more than 365 days**.

SUGGESTIONS

- **Restrict the use of privilege to proceedings of the legislature** and not to the individual member. Any member who is falsely accused of any impropriety can use the defamation route through courts.
- Parliament and Legislative Assemblies should **pass laws to codify privilege**. Australia passed the Parliamentary Privileges Act in 1987.
- Both the Parliament and State Legislatures have a **duty to look carefully before making any law**, so that it doesn't harm other rights.
- It is also the **duty of the members to properly use these privileges** and not misuse them and protect the general interest of the nation and public at large.
- **Courts should revisit the earlier judgments** and find the right balance between fundamental rights of citizens and privilege of the legislature.
- Power corrupts and absolute power corrupts absolutely. For this not to happen under the privileges granted, **the public and the other governing body should always be on vigil**.

Judicial Review Of The Parliamentary Privileges

- The **judiciary has to take a stand on the wrongs committed by the members** who are taking the shelter of the privileges.
- The Supreme Court in **Keshav Singh's case** observed that the privileges conferred on the members are subject to the fundamental rights.

- The Supreme Court has also held that **any conflict arising between the privileges and the fundamental rights** would be resolved by **adopting harmonious construction**.
- The judiciary is very well aware of the fact that **it does not have jurisdiction over parliamentary matters** but it is necessary for the society that **any violation should be resolved by the court as it deems fit**.
- In a recent judgement by the Supreme Court judges in the case of **Algaapural R. Mohanraj v Tamil Nadu Legislative Assembly**, it was held that the principle of natural justice cannot be violated by the privilege committee.

ROLE OF PRESIDING OFFICER IN INDIA –

In a parliamentary democracy like India , the Parliamentary proceedings are headed by the Speaker in the Lok Sabha and Chairman in Rajya Sabha.

- In parliamentary democracy, the Speaker / the chairman represents the dignity and the freedom of the House and the country's freedom and liberty.

But the role of speaker has been criticised for favouring political parties and remaining biased to the party in majority.

Role of Speaker a Parliamentary democracy -

- **In ensuring the smooth proceedings of the house:** The Speaker/Chairman presides over the meetings of the Lok Sabha/Rajya Sabha and conducts its proceedings. The Speaker also presides over the joint sittings of the two Houses of the Parliament. Therefore it enables parliament to successfully carry over the debates and passage of important laws.
- **Maintain discipline** - The Speaker/Chairman maintains discipline in the House. If any member disrupts or tries to disrupt the proceedings of the House, he can warn him or can ask him to leave the House.
 - He can suspend a member from the House whom he finds guilty of violating the discipline and decorum. This ensures the smooth functioning of Lok Sabha.
- **Fix the Agenda of the House** - The Speaker/Chairman , in consultation with other members of the business committee of the House and the Prime Minister, fixes the agenda of the meetings of the House. This ensures timely debates and discussion on important issues of the country.
- **Permission to ask questions** - Each member of the House can put questions to the ministers; the permission of the presiding officer is required purpose.
 - This helps the presiding officer to prevent unnecessary and politically motivated questions while ensuring discussion on the important questions.
- **Conduct the business of the House** - The Presiding officers conducts the business of the House. He allows the members to introduce the bills or to move motions.
 - He recognises the members on the floor of the House and gives them time for speaking in the House.
 - He fixes time limit for the debates in the House, puts matters to vote, and announces the results.
 - He can warn the members against the use of unparliamentarily language and can order the same to be expunged from the records.

- **Interpretation of Rules of Procedure:** The business of the House is conducted according to definite and settled rules of procedure.
 - In case of any dispute regarding the rules of the House, the presiding officer interprets and applies these rules. The interpretation of rules made by the Speaker is final and cannot be challenged.
- **Power to adjourn the House -** The presiding officer can adjourn the meetings of the House if the quorum of the House is not complete or if the conducting the business of the House is not possible due to a disorderly behaviour of its members.
 - This ensures the presence of members in the parliament; performing his/her duties as mandated by citizens by electing him/her.

Criticism faced by office of the Presiding officer -

- **Non-partisanship -** In a parliamentary democracy office of presiding officers should be fair and impartial but they are usually elected to the House on a political party's ticket. In India where the presiding officer like Speaker does not resign from the membership of his party on his election to the speaker office.
 - This makes it more of a political liability on the speaker to favour his party.
- **Use of Anti-defection law -** In recent times, the role of presiding officers has been criticised for disqualification of MLAs under the anti-defection law and their ruling has been challenged in courts.
 - In two recent cases, prior to dismissal of governments in Uttarakhand and Arunachal Pradesh, the Speakers in both assemblies had helped ruling parties by using their powers to disqualify MLAs under the 10th Schedule.
- **Use of Discretionary power -** There are various instances where the Rules vest the Speakers with unbridled powers such as in case of declaration of bill as money bill (Lok Sabha Speaker).
 - This discretionary power comes under criticism when the Aadhar bill was introduced in Lok Sabha as Money Bill.
- **Review of the Speaker's Decisions -** Under the Rules, the Speaker is not answerable to any person in performing the roles assigned to him.
 - Decisions of presiding officers are final and are not open to appeal or subject to review.
 - In India, a member of the House may strongly disagree with the determination of the Speaker, but as per the Rules, he does not have any recourse apart from pursuing his interests through parliamentary procedures.
 - In the Kihoto Hollohan case, the SC declared that the speaker is subject to judicial review.
- **Rising disruptions -** Frequent disruptions reduced the time required for important discussions and compel speakers to allocate less time for discussion.
 - This often questions the impartiality of the speaker as he allegedly provides more time to the ruling party. Also, it is alleged that the speaker took harsh punishment against the disrupting member of opposition compared to the government.

RAJYA SABHA – ROLE , RELEVANCE & ISSUES –

Under Art 79 of Indian Constitution , The Rajya Sabha, also called the Council of the States, was constituted in year 1952

- The Rajya Sabha is called as the upper house of the Parliament and represents the federal character of the legislature by having members elected by the state legislatures and the Union Territories with the legislature.

History of the Rajya Sabha -

- In India, The Montague-Chelmsford Reforms started the bicameralism in 1918-19 .
- It was further continued by the Government of India Act, 1935. When the Constitution of India was drafted, initially the upper house was called 'Council of States'.
- Later on, the Hindi translation, i.e. Rajya Sabha was added to the Constitution as another nomenclature of the Upper house in August 1954.

Special Powers of the Rajya Sabha -

- **Allowing to make laws in the State list** – the Indian Constitution empowers the Rajya Sabha to allow the Parliament to make a law in the state list under Article 249. However, such a resolution needs to be approved by the Rajya Sabha by a two-thirds majority.
 - The provision has been built in the Constitution to ensure that the Parliament is able to aid the legislative process in the States or to ensure uniformity in law across the territory of India, as per the situation.
- **In the Setting up All India Services** - All India Services work under the general supervision of the Central government.
 - Therefore, as the protector of the States' interests, it is the Rajya Sabha which is empowered to create an All-India Services under the Article 312 for the better governance of the country.
- **Extending Proclamation of Emergency** - Rajya Sabha has the power to extend the proclamation of emergency under Article 352, if Lok Sabha has been dissolved or is not able to conduct a session due to some reasons.
 - Since Rajya Sabha is a permanent house, not subject to dissolution, such a situation does not exist at the level of Rajya Sabha.

Arguments against the Upper House -

- **Limited power** – As the Money bills as defined by Article 110 cannot be introduced in the Rajya Sabha, but only in the Lok Sabha.
 - In fact, Rajya Sabha has limited powers even in the case of deliberations related to Money Bills.
 - It has only 14 days in which it can suggest amendments to the money bill, which may or may not be accepted by the Lok Sabha.
 - Similarly, with regard to financial bills and budgetary matters, Rajya Sabha has a subordinate role as compared to the Lok Sabha.
- **Delaying to decision-making** - Rajya Sabha, despite being a nominated house, acts as a check on the directly elected government. This has been criticised by experts and eminent men alike. They point out that Rajya Sabha has no business holding the government accountable when Lok Sabha is fully equipped to do so.

- In delaying the bills and questioning the government, it oversteps its authority as it is questioning the will of the people indirectly by questioning their representatives.
- **Cost to the exchequer** - Many experts have pointed to the superfluous nature of the house as it has lesser power in most aspects as compared to the Lok Sabha.
 - For e.g., it is subordinate to the Lok Sabha in financial matters as well as dismissing the government, in case it loses confidence in the house.
 - Also, the deliberative role it plays is redundant as the same is done in the lower house. Therefore, it has been considered as a waste of resources by many experts.

Arguments in favour of the Upper House -

- **Guarding the federalism in Constitution** - The Constitution of India provides for the mechanism of joint sitting under Article 108 for the resolution of disagreements between the Rajya Sabha and the Lok Sabha.
 - However, for the Constitutional Amendment Bills, joint sitting cannot be called to decide on the dispute. This means that the Constitution makers have bestowed upon the Rajya Sabha the task of guarding the Constitution against any hasty amendments by Lok Sabha.
- **Promotes deliberation** - Eminent members of Constituent assembly like Gopalaswami Ayyangar vehemently supported the idea of the upper house as another house to deliberate the bills and policies of the government.
 - Rajya Sabha has made an immense contribution in correcting the directions of constitutional amendments, government legislations and articulated its views on matters of national importance
- **Strict eye view on hasty decision-making** - At the same time, Rajya Sabha, despite being a weaker house, has tried to act as a check on the bills originating in the Lok Sabha. Lok Sabha, by its very nature, is a house with a brute majority of the ruling coalition. This would mean uninterrupted passage of the bills in the Lok Sabha.
 - Rajya Sabha, with its varied composition, sobers the voices of majoritarianism, should they escape the notice of the lower house.
- **Cooling down the Politics** - An important function of the Rajya Sabha is to take time and let any heated matters settle down. For instance, there may be various matters which catch the public fancy and are a matter of media frenzy.
 - Any legislation at such time might be prone to errors due to swayed emotions.
 - Therefore, sometimes it is beneficial to let the issue cool down and discuss all the dimensions of an issue so that the principle of natural justice is upheld in the legislations.
- **Pointing to the National Issues** - Rajya Sabha has focussed more on the larger issues plaguing India, rather than the hot topics.
- **Richer debates** - One important factor contributing to this tendency is the permanent nature of the house. Since Rajya Sabha members do not have to worry about the general elections in the country and they have a fixed tenure of six years, therefore, the nature of debates is richer.

- For instance, even in the recent session, there have been debates on the reservation of women, the progress of India in achieving the Sustainable Development Goals etc.
- **Protection of states' interests** - Rajya Sabha has the added responsibility of protecting the federal nature of the Constitution as is depicted from one of its names viz. Council of States. And it can be said that it has asserted its authority in this aspect multiple times.
- **Strengthening the democracy** - Rajya Sabha is a smaller house as compared to the Lok Sabha, with less than half the members of Lok Sabha. This leads to the allocation of a longer duration of time to the members of smaller parties to put forward their point of view.
 - Therefore, it strengthens the democracy by providing a voice to the minority political parties of the house.
- **Private Members Bills** - Rajya Sabha has also provided its members opportunities to introduce the private member bills, which despite being important could not come up on the agenda of the government. For e.g., the bill on transgender rights was initially introduced passed by voice vote in the Rajya Sabha in 2014.
- **Continuity in Policy Making** - As the house with no provision of dissolution, Rajya Sabha provides continuity to the legislative process in the country. This is important to hold the government accountable to the people.

Recent Reforms introduced in Rajya sabha -

- **Making more inclusive** - In keeping with upholding the diverse nature of the Indian society and culture, Rajya Sabha has taken a lead in allowing the members to express their sentiments in their local language as they are more comfortable and natural in using their mother tongue.
- **Enhancing Participation of members** - Rajya Sabha has also tried to ensure the participation of the members from the smaller parties by allocating more time to them, which was earlier in proportion to their strength in the House. This ensures diversity in the deliberations and also ensures that the minority views are heard and given due importance in the Parliament.
- **Focus on the Rajya Sabha Committees** - The Chairman Mr. Venkaiah Naidu have been very proactive in ensuring that the Select and the Standing Committees constituted to deliberate the bills and policies of the government are functioning efficiently. Also, the House has ensured public display of the attendance of the members by putting the attendance online.
- **Holding the Government Accountable** - Rajya Sabha has worked in the area of holding the government accountable for the development of the country. For instance, the question hour in the Rajya Sabha is an instrument of control over the executive. To ensure that all of these questions are answered, Rajya Sabha has encouraged its members to ask pinpointed questions, which have exact answers.
 - Also, the Committee on Assurances has also ensured that a minister is prepared to answer the questions and what government promises on the floor of the house gets implemented subsequently.

**UPSC GS 2 SYLLABUS : STRUCTURE, ORGANISATION AND
FUNCTIONING OF THE EXECUTIVE AND THE JUDICIARY—
MINISTRIES AND DEPARTMENTS OF THE GOVERNMENT;
PRESSURE GROUPS AND FORMAL/INFORMAL ASSOCIATIONS AND
THEIR ROLE IN THE POLITY**

PARLIAMENTARY EXECUTIVE IN INDIA

- When the Constitution of India was written, India already had some experience of running the parliamentary system under the **Acts of 1919 and 1935**.
- This experience has shown that in the **parliamentary system**, the executive can be effectively controlled by the **representatives of the people**.
- The makers of the Indian Constitution wanted a government that would have a **strong executive branch**, but at the same time, enough safeguards should be there to check **against the personality cult**.
- In the parliamentary form there are many mechanisms that ensure that the executive will be **answerable to and controlled by the legislature or people's representatives**.
- So the Constitution adopted the **parliamentary system of executive** for the governments both at the **national and State levels**.
- According to this system, there is a **President** who is the **formal Head** of the state of India and the **Prime Minister and the Council of Ministers**, which run the government at the national level.
- At the **State level**, the executive comprises the **Governor and the Chief Minister and Council of Ministers**.

MINISTRIES AND DEPARTMENTS BASICS

- The Constitution has provided an elaborate framework for the governance system in India. **Part V, Chapter 1** deals with the **Union Executive**.
- The **Executive Power of the Union vests in the President** and is exercised by him either directly or through officers subordinate to him in accordance with the Constitution (Article 53).
- **Article 74** provides that there shall be a Council of Ministers with the Prime Minister as the Head to aid and advise the President, who shall, in the exercise of these functions, act in accordance with such advice.
- **Article 75** provides that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

- The Government of India (**Allocation of Business**) Rules, 1961 is made by the President of India under **Article 77** of the Constitution for the **allocation of business** to the Government of India.
- The business of the Government of India is **transacted in the ministries/departments, secretariats and offices** (referred to as "Department") as per the distribution of subjects specified in these Rules.
- Each of the **Ministry (ies) will be assigned to a Minister by the President on the advice of the Prime Minister**. Each department will be generally under the charge of a Secretary to assist the Minister on policy matters and general administration.
- A Ministry/Department is **responsible for formulation of policies of the Government in relation to the subjects allocated to it under AOB rules and also for the execution, monitoring and review of those policies**.
- The **Cabinet Secretariat is responsible for secretarial assistance to the Cabinet**, its committees and ad hoc Groups of Ministers, and for maintenance of record of their decisions and proceedings.
- The **Secretariat monitors implementation** of the decisions/directions of the Cabinet/Cabinet Committees/ groups of ministers.
- The **Secretariat is also responsible for the administration of the Government of India (Transaction of Business) Rules, 1961** and facilitates smooth transaction of business in ministries/departments of the Government by ensuring adherence to these Rules
- The Secretariat **assists in decision-making in Government by ensuring inter-ministerial coordination, ironing out differences amongst ministries/departments** and evolving consensus through the instrumentality of the standing/ad hoc committees of secretaries. Through this mechanism new policy initiatives are promoted.
- The Cabinet Secretariat ensures that the **President, the Vice-President and ministers are kept informed** of the major activities of all ministries/departments by means of a monthly summary of their activities. Management of major crisis situations in the country and coordinating activities of various ministries in such a situation is also one of the functions of this Secretariat.

STRUCTURE OF MINISTRIES/DEPARTMENTS:

- A typical **Ministry consists of one or more departments** each under the charge of a Secretary. Usually a Cabinet Minister is in-charge of the Ministry with a number of Ministers of State and/or Deputy Ministers to assist him according to the work allotted. The functioning of a ministry can usually be divided into three different levels.
 - Political level
 - The Secretariat level
 - The Executive level

The Organisational flow chart of powers is as follows in a ministry:

1. Political Head- The Minister, the Minister of State, the Deputy Minister and the Parliamentary Secretary are the political officers who are in-charge of a ministry.

Broadly speaking the functions of Minister In-charge of a Department are of four kinds.

- **The Minister initiates the broad policies .**
- **The Minister exercises general supervision of the Department.**
- **The Minister bears the responsibility for the policies** and the administration of his Department before the Parliament. He has to **pilot the legislation and to represent his department** before the Parliament as well as the people.
- **The Minister has to represent his Ministry in the Cabinet.**
- Ministers of State, the Deputy Ministers and the Parliamentary Secretaries share such duties as the Cabinet Minister, as he may assign to them.

2. Secretariat Organization - Immediately below the political head, there is the Secretariat organisation of the Department. They are called the brain of the Administrative body. They provide expert advice to ministers on various issues.

For the convenient transaction of business the Department is further sub-divided into convenient units as mentioned below:

- **Department - Secretary**
- **Wing** - **Additional Secretary/Joint Secretary**
- **Division** - **Deputy Secretary**
- **Branch** - **Under Secretary**
- **Section** - **Section Officer**

FUNCTIONS OF SECRETARIAT:

- Assisting the minister in policy-making and modifying policies from time to time, as and when necessary;
- Framing legislation and rules and regulations;
- Budgeting and control of expenditure in respect of activities of the ministry;
- Supervising and control over the execution of policies and programmes by the executive departments;
- Coordination and interpretation of policies;
- Assisting other branches of Government and maintaining contact with central and other state governments and outside agencies;
- Assisting the minister in the discharge of his parliamentary responsibilities;
- The secretariat acts as the spokesman of the Government.
- **Financial Matters-**
 - Scrutiny and approval of departmental budget estimates, major appropriation of accounts, surrender of funds and supplementary grants;
 - All proposals involving new items of expenditure;

- Financial sanctions not within the competence of the head of department;
- Sanction of expenditure from contingency fund;
- Write-off cases beyond the powers of heads of department and audit objections regarding the officer of the heads of department.
- **Service Matters-**
 - Approval of service rules and amendment thereto;
 - Papers relating to senior appointments/promotions/transfers of deputy heads of department and above, plus, cases of disciplinary proceedings against their officers;
 - Initial appointment of officers belonging to the state service and infliction of major punishments on them;
 - Creation of posts, their extension and continuance, re-employment, resignations, special pay and allowances and positions; not within the powers of heads of departments.
- Each Department may have **one or more attached or subordinate offices**. The roles of these offices are: Attached and Subordinate offices-
 - Where the **execution of the policies of the government requires decentralisation of executive action** and/ or direction, a department may have under it executive agencies called 'Attached' and 'Subordinate' offices.
 - Attached offices are generally responsible for providing executive direction required in the implementation of the policies laid down by the department to which they are attached. They also serve as **repositories of technical information and advise the department on technical aspects** of questions dealt with by them.
 - Subordinate offices generally function as field establishments or as agencies responsible for the detailed execution of the policies of government. They **function under the direction of an attached office**, or where the volume of executive direction involved is not considerable, directly under a department.

ISSUES WITH MINISTRIES/DEPARTMENTS:

- **Undue emphasis on routine functions:-** The Ministries of Government of India are often unable to focus on their policy analysis and policy making functions due to the large volume of routine work that they are saddled with.
 - This leads to **national priorities not receiving due attention**. Often, functions which are best carried out by the State or Local Governments or could easily be outsourced continue to be retained with the Union Government.
- **Proliferation of Ministries/Departments:-** Weak integration and coordination: The creation of a large number of Ministries and Departments sometimes due to the compulsion of coalition politics has led to **illogical division of work and lack of an integrated approach** even on closely related subjects.
 - It has been observed that the Ministries/Departments often carve out **exclusive turfs and tend to work in isolated silos**.

- This, at times, **detracts from examination of issues** from a wide national perspective and in an integrated manner.
- **An extended hierarchy with too many levels:-** Government of India has an extended vertical structure which leads to examination of issues at many levels frequently causing delays in decision making on the one hand and lack of accountability on the other.
 - Another noteworthy feature of the structure is that **several levels are redundant** as they do not contribute to the decision making process.
- **Risk avoidance:-** A fall-out of a multi-layered structure has been the tendency towards reverse delegation and avoidance of risk in decision making.
 - Another aspect of the existing structure is an **increasing emphasis on consultations** through movement of files as a substitute for taking decisions. This leads to multiplication of work, delays and inefficiency.
- **Absence of teamwork:-** The present rigid hierarchical structure effectively rules out team work so necessary in the present context where an interdisciplinary approach often is the need of the hour to respond effectively to emerging challenges.
- **Fragmentation of functions:-** At the operational level also, there has been a general trend to divide and subdivide functions making delivery of services inefficient and time-consuming.
 - Several decades ago, this was captured in a telling manner in a Shankar Cartoon, of an official being appointed as “Deputy Assistant Director General, Envelopes (Glue)”.
- **Issue of autonomy:-** Except in the case of a few committees and boards, there has been considerable weakening of the autonomy conceived at the time of their formation.

SUGGESTIONS FOR MINISTRIES/DEPARTMENTS IMPROVEMENT:

2nd ARC gives the following suggestions:

Optimum size of government workforce:

- An optimum **size of the government workforce is essential for its effective functioning.**

Formation of New Departments:

- The creation of a new dept. has advantage of greater focus & resources but it can create the kiosk in policy implantation. For example – Transport in India has special dept. in the Ministry of Civil Aviation, the Ministry of Railways and Ministry of Shipping, Road Transport and Highways making the necessary integrated national approach to this important sector difficult.

- The 2nd ARC feels that **there is a need to strike a balance between the requirements of functional specialisation on the one hand and the need for a holistic approach to key issues on the other.**
- To implement this concept, **the Ministry concept needs to be redefined**. This concept of a Ministry and the Coordinating (or First) Minister may be explicitly laid down in the Allocation of Business Rules. **Adequate delegation among the Ministers would have to be laid down in the Transaction of Business Rules.**

Creation of Effective Executive Agencies:

- It is necessary that **implementation bodies need to be restructured by giving them greater operational autonomy and flexibility** while, at the same time, **making them responsible and accountable** for what they do.
- While standards need to be maintained, advice provided and best practises promoted, **the culture must be one of facilitation, not of undue intervention.**
- **Civil servants in the implementing agencies must be given autonomy, greater flexibility and incentives to achieve results.**
- The Commission is of the view that each Union Government Ministry should **scrutinise the activities and special purpose bodies of the Ministry.**
- Each agency, whether a new body or an existing departmental undertaking/agency/ board/special purpose body, etc. is to **function as an executive agency**, must be **semi autonomous or autonomous and professionally managed under a mandate.**

Internal Structure of the Ministry:

- With aim to **creating flatter structures with team-based orientation**, we need to restructure the ministries.
- The ministries, as they function now, are **centralized, hierarchical organizations** tightly divided into many layers, boxes and silos. Much of the civil service hierarchies in the ministries continue to be **structured along traditional lines of authority, carefully regulated** to ensure that as few mistakes are made as possible.

Simplification of Governmental Processes:

- Each Department should form some procedures for easing the processes as –
 - **lay down a detailed scheme of delegation at all levels** so that the decision making takes place at the most appropriate level.
 - **laid down in the Manual of Office Procedure** that every Ministry should prescribe a detailed scheme of delegation for its officers.
- This delegation should be arrived at on the basis of an **analysis of the activities and functions** of the Ministry/Department
- The **scheme of delegation should be updated periodically** and should also be ‘audited’ at **regular intervals**. The audit should ensure that the delegated authority is actually exercised by the delegate. The **scheme of delegation should be placed in the public domain.**

- The number of levels through which a file passes for a decision should not exceed three.
 - The Department dealing with administrative reforms in the Union Government should be **entrusted with the task of ensuring compliance with this stipulation.**
- For addressing cross cutting issues, the Secretary of the concerned Department should have the **flexibility to create inter-disciplinary teams.**
- The Departments should build an **electronic database of decisions** that are likely to be used as precedents.
- Thereafter such databases should be **periodically reviewed** and where necessary, changes in rules introduced in order to codify them.

Ensure proper coordination among different levels:

- There is a need for ensuring **extensive horizontal coordination** where policies are spread over a number of departments and where policy delivery mechanisms are distributed in different parts of the government.
- Coordination between Government Departments can be achieved through various **formal and informal mechanisms** like Inter-Ministerial Committees & Working groups.
- There is a need for **re-grouping of government functions into inter-related categories** to improve such coordination. Besides, while examining the internal structures of the Ministries, a **flexible, interdisciplinary team based approach** needed to improve coordination.
- There are other issues and problems for which **high level inter-Ministerial coordination would be required**. In such cases, the extent and quality of coordination would depend on the skill of the coordinator and the spirit with which the members participate.
- To achieve the necessary coordination, a **Secretary should function as a member of a team rather than as a spokesperson of his/her Department's stated position.**
- Furthermore, **effective functioning of the existing mechanisms** comprising the Cabinet Secretariat, Committee of Secretaries, Group of Ministers and Cabinet Committees should, therefore, be adequate to meet the requirement of inter- Ministerial coordination.

CO-OPERATIVE MINISTRY –

In a recent move, for realizing the vision of “Sahakar se Samridhhi” a separate Ministry of Cooperation was created by the Government of India . This ministry was created in line with announcement in budget speech.

- As per the government, the Ministry of Cooperation would work towards strengthening the cooperative movement in India.

About Cooperatives -

- Cooperatives, which are formed at grass – root level , are the entity or enterprises which are owned, controlled and run by its members to realize their common economic, social, and cultural needs and aspirations. Cooperative societies function for a common benefit with a motive to help its members.

History of co-operatives -

- The Cooperatives were first started in Europe.
- In India, this was replicated by the British Government with aim to mitigate the miseries of the poor farmers, particularly harassment by moneylenders.
- In agriculture, The sugar mills , cooperative milk dairies etc. are formed with the pooled resources of farmers who wish to process their produce.
- Now in India there are many consumer co-operatives which provides inputs to many industries like Groceries, housing etc.
- As per the estimates for 2019-20 the National Dairy Development Board said that there are 1,94,195 cooperative dairy societies in the country.

Constitutional provisions regarding to Co-operatives -

- **The formation of Co-operatives is fundamental rights Under article 19(1)C of Part III**, as the word “cooperatives” was added after “unions and associations” in the Constitution.
- **Article 43B of DPSP provides the duty of state as “promotion of cooperative societies”.**
- The Constitution (97th Amendment) Act, 2011 added a new Part IXB right after Part IXA (Municipals) regarding the cooperatives working in India.

Laws governing cooperatives

- **Under entry 32 of state list** - Cooperatives is a State subject . A majority of the cooperative societies are governed by laws in their respective states, with a Cooperation Commissioner and the Registrar of Societies as their governing office.
- In 2002, the **parliament passed a Multi-State Cooperative Societies Act that allowed for registration of societies** with operations in more than one state.
 - These are mostly banks, dairies and sugar mills whose area of operation spreads across states.
 - The Central Registrar of Societies is their controlling authority, but on the ground the State Registrar takes actions on his behalf.
- The **National Cooperative Development Corporation (NCDC) works for the promotion of the cooperative movement in India.**
 - The main aim is to plan, promote, coordinate and finance cooperative development programs at the national level.
 - It also provides financial, insurance and technical support to cooperative institutions of farmers and other weaker sections.

Key objectives of Ministry -

- **Strengthening the co-operative movement** – This ministry will create a separate administrative, legal, and policy framework with the main vision of strengthening the cooperative movement in the country.
- **Penetration to grassroots level** - The formation of ministry will make the movement a true people-based movement by helping it reach the grassroots level.
- **Promotion of ease of doing** – It will work to enhance & streamline the processes for ease of doing business for cooperatives and enable the development of multi-state cooperatives (MSCS).

Rationale of Ministry –

The union govt placed the following reasons for the creation of Ministry of Co-operation. These are as follows -

- **Penetrating the Cooperatives throughout India** – As many reports vouched that the cooperative structure has managed to flourish and leave its mark only in a handful of states like Gujrat, Maharastra etc. Under the new Ministry, the cooperative movement would get the required financial and legal power needed to penetrate into other states also.
- **Rejuvenating the funding structure** – Since in states where Co-operative structure flourished , the funding was more wisely utilised. As the centre provides either as equity or as working capital, for which the state governments stand guarantee hence under this ministry the co-operative structure will get the rejuvenation.
- **Doing away with administrative issues** - Since many ministry like Agriculture Ministry has separate division focusing on agriculture, however, the ministry has been poorly responsive to the needs of cooperatives.
 - Most new registrations for co-operatives are not in the agriculture sector like the housing & labour sector .
 - Hence, a separate ministry for cooperatives is a much better option.

Significance of cooperatives

- **Helped in doing away the misery** - The cooperatives have made significant contributions in poverty alleviation, food security, management of natural resources and the environment.
- **Mediates the politics** – As cooperatives serve in localities and segments that markets might ignore, cooperatives are also effective in mediating politics at the local level, outside of the parliamentary system
- **Making democracy at grass root** - Cooperative institutions elect their leaders democratically, with members voting for a board of directors.

Criticism of formation of ministry -

The new Cooperation ministry has evoked many criticism as follows -

- Many states fears that this **Ministry is aimed to concentrate even more powers in the hands of the Centre**. Hence it will dent federalism.
- It is being seen as yet another instance by the Centre attempting to **gain control over grassroots institutions, especially in Opposition-ruled states**, and undermining the principles of federalism.

- Some suspect that this move is aimed at **weakening the grip of opposition parties on cooperatives** in key states such as Maharashtra.
- Many believe that this will hamper the localised problems as centre will intervene in state list.

Way forward

- Ministry of Cooperation should act as **facilitator and try to make it easier for cooperatives to do business**, right from registration to winding up.
- It should **liberate multi-state cooperatives from government control and get all states to enact legislation** compatible with the requirements of a modern market economy.
- There are **multiple regulators in co-operatives hence ministry can do without multiple regulators and thrive as truly member-owned businesses**. India needs many more Amuls alongside the Ambanis, Adanis and Tatas.
- Ministry of Cooperation should identify the areas where **cooperatives-based business enterprises can be made, provide the capital, technology** and providing the ease of doing business.
- Should be a **focus on women cooperatives** because they are less than 3% of the 8 lakh cooperatives in the country.

REPEALING OF LAWS –

The repealing of law is a way to nullify the law, when Parliament thinks there is no longer a need for the law to exist.

- Legislation can also have a “sunset” clause, a particular date after which they cease to exist. For example, TADA, had a sunset clause, and was allowed to lapse in 1995.
- For laws that do not have a sunset clause, Parliament has to pass another legislation to repeal the law.

The process of repeal of law –

Article 245 – Provides that Parliament the power to make laws for the whole or any part of India, and state legislatures the power to make laws for the state. Parliament draws its power to repeal a law from the same provision.

Laws can be repealed in two ways — either through an ordinance or through legislation.

- **Ordinance** – If ordinance is used, then it would need to be replaced by a law passed by Parliament within six months. If the ordinance lapses because it is not approved by Parliament, the repealed law can be revived.
- **Legislation** - The government can also bring legislation to repeal the farm laws. It will have to be passed by both Houses of Parliament, and receive the President's assent before it comes into effect. Usually, Bills titled Repealing and Amendment are introduced for this purpose.

THE INDIAN JUDICIARY

- The Indian Judicial System is **one of the oldest legal systems** in the world today which traces its origin to colonial rule.
- The Indian Constitution by being the supreme law also lays down the basis of legal system.
- The Constitution also **laid out the powers, duties, procedures and structure** of the Legal system in India.
- With holding the federalism as core value of India **the Constitution has provided for the setting up of a single integrated system of courts** to administer both Union and State laws.
- The **Supreme Court is the apex court of India**, followed by the various High Courts at the state level which cater to one or more number of states.
- **Below the High Courts exist the subordinate courts** comprising of the District Courts at the district level and other lower courts.
- An important feature of the Indian Judicial System, is that **it's a 'common law system'**. In a common law system, law is developed by the judges through their decisions, orders, or judgments. These are also referred to as precedents.
- Another important feature of the Indian Judicial system is that **our system has been designed on the pattern of the adversarial system**. This is to be expected since courts based on the common law system tend to follow the adversarial system of conducting proceedings instead of the inquisitorial system.
 - In an adversarial system, there are two sides in every case and each side presents its arguments to a neutral judge who would then give an order or a judgment based upon the merits of the case.
- Indian judicial system has **adopted features of other legal systems** in such a way that they do not conflict with each other while benefiting the nation and the people.
 - For example, the Supreme Court and the High Courts have the power of judicial review. This is a concept prevalent in the American legal system.
- According to the concept of judicial review, the **legislative and executive actions are subject to the scrutiny of the judiciary** and the judiciary can invalidate such actions if they are ultra vires of the Constitutional provisions.
- In other words, the laws made by the legislative and the rules made by the executive **need to be in conformity with the Constitution of India**.

What led to the underperformance of the Indian Judiciary?

The Malimath committee has highlighted the primary factors contributing to docket explosion and arrears as -

- Population explosion
- Litigation explosion
- Hasty and imperfect drafting of legislation
- Plurality and accumulation of appeals (Multiple appeals for the same issue)
- Inadequacy of judge strength
- Failure to provide adequate forums of appeal against quasi-judicial orders

- Lack of priority for disposal of old cases (due to the improper constitution of benches)

Issues with Indian Judiciary –

Despite the independence of the judiciary from the executive and legislative bodies, the Indian judicial system faces a lot of problems. **The major issues that the system faces are -**

- **Stockpile of cases** - India's legal system has the largest backlog of pending cases in the world – as many as 30 million pending cases. Of them, over four million are High Court cases, 65,000 Supreme Court cases.
 - This number is continuously increasing and this itself shows the inadequacy of the legal system.
 - And also due to this backlog, most of the prisoners in India's prisons are detainees awaiting trial.
- **Rising Corruption in the judiciary** - The Indian judicial system also faces the alleged corruption charges as There is no system of accountability. The media also do not give a clear picture on account of the fear of contempt.
- **Lack of transparency** – As It is seen that the Right to Information (RTI) Act is totally out of the ambit of the legal system.
 - Thus, in the functioning of the judiciary, the substantial issues like the quality of justice and accountability are not known properly.
- **Hardships of the under trials** - Right to a speedy trial is an integral part of the principles of fair trial and is fundamental to the international human rights discourse.
 - In Indian jails, most of the prisoners are under trials, which are confined to the jails until their case comes to a definite conclusion.
- **No interaction with society** - The rule of law and trust are central to enable people in large societies, who do not personally know each other, to live together peacefully and collaborate.
 - Lack of faith in a fair and swift judicial system creates a low-trust society.

MAJOR ISSUE WITH THE JUDICIAL STRUCTURE

Pendency of cases:

- **One of the primary issues with the Indian judicial system** is the pendency of cases. If the vacancies are filled, pendency would go down and make the justice delivery system efficient.
- The pending number of cases in the Supreme Court has mounted to around 60,000. There are some 25-30 million cases in different courts. **Spending portion for the legal system is only 0.2 percent of the GDP.** The judge-populace proportion is 10.5-11 to one million, which ought to be no less than 50-55 to one million.

Corruption:

- Like the other pillars of democracy, the executive and the legislative, **the judiciary too (in some instances) has been found to engage in corruption**. There has not been established any system of accountability.
- In the case of judicial processes, **even the media is unable to give a proper and clear picture of the corruption scenario**.
- As per the constitutional provision, **there is no provision yet for registering an FIR against a judge** who has taken bribe without taking the permission of the Chief Justice of India.
- The **Professional arrogance of the judges** whereby judges do not do their homework and arrive at decisions of grave importance while ignoring precedent or judicial principle delays justice and adds to trial's spam.

Lack of Transparency:

- In the recent past, there have been **many debates around all over the nation regarding the Collegium system** and the new system that the government wants to introduce for the appointment of judges, the NJAC.
- Well, be it the collegium system or the NJAC, **none seem to be transparent enough to make the selection process of judges clear** and understandable to the common public.
- Further, the right to know is a part of the freedom of speech and expression and the present secretive system, as implemented by the collegium system, **violates this fundamental right**.

Accused Under Trial:

- Another drawback that arises from the above-stated drawbacks is the **under trials of the accused**.
- The Indian jails are **full of people under trials**; they are confined to the jails till their case comes to a definite conclusion.
- Mostly, **they end up spending more time in jail than the actual term** that might have been awarded to them had the case been decided on at a time and, assuming it was decided against them.

Lack of Interaction Among People And Courts:

- For any Judiciary to be successful, it is **necessary that the general public must know the mechanics of the judiciary**. The society must participate in the court proceedings.
- However, it is the **duty of the public as well to make sure that they are participative enough** to have the knowledge related to the judiciary.
- The **law officer and makers must be close to the public** and seek their opinion on a particular law or judgments.

Judicial Overreach:

- For the past few years, the functioning of the Judiciary has recently come under considerable attack, **particularly from the Legislative assemblies.**
- The **lawmakers feel that courts are crossing their limits** or exceeding their authority in interpreting the law. They have termed such actions as an **extra constitutional law making body's overreach.**

SUGGESTIONS

- **Fair decision making** – the features like Impartiality, independence, fairness and reasonableness in decision-making are the hallmarks of the judiciary.
- **Speedy trial** – The quick justice system & Speedy trial are a fundamental right implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution.
- **Fast track courts** - The effort for Making the fast-track the judicial process is in a major policy tangle. The need for a new policy framework and governmental and judicial initiative are need of the hour.
- **Preserving the independence** - The executive and judiciary are the two pillars of Indian democracy and their independence is the most important thing for nation to grow and democracy to flourish and live long.
- **Making tribunal to work** – As Tribunals have shown immense potential in the past and to make most out of it, the government should look to strengthen them giving them more powers and resolving the issues faced by them like insufficient staff.
- **Enabling the legal tech** - The fast growing field of “legal tech” enables us to use emerging technologies like digitization, process automation, data and analytics, AI to completely reimagine how a 21st century, the citizen-centric legal system should work.

To Increase the Strength of The Judiciary

- The main thing that the administration should do is **increment in the quantity of judges.**
- This isn't a simple procedure. It **requires intercession at each progression.** Indeed, at each level the quantity of judges should be expanded including the Supreme Court, the High Court, and the lower court.
- There ought to be **more national graduate schools** and furthermore **private law universities.**

To Keep Courts Open Throughout The Year:

- Times have changed and today people are active round the clock. But the **Indian judiciary still works in early fashion.**
- They have summer vacations, winter vacations and a lot of other leaves. It is just not acceptable when we are **carrying the baggage of three crore backlog cases.**

- In fact, the **special night shift magistrate needs to be implemented** so that people need not wait till the courts open. The government needs to get it straight that the Indian Judicial system should get the status of emergency service.

Proper Modernization of Courts:

- The Indian law system **should be completely digitized right from the beginning till the end**. This will help in saving a lot of to and fro documentation time.

Introduction of Fast Track Courts:

- a fast track court needs to be introduced so that a **case can be directly sent to the Supreme Court without wasting time**.

To Do Away With The Archaic Laws:

- **a lot of law has become redundant**. Hence, it is time that the Indian Judicial system does away with the archaic laws and **takes into consideration the present social condition before giving a judgement**.

Non-Acceptance Of Flippant Cases:

- Many times it is seen that a **powerful political figure gets any sort of case admitted in the court of law**. The case may be dismissed at a later stage, but it wastes valuable time for the judiciary.
- Therefore, **judges should have clear instructions about the kind of cases they can accept** in the court of law.
- Last but not the least, along with the Indian Judicial system **it is also the responsibility of the Indian citizens, not to waste the time of law** with false cases for personal gains. It is a collective responsibility of all not to deny justice to anybody.

JUDICIAL ACCOUNTABILITY –

The term Judicial Accountability means – Judges are responsible for the decisions they delivered, all by themselves.

- It is the **transparency move in the decision-making process** that helps in bringing the accountability.
- Every **public body is responsible for answering the public** for the decision they take and the function they carry out.
- The **extent of accountability differs** in terms of the work being carried out and the functions that are discharged as the **judiciary is not subject to the same level of accountability** as the executive or the legislative wings of the government.

But In spite of such accountability, everything seems not so well in judiciary as - Conflicts associated with appointment procedure, execution of the functions and powers are arising

between the judges or between the judges and the Chief Justice of India which have become a common sight nowadays.

Provision related to Judicial Accountability –

- Judicial accountability takes place by means of the provisions that have been **laid down relating to the review, appeal and revision.**
- . The provisions for the removal of judges rests on Articles **124(2) and (4) for the judges of the Supreme Court whereas for the judges of the High Courts the removal provision rests on Article 217.** This can only be done on 2 grounds – Proven Incapacity & Misbehaviour.
- Removal of judges is carried out by 2/3rd majority in each house.
- The Supreme court & High court can appoint their staff & maintain them.

Why do we require Judicial Accountability ? -

- **Preventing the democracy** - Accountability is necessary for those possessing power and a dignified position and therefore is a need in order to maintain democracy and prevent it from getting eroded.
- **For making judges accountable** - Judges are the representatives of law holders in the courts which is an agency of the judicial system. The credibility of the judicial system, therefore, lies in the hands of these judges.
- **Evolving derogative values** - Judiciary which is one of the most important wings of the government should, therefore, be held accountable for the evolving derogative values within it that are causing severe effects on the country and its people.
- **Honest decisions** - A judge has to be neutral in his approach thereby ensuring that justice is provided to all. Any wrong decision by the judge that has been made with honesty, good faith, and fairness can no longer remain wrong.
- **Abiding by the principle of natural justice** - The two basic rules of the principle of natural justice that are Audi Alteram Partem and Nemo judex in causa sua should be applied in every decision taken by the judges.
 - This eliminates any kind of irrational and arbitrary action on the part of the judges along with being impartial.
- **Administration of justice** - One of the most recognised ethics of all judges is to administer proper justice without any kind of fear or influence.
- **No more socialisation** - the Supreme Court in the case of Ram Pratap Sharma v. Dayanand opined that a judge should avoid accepting invitations from any business, political party, commercial entities to avoid getting influenced in any way. It is rather an act of caution that needs to be followed.

Challenges

For good governance , Accountability can be considered as one of the cornerstones for .Judicial accountability can be termed as a corollary to judicial independence. Some of the challenges in implementing judicial accountability are listed below –

- **Preserving judicial independence** - The most important challenge for the regulation of judicial accountability is that the judiciary is an independent organ and the independence of the judges cannot be done away with.

- Article 235 of the Indian Constitution provides for the authority any High Court has over the Subordinate Courts which clearly hints on the effective mechanism necessary to enforce accountability.
- **Hurdles in impeachments** - There exists no other way in which a judge can be removed except through impeachment. Impeachment is a process that involves a lot of hurdles. This is the other challenge faced by the judiciary in bringing in judicial accountability.
- **Influence of political system** - The influence of politics in the judicial system is another challenge for the judiciary to perform with integrity.
 - The judges failed to make decisions with transparency and fairness if they are dominated largely by the political bodies in the country.

Need for stronger judicial accountability

- **Change in demands of the public belonging to a welfare State** - Public participation has taken a rise from what was a decade before. The willingness to know as to how things being regulated in the country is required to be fulfilled by increasing the accountability on the part of public officials and institutions which is inclusive of the judiciary also.
- **No remedy for regulating misbehaviour among judges** - The court in the case of Sub-Committee on Judicial Accountability v. Union of India took into the observation that there exists no provision in any statutes to charge a judge of the Supreme Court or the High Courts for their misbehaviour during a court proceeding.
 - This absence calls for stronger judicial accountability to keep intact the uprightness of the judiciary.
- **The legitimacy of a judicial procedure** - In order to ensure legitimacy, the judiciary should be held accountable as well to show that the decisions are taken by them or the law brought to force by them is abiding by the Constitution of India.
- **The credentials judges practising in the courts** - There has also been the appointment of several judges based on political connections, biases which are disadvantageous for the judiciary.
 - In order to avoid the same in the future, stronger judicial accountability is necessary to ensure the delivery of justice with fairness and clarity.
- **Reservation of seats in the judiciary** - The only way to carry out the same is to treat the judicial service examination as the sole examination to enter the judiciary for all.
- **The necessity of efficiency** - At present, there is a presence of thirty-three judges in the Supreme Court of India but astonishingly only a few judgments passed by the court have brought in differences and change in the existing framework.
 - Therefore this system filled with loopholes and deficiencies calls for efficiency in the judges and in the system. Accountability helps in keeping a check on the judges and their activities.
 - If the judges are checked and are restricted from accessing excessive power then the efficiency of the judicial system will automatically be restored.
- **The necessity of transparency** - Judiciary is the only organ of the government that delivers justice to the common citizens. Therefore, in order to successfully achieve this

role of the judiciary, there comes a requirement for accountability on the part of the judicial system.

- **Absence of provision to review the Supreme Court's decisions** - Except for the Supreme Court itself, There exists no provision in the Indian Constitution which directs in reviewing the Supreme Court's decision.

CONTEMPT OF COURT –

What does Contempt of Court mean ?

Contempt of court, seeks to protect judicial institutions from motivated attacks and unwarranted criticism, and as a legal mechanism to punish those who lower its authority.

- This follows the initiation of contempt proceedings by the Supreme Court of India, on its own motion.

History of Contempt of Court -

- In England, it is a **common law principle that seeks to protect the judicial power of the King**, initially exercised by himself, and later by a panel of judges who acted in his name.
- Violation of the judges' orders was considered an affront to the king himself. Later, any disobedience against judges and/or disrespect towards them or their order became punishable.

Statutory Basis in India -

- With the adaptation of Constitution, **contempt of court was made one of the restrictions on freedom of speech** and expression.
- **Article 129** conferred on the Supreme Court the power to punish contempt of itself.
- **Article 215** conferred a corresponding power on the High Courts.
- **The Contempt of Courts Act, 1971**, gives statutory backing to contempt of Court.
 - The Contempt of Court Act of 1971 cannot limit this power of the court. The statute only provides the procedure in which such contempt is to be initiated.
 - The suo motu contempt powers of the top court are drawn from Article 129 of the Constitution, which says the Supreme Court, as a court of record, has the power to punish for contempt of itself.

Types of Contempt – There are mainly 2 type of Contempt of Court -

- **Civil Contempt** - It is committed when someone wilfully disobeys a court order, or wilfully breaches an undertaking given to court.
- **Criminal Contempt** - It consists of three forms as
 - words, written or spoken, signs and actions that "scandalise" or "tend to scandalise" or "lower" or "tends to lower" the authority of any court
 - prejudices or interferes with any judicial proceeding and
 - interferes with or obstructs the administration of justice.

Objective of Contempt of court -

- **For protecting the authority of Court** - The rationale for this provision is that courts must be protected from tendentious attacks that lower its authority, defame its public image and make the public lose faith in its impartiality.
- Punishment – there is provision of imprisonment for 6months or 2000 rs or both.
- The Act was amended in 2006 to introduce truth as a valid defence, if it was in public interest and was invoked in a bona fide manner.

Arguments in Favour of retaining the contempt provision

- **Rising instances of Contempt and scandalising** - The high number of cases justify the continuing relevance of the contempt of court law.
- **For Maintaining the supremacy of law** - The recognition of contempt of court and to punish for contempt is essential for a nation such as India which is based on the concept of rule of law, which requires supremacy of law, since the judiciary is considered, as the last bastion of hope and justice for the citizens of any nation.
- **Constitutional Source of Contempt Power** - As the Supreme Court and High Courts derive their contempt powers from the Constitutional Articles 129 and 215.
 - Therefore, deletion of the offence from the Act will not impact the inherent constitutional powers of the superior courts to punish anyone for its contempt.
- **Sine qua non aspects** - Trust, faith and confidence of the citizens in the judiciary is sine qua non for the existence of Rule of Law.
- **Maintain authority of Subordinate Courts** - The Contempt of Court Act additionally allows the High Court to punish for contempt of subordinate courts.
 - Thus, if the definition of contempt is removed, subordinate courts will suffer as there will be no remedy to address cases of their contempt.
- **Maintain administration of judiciary** - Civil contempt is necessary as wilful disobedient litigants who ignore the orders of the court cannot be let-off otherwise it would seriously affect the administration of justice and trust of people in the judiciary.
- **Ambiguity** - If there is no definition for criminal contempt in the Act, superior courts may give multiple definitions and interpretations to what constitutes contempt. The Commission suggested retaining the definition for the purpose of ensuring clarity.
- **Adequate Safeguards** - The Law Commission noted that there are several safeguards built into the Act to protect against its misuse.
 - For instance, the Act contains provisions which lay down cases that do not amount to contempt and cases where contempt is not punishable.
 - These provisions suggest that the courts will not prosecute all cases of contempt of court .

Arguments in opposition of the contempt provision

- **Against Article 19 & 21** - A law for criminal contempt gets in conflict with India's democratic system which recognises freedom of speech and expression as a fundamental right.
- **Violating the Doctrine of Over breadth** - The language defining criminal contempt is vague enough to encompass within its sweep legitimate criticism as well.

- **Wide Scope of Contempt** - The definition of criminal contempt in India is extremely wide, and can be easily invoked.
 - Further, the Contempt of Courts Act was amended in 2006, to add truth and good faith as valid defences for contempt, but it is seldom entertained by the judiciary.
- **S.Mugolkar v. Unknown (1978) case** - the Supreme Court held that the judiciary cannot be immune from fair criticism, and contempt action is to be used only when an obvious misstatement with malicious intent seeks to bring down public confidence in the courts or seeks to influence the courts.
- **No one to be own judge** - Does not recognise one of the basic principles of natural justice, i.e., no man shall be a judge in his own cause.

Thus, in contempt proceedings, the court arrogates to itself the powers of a judge, jury and executioner which often leads to perverse outcomes.

PRESSURE GROUPS BASICS

A Pressure group is a collective form of people who come together for the shared or common benefit and aims of the common and aims, for which they try to influence the government's public policies.

- Today there is no country in the world which is free from pressure groups. These groups **try to influence and pressurise every political institution** to serve their own interests and to ensure that at least in no case their interests suffer, if at all these are not promoted.
- These groups **influence both public policy as well as administration without attempting to gain formal control** of the government can be called a pressure group.
- It **exerts persuasive powers to get certain political decisions in its favour**. These groups have no public but only private interests and also these are organised groups of people who have some common interests for solving their own problems.

Pressure Group in India

- The constitution of India specifies the rights to protect and promote their interest hence these pressure groups act and try to alter the government's decision whenever they feel like their interests are violated by any government policy.
- In India, the pressure group arose even during the colonial period. All India trade union congress was the first countrywide pressure group of the working class.
- In India, these pressure group aimed to secure economic and political concessions for them. Providing crucial components of the structural equilibrium i.e. maintenance function.

FEATURES OF PRESSURE GROUPS IN INDIA –

- **Based on Certain Interest** – They are formed for particular interest & try to hold some political power to realise the interest.
- **Use of Modern and Traditional Means** – present pressure groups use both – traditional as well as modern ways like – financing the political parties as well as use of social media to influence the view.
- **Resulting out of Increasing Pressure on Resources** - India is a developing country and thus its resources are limited. Different groups claim their share of the resource and to ensure proper allocation public policies are formed. However, this does not satisfy everyone's claims and as a result, they start mass movements or protests and as a result, pressure groups rise.
- **Alternative to Inadequacies of Political Parties** - Pressure groups are a consequence of the inadequacies of political parties.
- **Level of Operation** - These pressure group may operate at local, regional, national, international levels, depending upon the cause and notice.
- **Objective** – Their main objective is to significantly affect the govt. policies.
- **Type of Organization** – They are generally Non-profit & Voluntary in nature.
- **Common Grounds** - These are collections of individuals who hold a similar set of values and beliefs based on ethnicity, religion, political philosophy, or a common goal.

Characteristics of Pressure Groups:

- Pressure groups everywhere have certain characteristics. Each group organises itself **keeping in view certain interests** and thus tries to adapt to the structure of power in the political system.
- But in **every government and political party there are clashing interest groups** and as such not only that they wish to dominate the political structure, but also try to brush aside those groups which are opposed to their interests.
- Thus, each political system and party which is either in or out of office is pressurized by certain interest groups, which many a time **inter-act, counter-act and react** to each other.
- In India there is a multi-party **political system** and in **each party there are several pressure groups**. In the unification and bifurcation of these parties, these groups go a long way i.e., play a considerable role.
- **These groups very quickly change political allegiance**, as that suits their conditions and protects their interests. The groups being both big or small, appear as well as disappear depending on the situations and the then prevailing conditions.
- Another characteristic or feature of these pressure groups is that **they try to follow modern means of exerting pressure**, without boldly renouncing old methods. But their sole purpose of adopting old and modern methods is to **promote as well as protect their own interests**.
- These groups also **keep bureaucracy and top high officials in good humour** and pay them for the services which they get either from the political bosses or permanent executives.

- The pressure groups, in order to protect their interests, also **employ traditional means of exploiting caste, creed and religion** and in their name try to win their cooperation.
- **They finance caste and religious organisations, bodies** and donate money at public meetings to become popular with them. While doing so they forget national interests or the cause of national integration. **They keep their group interests above national interests.**
- Pressure groups have **no political commitments**. These try to side with the government of the day. These guess with which party to side, which can in the long run be to its advantage. **Thus for this no norms can be laid down.**
- Still another feature of pressure groups is that **these always try to see that there is no political stability** and perfect law and order situation does not prevail in the country.

Salient Features of Pressure Groups in India:

- In India pressure groups though **comparatively of recent origin** have so organised themselves that they **neither openly support nor oppose any political party**. Each such group tries to thrive on the support of some political party or power. These have a **sort of fear psychology**.
- These always try to **remain neutral in politics**. In fact, in India political parties try to have pressure groups with them and wish to win their cooperation.
- The **bigger the political party, the more it shall be able to absorb and adjust pressure groups**. In a weak political system pressure groups try to become equal partners with political bosses.
- **Pressure groups in India are required to work in a multi-party system** and thus they are forced to keep shifting their loyalties. They do not work independently but each one functions under the patronage of some political party.
- These pressure groups are **forced to pay consideration to region, religion and caste** rather ideology and national integrity and even political honesty.
- They feel interested in **creating a situation of disorder and lawlessness** for having group advantage out of political instability.
- They use **both modern and old techniques** of putting pressures on the powers that be and thus they do not adhere to anyone method. **No group has political commitment** and thus many groups become anomie organisations.

Role of Pressure Groups

- These pressure groups, also commonly known by the name interest groups, **influence the government by asserting their power** and pursue their needs and political goals through the method of lobbying.
- **Lobbying can be considered as a process** where the individuals and public concerned are supposed to communicate with the public officials who maintain and control the specific departments which concern their needs, through which they help in influencing the decisions taken by the government.

- The persons involved in controlling pressure groups try to distribute the persuasive literature and also launch different kinds of political and public campaigns which help them in **building their support from the grass roots** and finally help them in achieving their political goals and objectives.
- If seen as a functionalist, **these groups play a very constructive role**, especially in the process of decision making. These groups motivate the people and thus also provide for political participation. These groups have sources of information and thus, they provide legislators with a useful flow of information.
- The pressure groups have many more roles to play in a democracy than in a totalitarian state. This happens because **it is necessary in a democracy that the voices of all the people from different sections of society is heard** and an equal and fair chance is given to all of them to represent their views whereas in an undemocratic state, there is no obligation on the leader to even recognize the presence of many such groups existing in the country. Thus, pressure groups play a much wider role in any democratic country of the world.
- These pressure groups or interest groups have the **power to bring a huge amount of pressure by which they can win many favours** from the government on their side. Thus, these groups have now become much essential to the part of every country's modern democratic approach or process.
- Pressure groups play a leading role in the **formulation of public opinion**. Each pressure group is continuously engaged in evaluating all such laws, rules, decisions and policies which have a direct or indirect bearing on the interests it represents.
- It always **places the pros and cons not only before its members but also before the general public** for eliciting popular support as well as for catching the attention of the government.

Pros of Interest Groups

- **Advocate Democracy:** Interest groups, also called lobby groups, advocacy groups or pressure groups usually become the “voice” of the people, helping others express their opinion and bring forward their message.
- **Encourage Legislators:** Interest groups campaign aggressively in support of their advocacies. They use their size and motivation in pushing legislators to pass and implement laws that uphold the interest groups’ beliefs.
- **Monitor Those in Power:** Interest groups are strongly driven by their belief and support in upholding human rights and public interest. They take collective action in checking and correcting those in power.
- **Support Political Awareness:** Various interest groups help disseminate valuable information to the rest of the public, especially those that involve politics and laws. They spur political involvement among the people who are otherwise helpless, meek, or ignorant on their own.
- **Better Representation:** Interest groups advocate causes that are dear to their hearts, and those of the people (minorities) they represent. Divided, they are weak and vulnerable, but collectively, they are strong and well represented.

Cons of Interest Groups

- **Pluralism Leading to Chaos:** A society with so many interest groups tends to develop pluralism, which leads to conflicting interests and chaos. As each group fights for their advocacies, they unconsciously become involved in a needless and endless tug of war.
- **Good for the Minority:** Some interest groups only seek the welfare of the minority they represent and couldn't care less about others. Blinded by their beliefs, they may stir arguments and political debates that overshadow the greater good of the majority.
- **Plot Socio-Political Crimes:** In order to push their advocacies, some interest groups pressure politicians and civilians, and may come to a point of committing serious crimes including bribery, corruption and fraud.
- **Effectiveness in Question:** Some interest groups can only go as far as protecting their interests, but they become ineffective in handling the overall social-political issues as they are normally short-sighted and narrow-minded, thinking only of their own benefits.
- **Risk of Demosclerosis:** As interest groups become more influential and more powerful, their collective action may render the government as ineffective in adapting or taking action. Demosclerosis or the government's progressive inability to accomplish anything substantial is often the worst side effect of interest-group activism.

Critical Evaluation of Pressure Groups in India:

- Pressure groups in India, by and large, have no political commitment. They are **weak and do not openly extend their support to the political party** other than the one which is in power.
- They **hesitate to displease authorities and the government**. It is hoped that these groups will always be non-violent and follow secular policies.
- These groups try to strengthen **only such parties, which they feel are likely to come to power**, if already not in authority. For them **their own interests are supreme and paramount** and when they feel that these clash with those of the others, in order to preserve their interests, they go to the other extreme end.
- Pressure groups in India have **not been much success because of several reasons**.
 - The main reason for this is that **they have failed to organise themselves as a second body**. They have no well developed infrastructure which can help in regularly and vigorously pursuing their interests.
 - **Single party dominant system at the centre** is also considerably responsible for their slow growth. Political parties **do not wish that any serious challenge** be thrown to their authority even by powerful pressure groups. Not only this, but even pressure groups have tried to develop under the patronage of political parties.
 - **The funds are provided to them** in a bid to go near them and directions **are received from political bosses**.
 - Even **political parties try to divide each pressure group** and to have a strong hold over one such group at least. Then by and large they follow negative

- methods for getting their work done. As is well known such a method is negative rather than being the positive one.
- Then another cause of their slow growth is that in **India individual legislators have not been found very effective by the pressure groups**. Each such group realises that because of party discipline and with the operation of the Anti-Defection Act, each legislator must vote on party lines. Thus, contacts should be developed with the party and not with any individual legislator.
 - The pressure groups also realise that in **India bureaucracy is very strong and can help them a lot**. But somehow so far these groups, by and large, have failed to corrupt bureaucracy.
 - **There is also no unity in pressure groups**. In fact, there is no group which is not a house bitterly divided into several factions and sub-groups, one speaking openly against the other. In several cases there is also a lack of good leaders.
 - **In several cases pressure group leaders try to become political leaders**. Their political ambitions frustrate the basic character of the pressure group. Most of the pressure groups like trade unions, student organisations, etc., are not financially very sound and without finances these cannot function effectively.
 - Thus, on the whole, in India so far the **impact of pressure groups on politics has not been felt** and is also not going to be much deep rooted unless things radically change to their advantage. It is, however, being noticed that **pressure groups are trying to get roots as in advanced western societies**, though still these are in the initial stages.

FORMAL GROUPS/ORGANISATIONS:

- Formal groups are established **by organizations** to achieve some **specific objectives**. These are organizations which are **deliberately planned, designed** and duly **sanctioned** by competent authority.
- In formal organization, power is delegated from the top down to the bottom.
- A formal group can be a command group or a functional group that is relatively permanent, is composed of managers and their subordinates.
- These are the groups that influence the institution of any nation, from the foundation of government itself to day-to-day governance matters.
- One type of formal organization is – **Cooperatives**. Different types of cooperatives are:
 - **Farmers' Cooperatives**: Farmers form a group or cooperatives that enable them to connect with the consumer on one hand, and 'interface with the marketplace, on the other. Besides, through cooperatives they share their knowledge and experiences, and enhance their bargaining power in the purchase of inputs.
 - **Dairy Cooperatives**: One of the important sources of development in many Indian states are dairy cooperatives. Milk producers 'market the milk products of the milk produces and to after value addition to them. In addition, they receive technical inputs for the improvement of milk production.

- **Tribal Cooperatives:** These are being formed for receiving assistance from the government and other agencies for development. The National Cooperative Development Corporation provides financial assistance.

Few examples of formal groups/ Organizations are:

- **National Cooperative Development Corporation (NCDC)** - The objects of IFFCO shall be to promote the economic interest of its members by conducting in affairs in professional, democratic and autonomous manner through self help and mutual cooperation for undertaking manufacture/ production/development of chemical fertilizers: bio-fertilizers, Petro chemicals, refining industrial chemicals and hydro-carbon, their inputs etc.
- **Tribal Cooperative Marketing Development Federation of India Ltd** - To secure higher earnings and generate employment opportunities for the tribal people of the country
- **National Cooperative Dairy Federation of India (NCDFI)**- Primary objective of NCDFI is to facilitate the working of dairy cooperatives through coordination, networking and advocacy.

Characteristics of Formal Groups/Organisation:

Some distinct characteristics of formal bodies are given below.

- **Stability:** An important characteristic of a formal organization is its stability. Therefore, the formal organization grows and expands with the passage of time
- **Division of Labour:** The structure of formal organization is based on jobs to be performed by the individual, and not vice versa. Roles are hierarchical and work is assigned to individuals on the basis of expertise and capability.
- **Structured:** A formal organization is structured and organized to accomplish the organizational mission. One exponent has remarked that the "absence of structure is illogical, cruel, wasteful and inefficient". Because of this feature, roles and responsibilities of individuals in an organization are clearly defined
- **Permanence:** As the organization is structured, it has continuity of operations. They last for a long time and grow over the period of time.
- **Rules and regulations:** Formal organizations follow rules and regulations. Individuals working in formal organizations do not perform activities, according to their whim. Rather, they act according to the rules and regulations framed by the organization. For example, if a cooperative bank has to sanction a loan to a Panchayat for its development, the manager of the bank has to follow guidelines before sanctioning the loan.

Advantages of Formal Organisation:

- **Systematic Working:** Formal organisation structure results in systematic and smooth functioning of an organisation.
- **Achievement of Organisational Objectives:** Formal organisational structure is established to achieve organisational objectives.
- **No Overlapping of Work:** In formal organisation structure work is systematically divided among various departments and employees. So there is no chance of duplication or overlapping of work.
- **Coordination:** Formal organisational structure results in coordinating the activities of various departments.
- **Creation of Chain of Command:** Formal organisational structure clearly defines superior subordinate relationship, i.e., who reports to whom.
- **More Emphasis on Work:** Formal organisational structure lays more emphasis on work than interpersonal relations.

Disadvantages of Formal Organisation:

- **Delay in Action:** While following scalar chain and chain of command actions get delayed in formal structure.
- **Ignores Social Needs of Employees:** Formal organisational structure does not give importance to psychological and social need of employees which may lead to demotivation of employees.
- **Emphasis on Work Only:** Formal organisational structure gives importance to work only; it ignores human relations, creativity, talents, etc.

INFORMAL GROUPS/ORGANISATIONS:

- Informal work groups are based upon socio-psychological support and reasoning and depend upon the member's **interaction, communication, personal likings, and dislikings and social contacts** within as well as outside the organization.
- The primary focus in the case of informal organization is the individual and his association with other individuals in the organization.
- In an informal organization, power is derived from the membership of the informal groups within the organization.
- While informal organization, the conduct of individuals within organization is governed by norms that are social rules of the behavior.

Characteristics of Informal Groups/Organisation:

- The formation of informal organizations is a **natural process**. People who share common values, codes of behaviors, and goals come together to form these organizations.
- Membership is voluntary. The informal organization is **based on human relationships** and there is hardly any compulsion. A person can become a member of more than one informal organization.

- **According to D.C. Miller and William H. Form**, informal organization is based on the **network of personal and social relation** which are not defined or prescribed by formal organizations
- **Informal leadership:** Leadership in informal organizations cannot be autocratic. Individuals with similar motivations and amicable nature can become a successful leader of an informal organization.
- Follow common rules - Informal organization formulate its own rule foreword and punishment of its members. As it is based on human relation, the common rules is flexible and having less rigid clauses.

Some types of informal organisations are:

- Traditional Panchayats
- Caste Associations
- Temple Committees
- Sports Groups
- Cultural Groups
- Festival Committees Neighbourhood Associations.

Few examples of informal groups/organisations are:

- Religious Groups – RSS, VHP, Bajrang Dal, Jamaat-e-Islami etc.
- Caste Groups – Harijan Sevak Sangh, Nadar Caste Association etc.
- Tribal Groups – NSCN, TNU, United Mizo federal org, Tribal League of Assam etc.
- Caste Groups – Harijan Sevak Sangh, Nadar Caste Association etc.

Advantages of Informal Organisation:

- **Fast Communication:** Informal structure does not follow scalar chain so there can be faster spread of communication.
- **Fulfils Social Needs:** Informal communication gives due importance to psychological and social needs of employees which motivate the employees.
- **Correct Feedback:** Through informal structure the top level managers can know the real feedback of employees on various policies and plans.

Strategic Use of Informal Organisation.

- Informal organisation can be used to get benefits in the formal organisation in the following way:
- The knowledge of informal groups can be used to **gather support for employees and improve their performance.**
- Through grapevine important **information can be transmitted quickly.**
- By cooperating with the informal groups the managers can **skillfully take the advantage of both formal and informal organisations.**

MAJOR ISSUES WITH INFORMAL GROUPS/ORGANISATIONS:

Resistance to Change:

- Most dynamic organizations want change in work methods and routines, but informal groups have a tendency to **resist change**. Because whenever a new change is introduced, employees have to make new adjustments and acquire new skills.

Role Conflict:

- Organization interests are likely to suffer in case of conflicts **between formal and informal roles**. Every member of the group is also a member of the formal organization.
- Since informal groups try to meet the social needs of their members, there is a **natural tendency to produce role conflict**, because what the informal group requires of a member, may be just opposite of what is expected of him by the formal organization.

Rumors:

- Rumors is a phenomenon of **informal communication** because of **ambiguous circumstances and relieving of emotional tensions** which supplements the transmission of information **through formal communication**.
- This is **not desirable from an organisation's point of view** because rumour deals with temporary events in a way that implies that whatever is said is true even though there is not much information to support it.

Conformity:

- The conformity to informal groups implies that **members become subject to willful control of an informal leader** who may manipulate the group towards selfish or undesirable ends.
- This will lead to **dilution of the effect** of organizational policies and practices on the group members.

SUGGESTIONS FOR INFORMAL GROUPS/ORGANISATIONS:

- The role conflict can be avoided by carefully cultivating and **integrating formal interests with informal interests**. The more the interests, goals, methods and evaluation systems of formal and informal organizations can be integrated, the more productivity and satisfaction can be expected.
- The best course of action to deal with rumours is the **identification of their source and cause**. Getting at cause is wise use of the preventive approach rather than a tardy curative approach. When people feel secure and understand the things that matter to them, there are few rumours because there is very little ambiguity in the situation.

ROLES OF FORMAL AND INFORMAL GROUPS/ ORGANISATIONS IN POLITY:

- Some of the needs of the people cannot be satisfied by state institutions and markets. So, formal organisations/groups provide space for people to generate **collective actions independently from state and market**.
 - Formal groups/organizations can play a **critical role in changing the social structure** in favour of the poor and marginalized. In India civil society organizations have contributed to the empowerment of women, Dalits, and Tribals.
 - These groups help in **active constructive participation of numerous groups in polity**. This in turn helps to reconcile general interest with individual group interests.
 - Both of them can work for the development of village society by bringing new ideas to the village.
 - Both can play a role in **building organizations** like user groups, watershed committees, village education committees, village health committees and village environment committees.
 - Informal Groups/Organisations can play a role in **promoting issues of public good** at grass root levels
 - The villagers normally are not encouraged by the state agencies to collectively negotiate with them. Due to poverty, caste, and religious diversities, and illiteracy, **marginalized individuals are not able to join together to demand their rights and justice**.
 - They try to individually struggle to meet their livelihood needs. They do not demand an enhanced ability of the services delivery of government agencies and local governments. Both formal and informal groups/organisations can play a key role in **preparing the people** for such activities.
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UPSC GS 2 SYLLABUS : SALIENT FEATURES OF THE REPRESENTATION OF PEOPLE'S ACT.

BASICS OF REPRESENTATION OF PEOPLE'S ACT

Electoral System in India

Articles 324 to 329 of Part XV of the Indian Constitution provides for the country's electoral system. The Constitution confers upon the Parliament the power to enact laws for all matters connected with elections to the Parliament and the State Legislature.

Representation of People Act, 1950

In an attempt to regulate elections in the country for the first time, the government came up with the Representation of People Act, 1950.

The Representation of People Act, 1950:

- Lays down procedures for delimitation of constituencies.
- Provides for the allocation of seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.
- Lays procedure for the preparation of electoral rolls and the manner of filling seats.
- Lays down the qualification of voters.

RPA, 1950 Schedules:

- **The First Schedule:** Allocation of seats in the House of the People
- **The Second Schedule:** Total number of seats in the Legislative Assemblies
- **The Third Schedule:** Allocation of seats in the Legislative Councils
- **The Fourth Schedule:** Local authorities for purposes of elections to Legislative Councils

Salient features of the Act

Delimiting Constituencies:

- The **first delimitation order was issued by the President**, in consultation with ECI and with the approval of Parliament in August 1951.
- The President of India has been conferred the **power to amend orders** delimiting constituencies, **only after consulting the ECI**.
- In Lok Sabha, there is a **reservation of seats for Scheduled Castes and Scheduled Tribes**.
- **The Election Commission has the power** to determine the constituencies to be reserved for scheduled tribes in the states of **Meghalaya, Mizoram, Nagaland and Tripura**.
- The President of India has the **power to alter constituencies** after consulting the Election Commission of India.

Allocation of seats:

- As far as possible, every state gets representation in the Lok Sabha in proportion to its population as per census figures.

Chief Electoral Officer (CEO):

- The Election Commission, **after consulting the Governor of the state, will nominate a Chief Electoral officer and a district-level Election Commissioner after consulting the state government**.

Electoral Rolls:

- An electoral roll will be prepared for every constituency.
- No person shall be enrolled for more than one constituency and may be disqualified if he/she is not a citizen of India or maybe of unsound mind and is debarred from voting.

Judicial Scrutiny:

- **Only the Union Govt. after consulting the Election Commission** amends the rules under the Act and such amendments will not be available for judicial scrutiny under any civil court.
- **The Civil Courts have also been barred** to question the legality of any action of the ERO regarding revision of electoral rolls.

Returning Officer (RO)

- RO is **responsible for the conduct of the election** in a constituency and returns an elected candidate.
- **The ECI nominates or designates an officer** of the government or local authority as the RO in consultation with the state government.

Voting Rights: In 2010, voting rights were extended to citizens of India living abroad.

The Representation of the People Act (RPA), 1951

The Representation of People Act, 1951 is enacted by the provincial government of India to scrutinize the election process before the first general elections.

The Representation of People Act, 1951:

- Regulates the actual conduct of elections and by-elections.
- Provides administrative machinery for conducting elections.
- Deals with the registration of political parties.
- Specifies the qualifications and disqualifications for membership of the Houses.
- Provides provisions to curb corrupt practices and other offences.
- Lays down the procedure for settling doubts and disputes arising out of elections

Salient features of the Act:

Qualification for Contesting Elections in India:

- A person **must be an elector in the constituency.**
- The person must be a member of a Scheduled Caste or Scheduled Tribe in any state/UTs if he/she wants to contest a seat reserved for them.
- The minimum age for becoming an MLA/MPs (Lok Sabha) is **25 years.**

- At the panchayat and municipality levels, the minimum age limit for contesting elections is **21 years**.

Qualification for membership of the Rajya Sabha:

- A person shall not be qualified to be chosen as a representative of any State or Union territory in the Rajya Sabha unless he is an elector for a Parliamentary constituency.

Right to Vote:

- Apart from Article 326 of the Constitution (that guarantees the right to vote to every citizen above the age of 18 years, unless disqualified by any law), **Section 62 of the RPA, 1951** also ensures that every person who is in the electoral roll of that constituency is entitled to vote.
- If a person is confined in a prison, whether under a sentence of imprisonment or transportation, then he is not eligible for voting, however, **in the case of preventive custody, he can vote.**
 - In 2014, the ECI had said that the person under preventive custody had the right to vote, but not under-trials and convicts.
 - However, the **Act allows those serving sentences less than 2 years to contest elections from prison.**

Provisions Related to Political Parties:

- **Part IVA of the Representation of the People Act, 1951** deals with the registration of political parties.
- Every association or body in order to become a political party must be registered with the ECI whose decision regarding registration will be final.
- Registered political parties, in course of time, can get recognition as 'State Party' or 'National Party'.
- Change in name and address of a registered political party must be communicated to the ECI.
- The ECI cannot derecognise a party.

Right to Information:

- Candidates need to furnish information whether he/she is accused of any offence punishable with imprisonment of 2 years or more in a pending case or has been convicted of an offence.

Section 126 of the RPA, 1951:

- Displaying of any election matter by television or similar apparatus in a constituency is prohibited **48 hours before the polling ends or concludes.**
- Section 126 is **not applicable to** the print media, news portals and social media

- Section 126A prohibits the conduct of exit poll and dissemination of its results during the period mentioned.

Declaration of Assets and Liabilities:

- Individuals contesting elections have to file an affidavit, declaring their **criminal records, assets & liabilities and educational qualification**.
- After getting elected, MPs are required to file a **declaration of assets and liabilities** with the Speaker of Lok Sabha and the Chairman of Rajya Sabha.
- These declarations have to be made by MPs **within 90 days** of taking their seats in Parliament.

Voluntary Contributions:

- **Part IVA** focuses on the funding of political parties in India.
- **According to Section 29B**, political parties may accept contributions of any amount from any person or company except a government company or foreign source.
- Voluntary contributions by any person or company within India (other than a government company) **can be accepted by the registered political party**.
- It is **mandatory for the political parties** to submit to the ECI a list of donations they received **above Rs. 2,000**.
- Now, political parties are eligible to accept contributions from foreign companies defined under the **Foreign Contribution (Regulation) Act, 2010**.

Corrupt Practises:

- All government or non-government officials are included within the scope of corrupt practises.
- **Bribery:** Any gift/offer/promise or gratification to any person as a motive or reward.
- **Undue Influence:** Any direct or indirect interference/attempt to interfere on the part of the candidate with the free exercise of any electoral right.
- The publication by a candidate any statement of fact which is **false in relation to the personal character/conduct of any candidate**
- The **hiring or procuring of any vehicle** by a candidate of any elector to or from any polling station.

Disqualification of MPs and MLAs:

- The RPA, 1951 lays down certain rules for disqualification of MPs and MLAs.
- **Section 8 (3) of the Act** states that if an MP or MLA is convicted for any other crime and is sent to jail for 2 years or more, he/ she will be disqualified for 6 years from the time of release.
- **Section 8(4)** allowed convicted MPs, MLAs and MLCs to continue in their posts, provided they appealed against their conviction/sentence in higher courts within 3 months of the date of judgement by the trial court.

- The Supreme Court in July 2013 struck down section 8(4) of the RPA, 1951 and declared it ultra vires and held that the disqualification takes place from the date of conviction.

Significance of the Acts

- **Direct Democracy:** The provision of direct election for every constituency makes the process of election more democratic and participatory by encouraging and empowering people to play an active role in choosing appropriate candidates.
- **Equal Representation:** The RPA, 1950 provides for delimitation which brings equality in the process of election by ensuring roughly an equal number of electors in each constituency.
- **Federalism:** The acts strengthened the federal polity of the country by giving **due representation to each state in the Parliament.**
- **Decriminalizing Indian Politics:** The RPA, 1951 plays the significant role in **breaking the politicians, police & criminal nexus** (which is one of the greatest threats to the rule of law in India), by prohibiting the entry of persons with a criminal background into the electoral process, thus decriminalizing Indian politics.
- **Accountability and Transparency:** The RPA, 1951 provides for the **expenditure monitoring mechanism which ensures the accountability and transparency** of the candidate in the use of public funds or misuse of power for personal benefits.
- **Clean Election:** The RPA, 1951 **prohibits corrupt practices like booth capturing, bribery or promoting enmity etc.**, and ensures the conduct of free & fair elections which in turn encourage political liberalization and democratization.
- **Legible Political Funding:** The RPA, 1951 provides that only those political parties which are registered under section 29A of the RPA, 1951 are eligible to receive electoral bonds, thus providing a mechanism to **track the source of political funding and ensuring transparency in electoral funding.**

ISSUES:

- **False Disclosures:** Even after the provision of the declaration of assets and liabilities in the RPA act, candidates do not disclose all the assets and provide wrong and incomplete information regarding their assets, liabilities, and income and educational qualifications.
- **The Bureaucratization of Politics:** In spite of the inclusion of several provisions aimed at making the ECI as an independent body, it is still dependent on the Union for financial matters that paves the way for political parties to manage to get the officers in their favour through money and muscle power.
- **Dual Responsibility of the ECI:** The ECI does not have independent staff of its own so whenever elections take place, it has to depend upon staff of Central and State Governments hence the dual responsibility of the administrative staff, to the government for ordinary administration and to the ECI for electoral administration is not conducive to the impartial and efficient functioning of the Commission.

- **Misuse of Government Machinery:** The RPAs lack clear provisions and guidelines on the matters related to the misuse of official machinery that gives an unfair advantage to the ruling party at the time of elections and leads to the misuse of public funds for furthering the prospects of candidates of a particular party.
- **No Expenditure Limit:** The Representation of People Act (RPA), 1951 imposes no limitations on the expenditure incurred by leaders of a political party in disseminating messages under transportation expenses. Other expenses incurred to support a particular candidate are eventually added to the expenditures incurred by the candidate.
- **Section 33(7) of the Representation of People's Act:** This section permits a candidate to contest any election (Parliamentary, State Assembly, Biennial Council, or bye-elections) from up to two constituencies.
 - When a candidate contests from two seats, it is imperative that he has to vacate one of the two seats if he wins both.
 - This, apart from the **consequent unavoidable financial burden** on the public exchequer, government manpower and other resources for holding **bye-election is also an injustice to the voters of the constituency which the candidate is quitting from.**

Amendments to The Representation of People Act (RPA)

Representation of the People (Amendment) Act, 1966

- This Amendment **abolished election tribunals**. Election petitions were now **transferred to High Courts**.
- But disputes in connection with the presidential and vice-presidential elections are heard **directly by the Supreme Court of India**.

Representation of the People (Amendment) Act, 1988

- This Amendment made provisions for the **adjournment or countermanding of polling** because of booth capturing and electronic voting machines (EVMs).

Representation of the People (Amendment) Act, 2002

- The 2002 amendment **inserted Section 33A into the Act** which provides for the right to information for people.
- After this, voters have the **right to know the antecedents of the candidates**.
- Contesting candidates are required to furnish information about the **prior conviction of offences** or whether they are accused of any offence while filing their nominations.
- The amendment also included provisions for the **declaration of assets and liabilities** by the candidates.

Representation of People (Amendment) Bill, 2010

- This amending act confers **voting rights to Indians who are NRIs**.
- The amendment, however, **does not give NRIs the right to contest elections**.
- It also **does not give NRIs the right to vote in absentia**. They have to be present in their constituencies during polling.

Representation of People (Amendment) Bill, 2017

- This bill, which was passed by the Lok Sabha, seeks to **allow proxy voting for NRIs**.

SUGGESTIONS

- **Restriction on Opinion Polls:** By an amendment made to the RPA 1951, conducting and publishing results of exit polls have been prohibited.
- There should be a similar prohibition or restriction on opinion polls also as several manipulated opinion polls could impact the voting pattern.
- **False Declaration as Offence:** The RPA ,1951 should be amended to include all the items related to the election disclosure in the affidavit and making false declarations in connection with the election to be an offence.
- **Independent ECI:** In order to curb the practice of bureaucratization of politics and to secure complete independence of the Election Commission, its expenditure should be charged on the Consolidated Fund of India.
- **De-listing of Valid Electorates:** Parliament must pass a law dealing with the serious problem of delisting of valid electors from electoral rolls because illiterate electorates residing in far villages cannot watch over the publication of electorate lists.
- **State Funding of Elections:** To minimise the role of money in elections, provisions should be made for state funding of elections.

Committees/reports that highlighted the prospects of state funding of elections:

- **Indrajit Gupta Committee** on State Funding of Elections (1998)
 - **Law Commission Report** on Reform of the Electoral Laws (1999)
 - **National Commission to Review the Working of the Constitution** (2001)
 - **2nd Administrative Reforms Commission** (2008)
- **Section 33(7) of the Representation of People's Act:** The ECI has alternatively suggested that if existing provisions are retained then the **candidate contesting from two seats should bear the cost of the bye-election** to the seat that the contestant decides to vacate in the event of his/her winning both seats. The amount in such an event could be Rs 5 lakh for assembly election and Rs 10 lakh for parliament election.

The ECI should become more prudent and proactive to **ensure the fairness and transparency of the general election** and wipe away any doubt regarding its integrity as an esteemed institution.

ONE NATION ONE ELECTION –

The Prime Minister has again pitched for “One Nation, One Election” and a single voter list for all polls.

About One Nation – One Election - This idea was 1st mooted by the Law commission in its report in 1983 , later it was referred to by NITI Aayog .

- This means that elections in the country should be structured in such a manner that state assembly polls are synchronised with Lok Sabha.
- This does not mean that voting across the country for Lok Sabha and State Assemblies happens on a single day. It can be conducted in a phase-wise manner and voters in a particular constituency vote for both State Assembly and Lok Sabha the same day.
- “One Nation, One Election” (ONOE) or “Simultaneous Elections” has been seen as an essential tool to prevent the impact of the Model Code of Conduct (MCC) on development works.
- It has also been a tool to cut down election expenditure at different levels.

History of Simultaneous Elections in India (1951-1967)

- After independence, elections held in 1951-52, 1957, 1962 & 1967 , the country witnessed simultaneous elections for State Legislative Assemblies (Vidhan Sabha) and lower house of the Parliament (Lok Sabha).
- But after that, the dissolution of several state legislative assemblies from 1968 to 1969 and the Lok Sabha election in 1971 disturbed the process.

Arguments in favour of ONOE -

- **Preventing the expenditure** - According to the Centre for Media Studies (CMS), the Lok Sabha Election held in 2019 was estimated to cost Rs 50,000 crore
 - Currently, the expenditure of state election is borne by the respective state government and of central election by the respective central government.
 - In the case of simultaneous elections, expenditure could be divided between states and centre equally.
- **Hampers administrative works** - Regular elections hamper the delivery of essential services due to the engagement of public servants, including large number of teachers, in the election process.
- **Prevent the values of democracy** - With the simultaneous election the Smaller parties with less capital and money for election expenditure could be able to compete equally with larger parties with deep pockets.
- **Problem of security forces** – During the election , the deployment of security forces is normally throughout the elections and frequent elections take away a portion of such armed police force which could otherwise be better deployed for other internal security purposes.
- **Impact on social fabric** – During the elections there is perpetuation of caste, religion, and communal issues across the country as elections are polarizing events that have accentuated castesim, communalism, and corruption.

- **Focus on populist measures** - Frequent elections will impact the focus of governance and policymaking as it forces the political class to typically think in terms of immediate electoral gains rather than focus on long-term programs and policies.
- **Impact of Model Code of Conduct (MCC)** - Since MCC which is enforced during elections – halts the development works at different levels.

Problems with ‘One Nation, One Election’ -

- **Problems of Checks and Balance** – As result of state election and Centre level election are taken as mandate to govt policies in centre & State respectively . Hence, it acts as checks and balances for policymakers at both centre and state.
- **Against Federalism** – As the state elections will be postponed until the synchronised phase , the application of president rule be needed hence It can go against federalism .
- **Different issues at States and National level** - The national election is dominated by issues about national interests, while state elections deal with local issues. With simultaneous elections, national issues may dominate state issues.
- **The marginalization of regional parties** – As there are so many caste based & region based political parties in India, the Simultaneous elections will lead to the marginalization of regional parties, which are considered as torch-bearers of local issues.
- **Homogenisation of political parties** - Homogenization of the country, instead of bringing equity, sustaining plurality, and promoting local and regional leadership, as one election concept may promote national parties.
- **Challenges for the Election Commission** – Since there is use of VVPAT & EVM in election , If we hold simultaneous elections, the requirements for the EVM's and the VVPAT's will double. This is because, for every polling station, one would have to provide two sets.
- **Additional staff** - There would also be some additional requirement of polling staff as well.
- **Transportation issues** - There would also naturally be difficulty in transporting all these materials to the polling stations. Thus, the requirement of transport, polling personnel, and the requirement of central police forces as well would need to be augmented.
- **Logistics problem** – As After the elections, states face a problem that concerns storing the EVM's. Thus, many states have taken godowns on rent. With simultaneous elections, the questions of storing double the EVM's and double the VVPAT's would emerge.
 - Thus, logistical problems would emerge with simultaneous elections which would also demand the allocation of sufficient money.

Way forward -

- The final solution may lie in either by **amending the Constitution and going with a Presidential form of Government, or fixing the tenure of the assemblies and the Lok Sabha**.
- It is very important to have a **political consensus on this issue. The reason being that a Constitutional Amendment** would have to be made. We have three ways wherein one can amend the Constitution of India.
- It is important to note that in one of the recommendations made by the Law Commission of India, before the recently concluded general elections, was that the **assemblies, who were to go**

in for election about 6 months in advance, or 6 months later, would actually be combined together.

- There should be a greater consensus within the country on whether the nation should have a “One Nation, One Election” system.
- As in Presidential elections like USA there is much less expenditure than India hence these kind of issues should also be taken into account.

Analysis of financial implications, the effect of MCC, and the law commission's recommendations suggest that there is a feasibility to restore one nation one election concept as it existed during the first two decades of India's independence.

POLITICAL FUNDING –

Political Funding means the process / methods which the parties use to raise funds to finance their campaign and routine activities.

Statutory Provisions

- **Section 29B of RPA** explains that the parties are entitled to accept voluntary contributions by any person or company, except a Government Company.
- **Section 29C of the RPA** mandates political parties to declare donations that exceed 20,000 rupees. Such a declaration is made by making a report and submitting the same to the EC. Failure to do so on time disentitles a party from tax relief under the Income Tax Act, 1961.

Methods used to raise the funds -

- **Individual Contribution** - Section 29B of RPA allows political parties to receive donations from individual persons.
- **Public Funding** – In this method government provides funds to parties for election related purposes.
 - **Direct Funding** – Here the govt provides funds directly to the political parties. Direct funding by tax is prohibited in India.
 - **Indirect Funding** - This includes the methods, like free access to media, free access to public places for rallies, free or subsidized transport facilities. It is allowed in India in a regulated manner.
 - **Corporate Funding** - In India, donations by corporate bodies are governed under the Companies Act, 2013. Section 182 of the Act provides that -
 - ❖ A company needs to be at least three years old to be able to donate to a political party.
 - ❖ Companies can donate up to 7.5% of average net profits made during three simultaneous preceding financial years.
 - ❖ Such contributions must be disclosed in the company's profit and loss account.
 - ❖ Approval of the Board of Directors needs to be obtained for the contribution.
- **Electoral Trusts** – This is a non-profit company created in India for orderly receipt of voluntary contributions from any person like an individual or a domestic company.
 - According to the Election Commission Guidelines, all electoral trusts formed after January 2013 are required to declare details of the money received and disbursed.

- **Electoral Bonds** - An electoral bond is a bearer instrument like a Promissory Note. It can be purchased by any citizen of India or a body incorporated in India to donate to the political party of their choice. Donor's name is not there on the bond.

Major Issues with Political Funding -

- **Use of black money** - One of the biggest disadvantages of corporate funding is the use of fake companies to route black money.
- **Influence of Corporate** - Influence of people and companies over political parties to which they provide funds.
- **Not reprinting in balance sheet** - There are various gaps in Indian rules, the benefit of which political parties take to avoid any kind of reporting.
- **Impact on economy** - Hidden sources of funding lead to more spending of funds in election campaigns, thus impacting the economy of the country.

Arguments in favour of public funding –

- **Necessary cost of democracy** – As the Political parties and candidates need money for their electoral campaigns, maintain the staff & travel in Constituencies hence public funding is a natural and necessary cost of democracy.
- **Curbs corruption** – The Public funding can increase transparency in party and candidate finance and thereby help curb corruption.
- **As personal contribution is not possible** - In societies where many citizens are under or just above the poverty line, they cannot be expected to donate large amounts of money to political parties or candidates.
- **Leads to multi party system** - If parties and candidates receive at least a basic amount of money from the State the country could have a functioning multi-party system without people having to give up their scarce resources.

Arguments against the Public funding -

- **Can cause to budgetary deficits** - A Government that is grappling with deficit budgets, how can provide money to political parties to contest elections.
- **More political parties** - They also warn that state funding would encourage every second outfit to get into the political arena merely to avail of state funds.
- **Other expenditure is not borne** - Also, given that state expenditure on key social sectors such as primary healthcare is “pitifully small”, the very idea of the Government giving away money to political parties to contest polls, is revolting.

ELECTORAL BONDS –

This scheme was launched in the Union budget 2017 – 18 with the aim to cleanse the system of political funding in the country..

- The electoral bonds were introduced by amendments made through the Finance Act 2017 to the Reserve Bank of India Act 1934, Representation of Peoples Act 1951, Income Tax Act 1961 and Companies Act.

- However, there are certain provisions in the scheme, which raised an objection on transparency of political funding itself.

Arguments against the Electoral Bonds Scheme

- **Opaque political funding** – Since anonymity is there in scheme hence Ordinary citizens are not able to know who is donating how much money to which political party, and the bonds increase the anonymity of political donations.
- **Out of the purview of RPA 1951** – As every political party has to declare the donations above 20000, under Section 29C of the Representation of the People Act, 1951. However, an amendment in the finance act has kept electoral bonds out of the purview of this section.
 - Therefore, parties will not have to submit records of electoral bonds received to the Election Commission for scrutiny.
- **Exemption under IT Act** – As every political party under section 13A of IT Act 1961, are legally bound to submit their income tax returns annually. However, the electoral bonds have also been exempt from IT Act. Thus, removing the need to maintain records of names, addresses of all donors.
- **Opens up possibility of corporate misuse**- As there is the removal of the 7.5% cap on the net profits of the last three years of a company, corporate funding has increased manifold, as there is now no limit to how much a company, including loss-making ones, can donate.
 - Hence, companies can be brought into existence by unscrupulous elements primarily for routing funds to political parties through anonymous and opaque instruments like electoral bonds.
- **Favours ruling party**- Since every donation has to be submitted in SBI which is government owned bank will hold all the information of the donors which can be favourable to the party in power

Election Commission's arguments against the Electoral Bonds Scheme

- **Prohibition on political donation from govt owned companies** - As any donation received by a political party through an electoral bond has been taken out of the ambit of reporting under the Contribution Report. E.g. the Representation of the People Act, 1951 prohibits the political parties from taking donations from government companies.
- **Allows unchecked foreign funding**- An amendment to the Foreign Contribution Regulation Act (FCRA) allow political parties to receive funding from foreign companies with a majority stake in Indian companies. It can lead to Indian policies being influenced by foreign companies.

Government's arguments for the Electoral Bonds

- **Limiting the use of cash** – There were massive amounts of political donations being made in cash, by individuals/corporates, using illicit means of funding and the identity of the donors was not known. Hence, the 'system' was wholly opaque and ensured complete anonymity.
- **Curbs black money** –
 - As payment made through electoral bonds should be in form of demand draft , cheque or through Electronic clearing system hence curbing on black money can be easy.

- Buyers of these bonds must comply with KYC requirements, and the beneficiary political party has to disclose the receipt of this money and must account for the same.
- Limiting the time for which the bond is valid ensures that the bonds do not become a parallel currency.
- **Protects donor from political victimization-** As non-disclosure of the identity of the donor is the core objective of the scheme. Further, the records of the purchaser are always available in the banking channel and may be retrieved as and when required by enforcement agencies.
- **Equipped with sufficient safeguards-** such as donations through bonds received from a domestic company having a majority stake is permitted, subject to its compliance with KYC norms and FEMA guidelines.
- **Eliminate fraudulent political parties-** which are formed on pretext of tax evasion, as there is a stringent clause of eligibility for the political parties in the scheme.

Way forward -

- **More use of digital transactions** – There should be provisions that above a certain limit be made public to break the corporate-politico nexus.
 - **Making political parties under the ambit of RTI** - Political parties should be brought under the ambit of RTI.
 - **National electoral fund** - Establish a national electoral fund where donors contribute and funds are distributed among different parties.
-

UPSC GS 2 SYLLABUS : STATUTORY, REGULATORY AND VARIOUS QUASI-JUDICIAL BODIES.

STATUTORY BODIES BASICS

- Statutory bodies are **established by acts which Parliament and State Legislatures can pass**. These bodies are entities shaped by an Act of Parliament or state legislatures and **set up by the government** to consider the data and make judgments in some arena of activity.
- They are **generally established to perform specific functions** which a government considers effectively performed outside a traditional departmental executive structure.
- The statutory bodies **may be established to permit a certain level of independence from government**.
- The **meaning of a 'statutory body' may change depending upon the legislation**.
- All statutory bodies are **established and operate under the provisions of their own enabling legislation**, which sets out the purpose and specific powers of the agency.

REGULATORY BODIES BASICS

- A regulatory body also called a **regulatory agency is a public authority or a government agency** which is accountable for exercising autonomous authority over some area of human activity in a regulatory or supervisory capacity.
- It is **established by legislative act** in order to set standards in a specific field of activity.
- The primary goal for a regulatory body is to **protect the public**, such as the providing and enforcing of adequate standards for health and safety in an organization.
- Regulatory agencies are generally a **part of the executive branch of the government** mostly.
- Their **actions are generally open to legal review**. Regulatory authorities are usually established to implement **standards and safety, or to oversee use of public goods** and regulate business.

ISSUES WITH REGULATORY BODIES

- **Every attempt to delegate decision-making to lower levels, has been overcome by politicians and the bureaucracy.** For example - The Constitution was amended to give powers to panchayats, but **financial decisions remain mostly with the state governments**.
- There are over 60 regulatory bodies at central and state level, including bodies created by the Constitution like CAG. For regulatory bodies; jurisdiction, extent of their powers, the manner of exercising them, penal powers, etc, are laid down by the statutes that created them. But **they are quite dissimilar in functioning due to the jurisdiction they operate in**.
- It is a generally accepted notion, that **self-regulated regulators do not perform all their functions satisfactorily**. There are allegations of malfeasance against almost all of them.
- **None of the agencies is a model for others**, as each is created by the concerned ministry. For instance, TRAI is a recommendatory body, whereas the Electricity Commissions are still trying to get authority over their forward markets.
- Besides, **penal powers for non-compliance are weak in most cases except SEBI and the Competition Commission**. Some of the commissions have appellate tribunals over them, while appeals from others go directly to the High Courts.
- There is **little information on comparative powers and performance**. Nor is there any attempt to study whether different commissions follow a common approach on similar issues.
- The statutory regulators appointed by the government also **do not enjoy an infallible position**. In the case of electricity, telecommunications, competition, securities, **the appeals against the orders of the concerned commissions are to Appellate Tribunals**, and not directly to the High Courts. This has often **led to delays and the dilution of the original intent** of the Commission.

- In many instances, the government departments, especially in state governments, **get the regulatory commission to act at the behest of the government, and not independently**. One reason for this is the selection process of Chairman and members of the regulatory bodies.
- With most regulatory bodies, **the staff is on deputation from other departments of the government**. They **do not regard themselves as having a career in regulation**. Few, if any, rise to become members or chairmen of these bodies.
- **Key positions in these bodies have become post-retirement perquisites for retiring bureaucrats** and government servants resulting in little independence, courage or knowledge in regulating the concerned sectors. **They largely operate as just another government layer**.
- The selection committees specified in the legislation are **invariably composed of administrators, many from the concerned ministry, invariably after retirement**, and in some cases out of the same ministry whose sector they are to regulate. These are **obnoxious practises** that are against the original intent of statutory independent regulation.

SUGGESTIONS

- It would be better if all the commissions have a **uniform structure and if they can follow each others' orders** to ensure that there is a body of regulatory law and precedents that can enrich the whole business of regulation.
- There is a need to make sure such bodies imbibe the **ethos of transparency and accountability** in the functioning of the bodies.
- Many countries have adopted techniques like "**Regulatory Impact Assessments**". India can also mandate such techniques through legislation and thereby preserve economic value.
- Genuine **functional autonomy would also have to be reinforced with financial autonomy** by putting in place a system where regulatory organisations are not dependent on government departments for financial support.
- The appointment of persons to head regulatory organisations should be **attempted in a far more transparent manner**.

QUASI-JUDICIAL BODY

- A Quasi Judicial Body is an **entity such as an arbitrator or a tribunal, generally of a Public Administrative Agency**, which has powers and procedures resembling that of a Court of Law or Judge, and which is obliged to **objectively determine facts and draw conclusions** from them so as to provide the basis of an official action.
- A Quasi Judicial Body has also been defined as "**an organ of Government other than a Court or Legislature, which affects the rights of private parties either through adjudication or rulemaking**".
- It is **not mandatory that a Quasi Judicial Body has to necessarily be an organisation resembling a Court of Law**, such as the Motor Vehicle Tribunal. For

example, the Election Commission of India is also a Quasi Judicial Body but does not have its core functions as a Court of Law.

- Awards and judgements of quasi-judicial bodies often **depend on a predetermined set of rules or punishment** depending on the nature and gravity of the offence committed. Such punishment **may be legally enforceable under the law of a country**, it can be challenged in a court of law which is the final vital authority.

Some examples of Quasi Judicial Bodies in India are as follows:-

- Election Commission of India.
- Income Tax Appellate Tribunal.
- Intellectual Property Appellate Tribunal.
- Telecom Dispute Settlement and Tribunal.

Reasons for Emergence of Quasi Judicial Bodies in India

- As the State grew in size and functions, the burden on its functions, **especially those of the judicial system increased manifold**. Therefore, the need for an alternative judicial system arose.
- The **cost factor also played an important role** because ordinary judicial procedures can turn out to be a costly affair if stretched over a long period of time.
- The **complexity of a plethora of laws** called for more technical minds in specific fields.

Categories of Quasi Judicial Bodies

There are four types of Quasi Judicial Bodies:-

- **Administrative bodies** exercising quasi judicial functions, whether as part and parcel of their respective departments or otherwise.
- **Administrative adjudicatory bodies** which are outside the control of the department involved in the disputes and hence decide disputes like a Judge, free from bias. For example: The Income Tax Appellate Tribunal falls under the Ministry Of Law and not the Ministry Of Finance.
- **Departmental bodies** exercising inherent judicial powers of the State, wherein they perform functions pertaining to control, composition and procedure, constituted under Article 136, can also be classified as tribunals.
- **Tribunals constituted under Article 323A and 323B** of the Indian Constitution, enjoy the powers and status of a High Court.

Advantages of Quasi Judicial Bodies

- **Low Cost:** In the conventional judicial process, a large section of the populace for the fear of expenditure, may hesitate from approaching the Courts, thus defeating the

purpose of justice. Tribunals on the other hand, have an overall low cost which encourages people to seek redressal for their grievances.

- **Simplicity:** Tribunals and other such bodies do not follow any lengthy or complex procedure for submitting application or evidence etc.
- **Expert Knowledge:** A tribunal comprises experts, who can easily understand the technicalities of a case, the necessary actions involved and their consequences.
- **Reduction of Workload:** Tribunals while taking up specific matters, majorly help by sharing the massive workload of the Judiciary. In a country which has 2.81 crore pending cases, it is important to take steps to decrease the burden of the Judiciary.

Disadvantages of Quasi Judicial Bodies

- The **unfair imbalance between represented and unrepresented parties** as the richer parties have a better chance at representation when compared to the ones with limited resources at their disposal.
- While lower costs of Tribunals encourage people to fight for justice, they also **invite a lot of ill founded claims**.
- Many times the decision given by a Tribunal is **challenged in a High Court by the losing party**. This **inevitably puts the burden on the Judiciary**, which defies the purpose of Tribunals.

Important Statutory, Regulatory and Quasi-Judicial Bodies:

NATIONAL HUMAN RIGHTS COMMISSION

- The National Human Rights Commission is a **statutory (and not a constitutional) body**. It was **established in 1993** under a legislation enacted by the Parliament, namely, the **Protection of Human Rights Act, 1993**. This Act was amended in 2006.

ISSUES

- **Scarcity of resources** – or rather, resources not being used for human rights related functions – is another big problem. Large chunks of the budget of commissions go in office expenses, leaving disproportionately small amounts for other crucial areas such as research and rights awareness programmes.
- **No authority over Armed Forces**
- **Bureaucratization:** As non-judicial member positions are increasingly being filled by ex-bureaucrats, credence is given to the contention that the NHRC is more an extension of the government, rather than an independent agency exercising oversight.
- **No power to enforce its decisions:** NHRC can only make recommendations, without the power to enforce decisions.
- **Appointment of the members of NHRC:** The Act requires that three of the five members of a human rights commission must be former judges but does not specify

whether these judges should have a proven record of human rights activism or expertise or qualifications in the area. Regarding the other two members, the Act is vague, saying simply: "persons having knowledge and experience of human rights."

- **Too many complaints:** NHRC is deluged with too many complaints. Hence, in recent days, NHRC is finding it difficult to address the increasing number of complaints.
- **Non-filling of vacancies:** Most human rights commissions are functioning with less than the prescribed Members

SUGGESTIONS

- **More Collaboration:** There needs to be a robust **collaboration between the NHRC and civil society**. The NHRC can give such groups effective channels to make their claims.
 - The **NHRC requires independent inputs from civil society** in order to be effective and accessible. If it is to play a meaningful role in society, **it must include civil society human rights activists as members**.
- **Promotion of Values of Human Rights:** A **culture of human rights ought to be promoted** through education. Human rights education in India is extremely important, given the fact that society is witness to numerous violations and abuse of powers and that the ability of the people to fight these injustices is limited.
- **Employing Qualified Staff:** Since staff is mainly those who are in deputation hence This problem can be rectified by **employing specially recruited and qualified staff to help clear the heavy inflow of complaints**.
- **Power of Summoning Witness:** It is essential that the commission is able to summon witnesses and document, this can realize the idea of justice to all.
- **Decisions to be Enforced Immediately:** The effectiveness of commissions will be greatly enhanced if **their decisions are immediately made enforceable by the government**. This will **save considerable time and energy** and the commission can focus on more important issues than to approach High Courts through a cumbersome judicial process to make the government take action.

NATIONAL GREEN TRIBUNAL

The National Green Tribunal Act, 2010 is an Act of the Parliament of India which enables the creation of a special tribunal to handle the expeditious disposal of the cases pertaining to environmental issues.

- It is not bound by any laws but it follows the principle of natural justice.
- The NGT has the power to **hear all civil cases relating to environmental issues** and questions that are linked to the implementation of laws listed in Schedule I of the NGT Act. These include the following:
 - The **Water (Prevention and Control of Pollution) Act, 1974**;
 - The **Water (Prevention and Control of Pollution) Cess Act, 1977**;

- The **Forest (Conservation) Act, 1980;**
- The **Air (Prevention and Control of Pollution) Act, 1981;**
- The **Environment (Protection) Act, 1986;**
- The **Public Liability Insurance Act, 1991;**
- The **Biological Diversity Act, 2002.**

ISSUES/CHALLENGES

- **Vacancies & governance issues** - The NGT must focus less on governance issues and more on adjudication. Benches have to expand manifolds. Vacancies have to be filled quickly.
- **Lacking the balance between environment & development** - Decisions of NGT have also been criticised and challenged due to their repercussions on economic growth and development.
- **No proper mechanism of Compensation** - The absence of a formula-based mechanism in determining the compensation has also brought criticism to the tribunal.
- **Sometimes non-feasible decisions** - The decisions given by NGT are not fully complied by the stakeholders or the government. Sometimes its decisions are pointed out not to be feasible to implement within a given timeframe.
- **Lack of human resource**- The lack of human and financial resources has led to high pendency of cases – which undermines NGT's very objective of disposal of appeals within 6 months.
- **Rising regional imbalance** - The justice delivery mechanism is also hindered by limited number of regional benches.
- **Few acts out of the purview of NGT** - Two important acts – Wildlife (Protection) Act, 1972 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 have been kept out of NGT's jurisdiction.
- **Limited jurisdiction** - This restricts the jurisdiction area of NGT and at times hampers its functioning as the crucial forest rights issue is linked directly to the environment.

SUGGESTIONS

- **Proper Guidelines:** To ensure appropriate responses to environmental litigations, however, the Indian government **should lay down guidelines for the effective exercise of powers by the NGT.**
- **Implementation of Decisions:** The decisions of the Tribunal and expert groups **should be respected and implemented** by all other government departments. Further, the institutions involved in resolving environmental disputes, whether the Supreme Court or the National Green Tribunal, **need to be strong and effective in ensuring that their directions are implemented.** Implementation should not be done through monitoring committees.
- **Appointment of Experts:** There should also be **stringent guidelines in place for the appointment of expert members** to the Tribunal based on the

suggestions of different environmental groups, legal experts, judges, and academics.

- **Transparent Process:** The entire process should be transparent and amenable to public scrutiny and review by judicial bodies and experts from different backgrounds, including scientists, technicians, judges and NGOs.
- **Providing Proper Support:** In order to be able to entertain petitions and prevent frivolous environmental litigations, the National Green Tribunal should be equipped with all the resources required for scrutinising and reviewing petitions and investigating the intentions of petitioners who seek its attention.
- **Coherence With the Supreme Court:** Its function should be more transparent than the Supreme Court's in environmental cases. More importantly, the procedures of PIL should be institutionalized with guidelines in place for emphasizing the conditions under which the tribunal can entertain or reject a petition seeking its attention.
- **Proper Legal Framework:** The legal framework also needs to be comprehensive and suitably designed for objective interpretation of environmental laws and policies.
- The National Green Tribunal could play a particularly significant role in the context of proposed reforms regarding the structure of environmental governance and the emergence of active environmental groups in the country.

CENTRAL BUREAU OF INVESTIGATION (CBI)

SC over CBI's autonomy:

- The landmark judgement in **Vineet Narain v. Union of India in 1997** laid out several steps to secure the autonomy of CBI. Says Mr. Narain: "Limited autonomy was granted.
- Still the administrative and financial control wrests with the Ministry of Personnel, and thus the government can directly control CBI."

ISSUES/CHALLENGES

- **Constitutional status:** CBI enjoys great power over the investigative machinery of the country, yet it derives its origin from DPSE Act, 1946 and the MHA resolution of 1963 which puts its constitutional status on shaky ground. **Guwahati High Court in 2013 termed CBI unconstitutional which was later stayed by the Supreme Court.**
- **Another Police Agency:** Since police is a State subject under the Constitution, and the CBI acts as per the procedure prescribed by the Code of Criminal Procedure (CrPC), which makes it a police agency, the CBI needs the consent of the State government in question before it can make its presence in that State. This is a cumbersome procedure and has led to some ridiculous situations.

- **Political interference:** due to it being under the control of central government with the latter having immense control over its functioning, often allegations of political misuse of CBI have been there.
- **Dependence on State:** Another great constraint on the CBI is **its dependence on State governments for invoking its authority to investigate cases in a State**, even when such investigation targets a Central government employee.
- **Dependence on Various Ministries:** The **agency is dependent on the home ministry** for staffing, since many of its investigators come from the Indian Police Service. The **agency depends on the law ministry** for lawyers and also lacks functional autonomy to some extent.

SUGGESTIONS

- **High Level Governing Board:** A **high level governing board should be set up for the CBI** in which, apart from the prime minister and union home minister, **four-five chief ministers of states may be appointed, by turn**, to give broad guide-lines and keep a watch over the working of the CBI.
- **Set up Different Bodies:** The CBI should be bifurcated into an anti-corruption body and a national crime bureau. The latter should be entrusted with all matters pertaining to criminal offences with national and international ramifications.
- The present CBI, with its charter confined to anti-corruption cases, should continue to be under the Ministry of Personnel while the national crime bureau should be placed under the MHA.
- **New Central Law:** A **comprehensive new central law should govern** the working of the institutions.
- **Special Public Prosecutor:** The law should specifically provide for appointment of a **special public prosecutor** who will have full independence to deal with the politically and nationally sensitive cases and take a stand safeguarding public interest.
- **Charter for Both Organisations:** **Explicit charters may be laid down for both these organisations**, with reference to which their work could be judged.
- **Right to Information:** These organisations **should be brought fully under the Right to Information law**, with a stipulation that no information pertaining to any on-going investigation can be made available, but that all information pertaining to cases which were withdrawn, or cases which were closed, or were dismissed by the court would be made available to the people.
- **Annual Social Audit:** The law should lay down that such an annual social audit of the working of these organisations should be carried out by ten reputed, knowledgeable persons with background of law, justice, public affairs and administration and the audit report should be placed before the parliament.
- **Selection of Executives by Committee:** The selection of the directors of both these institutions should be made by a committee presided over by the prime minister and comprise the home minister, the Lok Sabha speaker and the Rajya Sabha chairman, Lokpal, when appointed, and leaders of opposition in both the houses.

- **Fixed Term:** The directors should have **a fixed term of three years.**
- **No Further Reappointment:** After retirement, the **directors of both the institutions should be made ineligible** for any appointment by the Central and state governments.

CENTRAL VIGILANCE COMMISSION (CVC)

- Central Vigilance Commission is the apex vigilance institution, free of control from any executive authority, monitoring **all vigilance activity under the Central Government** and advising various authorities in Central Government organizations in planning, executing, reviewing and reforming their vigilance work.

ISSUES

- **No Transparent Appointment:** There are several issues in the constitution and the powers granted to CVC. When it comes to the appointment of the Chief Vigilance Officer, **the system is not transparent and clear.**
For Instance: In 2010, the issue was brought to the limelight when PJ Thomas was appointed as the Chief Vigilance Commissioner in September 2010. On March 3, 2011, the **Supreme Court quashed the appointment of Thomas as the Chief Vigilance Commissioner, noting that the HPC did not consider the relevant materials** on the pending charge sheet.
- **No Consensus Needed:** Although there is **no statutory requirement about the selection having to be unanimous** or based on consensus among the members of the committee, there is an undeniable moral obligation on the part of the representatives of the government on the committee **not to proceed with the appointment in case the Leader of the Opposition**, on any reasonable ground, disagrees with the selection of any particular individual.
- **Executive and not Legislative Agency:** The states now have opted only for the Vigilance Commission instead of Ombudsman to control corruption in the administration. The main problem with the Vigilance Commission mechanism is that it **is an agency of the executive and not of the legislature**. It was not created by a statute but by a government resolution.
- **No Authority to Sanction Criminal Prosecution:** It does not have any sort of adjudicatory powers as it is **not the competent authority to sanction criminal prosecutions** for offences committed by the officials while discharging their duty. It will always have to wait for the sanction from the competent authority.
- **Just an Advisory Body:** CVC is often considered a powerless agency as it is **treated as an advisory body** only with no power to register criminal cases against government officials or direct CBI to initiate inquiries against any officer of the level of Joint Secretary and above.
- **Not Fully Independent:** Although CVC is “relatively independent” in its functioning, it **neither has the resources nor the power to take action on complaints of corruption.**

- **No Investigation Wing:** CVC has **no investigation wing of its own** as it depends on the CBI and the Chief Vigilance Officers (CVO) of central organizations, while **CBI** has its **own investigation wing** drawing its powers from **Delhi Special Police Establishment Act.**

CONCLUSION

- As we have seen, in the **present stage the status of CVC is weak** since it is not a legislative body.
- In 2010 amending the CVC Act was suggested, which provided for **including the Vice-President of India as the chairman and a nominee of the Chief Justice of India as a member** of the selection committee. The suggestion looks good as there will be a check mechanism from the side of the judiciary.
- It is always essential to have a **strong and independent ombudsman system** having constitutional sanction which has its own autonomy.
- The status of the Vigilance Commission should be improved by **giving it a legal status and by removing it from the clutches of the executive and politics** as a strong mechanism is highly essential to fight the corruption and misuse of power by holders of high officers.

CENTRAL INFORMATION COMMISSION

- The Central Information Commission was **established by the Central Government in 2005**. It was constituted through an Official Gazette Notification under the provisions of the **Right to Information Act (2005)**. Hence, it is not a constitutional body.

ISSUES IN IMPLEMENTATION OF RTI ACT, 2005

- **Poor Record Management Practices:** Ineffective record management systems and procedures to collect information from field offices **lead to delays in processing RTI applications**. 38% of the PIOs cited the record management system as a reason for delays in processing RTI requests. In addition, **79% of the PIOs cited collecting information from field offices as a cause of delay**. These findings indicate a weak record management system is being followed while **critical field level information is not available** at the higher levels of hierarchy.
- **Misuse of RTI Act, 2005:** In studying cases of RTI Act it has been found that it is being misused by casual or habitual information-seekers for two obvious reasons. **Firstly non-applicability of locus-standi rule** to RTI case and secondly, **non-requirement of giving reasons for seeking information**, leave ample scope for non-serious information seekers to misuse it for their personal interest.
- **Untrained Central Public Information Officer:** It is desirable as well as necessary for CPIO to have required knowledge of the RTI Act. However, **the current scenario is completely contradictory to prescribed guidelines** as the person appointed to the post of CPIO often lacks the required knowledge of act to deal with the RTI application.

PIO's do not have any training to deal with RTI applications. This creates delay in the process of the delivery of the answer to the application.

- **Low Public Awareness:** Public Awareness is very low in India regarding their law, regarding their Rights etc. The main reason behind this is lack of Education, and others also. It was further observed that **awareness level is low among the disadvantaged communities** such as:
 - **Women:** In all the five states (Uttar Pradesh, Maharashtra, Andhra Pradesh, Jharkhand, Bihar) the **awareness level among women was found to be low in comparison to men**. The difference in awareness level between women and men ranged from 9% to 20%.
 - **Rural population:** As observed in the previous case the awareness **level in rural population was low** compared to urban population.
 - **OBC/SC/ST category:** The awareness level **among OBC/SC/ST category citizens was low** when compared to awareness level among general category citizens.
- **Delay in Disposal of Appeals and Complaints:** The efficiency of RTI act suffers when it comes to disposal of Second Appeal as RTI Act provides for a time limit within which First Appeal needs to be disposed of. However **the act doesn't provide any limit within which Second Appeal to CIC must be heard**, in the similar context the applicant has to wait for around one year in order to have his or her case heard at CIC.
- **Huge Backlog:** The huge backlog in disposing of cases does not augur well for the future of right to information (RTI) in the country.
- **Poor Quality of Information Provided:** CPIO'S provide poor quality of information to the applicant and complainant by which the **information seeker is not satisfied and file a first appeal**. This is the irresponsible behaviour of the CPIO'S by providing irrelevant information to the applicant's. It has been found in the studies that **more than 75% of the citizens are dissatisfied with the information** which he/she gets from the CPIO's or PIO's.

SUGGESTIONS/RECOMMENDATIONS

- **Uploading All The Disclosable Documents On Their Departmental Websites:** By this way, all the disclosable information whatever the **information seeker wants can easily access it and it also reduce the burden** of the department to provide information which takes much valuable time of the person and also reduces Physical document storage and movement.
- **Make A Separate Department For Management Of Records:** By making a separate department for management of records is helpful in keeping the documents and files safe and it is **also helpful in relocating the files in very less time and also keeps the documents and files safe** from termite, rodents etc.
- **Uploading All The RTI Replies On Department Websites:** RTI misuse can be prevented by uploading all RTI Replies on the department's website. This way, **the person filing the RTI will not be able to blackmail or harass any officer** or any other

individual. This will also reduce the number of RTI Applications being filed, repetition of applications seeking the same information will be prevented.

- **Amendment Of Sec (6)(2) Of RTI Act, 2005:** RTI misuse can be prevented by **knowing the Reason of filing RTI** as most of the RTI's are filed for harassing or blackmailing the department. After the reason knowing provision will come, most of the people misusing RTI Act will not file a RTI Application.
- **Inhouse Training To The CPIO's And PIO's Of RTI Act:** By giving periodical training to the CPIO's and PIO's of RTI Act in the department, **CPIO's and PIO's will handle RTI Application in a better manner and can give a proper reply** to the information seeker or understand the RTI application and also helpful for proper implementation of RTI Act, 2005.
- **To Increase Awareness:**
 - Launch of **awareness campaigns** through Radio, Television and Print Media.
 - **Display of posters** in Hindi and other regional languages in rural areas.
 - **Publication of RTI Act 2005**, in different Regional languages.
 - A chapter on RTI Act, 2005 should be **added in school/college curriculum**.
 - **Providing sufficient funds** to the Central/State Information Commissions and the State training institutes for creating awareness about RTI Act, 2005.
- **Increase Number of Information Commissioner:** There is a need to enhance the number of information commissioners in CIC.
- **Compiling Of Similar RTI Applications:** Many RTI Applicants filed multiple RTI Applications on the same subject/seek same information, which increases the burden of CIC. A system needs to be put in to weed out such duplicate cases.
- **Separate Department Of CPIO's:** Making different department for CPIO and FAA, which reduces the burden on the CPIO's and FAA's and give more time to the CPIO's and FAA's to deal with RTI cases, which helps in giving correct and complete information within a specified time limit

THE FINANCE COMMISSION

About 15th Finance Commission –

- This was Constituted by the President in November 2017 under the chairmanship of N K Singh.
- Its recommendations are applicable from period of 2021 to 2026.
- The recommendation were sought on the following –
 - The distribution of tax proceeds between the centre and states.
 - Principles governing grant in aid to the states.
 - Measures to be taken to augment the consolidated fund of states.
 - Review the impact of the 14th Finance Commission recommendations on the fiscal position of the centre.
 - Review the debt level of the centre and states, and recommend a roadmap.
 - Study the impact of GST on the economy.

- Recommend performance-based incentives for states based on their efforts to control population, promote ease of doing business, and control expenditure on populist measures, among others.

The 15th Finance Commission report was tabled on 1st Feb. 2021 in parliament which includes the following provision -

- **Vertical devolution at 41 %** - During the Covid time , with aim to maintain the predictability & stabilizing the resources , the vertical devolution should be maintained at 41%.
- **On GST** - The GST accounts for 35 % of the gross tax revenue of Union & 44 % of own tax revenue of the States.
- **Gross Tax Revenue Assessment 2021-26** – it is expected to be 135.2 lakh crore, out of which the divisible pool is estimated to be 103 lakh crore.
- **On Horizontal Devolution** - The criteria and the weights assigned for horizontal devolution are –
 - Income Distance – 45%
 - Area – 15%
 - Population – 15%
 - Demographic Performance – 12.5%
 - Forest & Ecology – 10%
 - Tax and Fiscal Efforts – 2.5% (Re-introduced)
- **On Revenue Deficit Grants** - It has recommended total revenue deficit grants of around Rs 2.94 crore over the award period for seventeen States.
- **On Local Governments** - Rs. 4,36,361 crore is the total grant given to the local governments for the period of 2021-26. Out of the total grant; Rs.450 crore is dedicated to the shared municipal services.
 - **Grants to Rural Local Bodies** – Total sum of Rs. 2,36,805 crore is a grant for the rural local bodies.
 - **Grants to Urban Local Bodies** – Rs.1,21,055 crore is the total grant for the urban local bodies.
 - **Grants for Health** – It is to be Channelized through Local Governments – Rs. 70,051 crore stands for the Health grant to the local governments.
- **On Health** - The Finance commission has suggested increasing the state expenditure on health by 8 percent by 2022.
 - Also suggested **prioritizing the creation of All India Health Services/All India Medical Services** on the pattern of the UPSC Civil Services.
 - National Medical Council is suggested to **develop small courses on wellness clinic, basic surgical procedures, anaesthesia, obstetrics and gynaecology, eye, ENT etc.** for MBBS doctors.
 - AYUSH to be **encouraged as an elective subject** for medicine undergraduates.
 - The **Allied and Healthcare Professions Bill** should be passed at the earliest.
- **On Higher Education** – The 15th Finance Commission has recommended 2 type of grants as -
 - **Promotion of online education** – Rs. 5,078 crore is a total sum of grant for the promotion of online education.

- **Development of professional courses in regional languages** - The commission's recommendation is in line with the New Education Policy 2020. Rs. 1,065 crore has been allocated for the development of these courses from 2021-26.
- **Two colleges in each state should convert their learning material and pedagogy** into the recognized regional language.
- **On Defence** – The finance commission has highlighted the creation of a non-lapsable pool for the defence and internal security sector under the Public Accounts of India.
- **On Disaster Risk Management** - The fifteenth finance commission recommended maintaining the contribution of states to the State Disaster Risk Fund (SDRF) to be 25 per cent except by the NE States (10 per cent.) It has seen no changes since 13th Finance Commission recommended the same arrangement.

The Critical analysis of 15th Finance Commission –

In respect of Local Bodies -

Positives –

- **Higher grants to local Bodies** – The 15th FC has provided higher Grants to local bodies as compared to the previous Finance Commission. For example, the Finance Commission has granted Rs 4,36,361 crore from the central divisible tax pool to local governments.
- **Strengthening Co-operative federalism** - Out of the total grants earmarked for Panchayati raj institutions, 60 % is earmarked for national priorities. (drinking water, rainwater harvesting, sanitation, etc.,) Hence this will strengthen the Co-operative federalism.

Negatives -

- **No performance based grants** – With only aim of incubation support to new cities the 15th FC has failed to provide Performance-based grants for the Panchayati raj. This will hamper the transformative potential.
- **No entry level criteria** – The 15th finance commission placed no entry-level criteria specified for Gram Panchayats to avail grants.
- **No reliable data/baseline** – Since finance commission has not placed any base line hence without reliable data on Financial performance, it will be difficult to ensure Good governance.
- **Missed the restructuring the public finances** – Since finance commission had the opportunity to ensure comparable minimum public services to every citizen irrespective of her choice of residential location but the 15th FC has missed the opportunity to ‘restructure the public finance’ for greater fiscal decentralization in providing basic services.
- **Ignores equity & efficiencies** - the 15th FC has used the criteria of the population (2011 Census) with 90% weightage and area 10% weightage for determining grant to local governments. However, it ignores equity and efficiency criteria.

ISSUES AND SUGGESTIONS

- **Mere an Advisory Body:** The recommendations made by the Finance Commission are only of advisory nature and hence, **not binding on the government**. It is up to the Union government to implement its recommendations on granting money to the states.

There is a need to amend the constitution and **make the recommendations of the Finance Commission binding** on the center as well as the states.

- **State Finance Commissions (SFCs):** States have not been setting up their State Finance Commissions every five years as mandated by the 73rd **Constitutional Amendment Act**. Therefore, it is the necessity of SFCs to rationalize and systematize State/sub-state fiscal relations in India.
- **Importance of States in the economy:** The role of states in the growth of the Indian economy has increased given the '**shift in composition of government finances**'. States are now getting a much higher share of transfer (**devolution of 42%**) from the Centre, on the recommendation of 15th FC.
- **Expenditure codes:** Expenditure norms **vary from state to state**; therefore there is a need for uniform **standard expenditure codes** across the country.
- **Factors driving fiscal slippage:** These factors include **UDA, farm loan waivers and income support schemes; rising outstanding debt as a percentage of GDP** despite moderation in interest payments as a percentage of revenue receipts.
- **Continuity of the Finance Commission: A permanent status to the Finance Commission** and a robust expenditure planning is the need of the hour. This is required, in view of the fiscal management requirements of the States, especially given the **absence of mid-term reviews of awards granted by the Finance Commission**.
- **Public Sector Borrowing Requirement (PSBR):** It is defined as borrowing by not just Central and State governments but also by all public sector corporations and agencies. This consolidated figure will more or less put an end to the manipulation of the fiscal deficit by the government. The main issue is the **increasing orientation of State governments' borrowing from markets, improving secondary market liquidity and cash management**.

THE ELECTION COMMISSION

- Under **Article 324 of the Constitution of India**, the Election Commission of India is vested with the power of **superintendence, direction and control of conducting the elections to the Lok Sabha and State Legislative Assemblies**.

ISSUES AND SUGGESTIONS

Appointment and Removal of members of the EC:

Issues: The key issues prevailing in the functioning of the Election Commission include the fact that the EC is **no longer seen as a body independent** in its functioning, primarily because **several retiring Government officials are appointed to the post** of the CEC.

This gives an impression of **bias towards the incumbent government**, even if there is none and thus, leads to a **loss of public confidence** in the Commission.

Suggestion: The need of the hour is an appointment process, which not only ensures the neutrality of the EC, but also **ensures its neutral appearance. De-politicization of the process** is essential for its neutral appearance.

In 2015, the Law Commission recommended a collegium system (also suggested by Tarkunde Committee, 1975 and the Goswami Committee, 1990) comprising the Prime Minister, the Leader of Opposition in the Lok Sabha and the Chief Justice of India. According to the recommendation, the President must appoint the members of the EC **in consultation with said collegium.**

Issues: While the CEC can only be removed from office by the same procedure by which a judge of the Supreme Court can be removed; the **Election Commissioners can be removed on the recommendation of the CEC.** Due to the **immense power handed to the CEC** to recommend their dismissal, it poses a question on this same independence.

Suggestion: In the case of **TN Seshan, Chief Election Commissioner v. Union of India**, the Supreme Court held that the CEC does not have a superior status and is nothing more than a 'first amongst equals'. In light of this interpretation, the **Constitution should be amended to accord the same protection** from removal to the Election Commissioners, as is accorded to the CEC.

Lack of weapons in EC's arsenal:

Issues: Another key issue is the fact that the EC lacks the machinery to fulfil all that is required of it. For example, under the Representation of People Act, 1951, the EC is the registering authority for all political parties, which have been expressly provided under Section 29A of the said Act but the power to register **does not carry with it the ancillary power of de-registering a political party.**

Suggestion: The EC has been **seeking the power to de-register political parties**, among many other reforms, which the EC has been wanting.

The EC also **submitted an affidavit to the Supreme Court** saying it wanted to be empowered "**to de-register a political party**", particularly in view of its constitutional mandate".

Issue: Another example of the EC's lack of appropriate machinery and power is with regard to the institution's attitude towards **violations of the Model Code of Conduct.**

Though the EC has put in place a remarkable MCC, it has lacked on all fronts when the question has been raised about its actual implementation. The EC was recently pulled up by the Supreme Court as **no action was taken by the Commission even though hate speeches took place across the country** and even as votes were appealed to in the name of religions and communities.

A prime reason behind this is the fact that the **MCC has no statutory backing and is not enforceable by law**. It is expected out of the political parties to follow the MCC on a moral basis.

Suggestion: In 2013, the Standing Committee on Personnel, Public Grievances, Law and Justice recommended **making the MCC legally binding** by adding it to the Representation of People Act, 1951.

Trust Deficit in the Election Commission

Issue: Earlier, the trust deficit was **limited only to political leaders and the voters**. However, it has now spread to a poisonous combination of deficit between the EC, voters and the political parties. The **deficit began with the EVM/VVPAT (Voter Verified Paper Audit Trail) saga** and spread due to inaction on part of the EC against the ruling party's leaders.

Examples: A group of sixty-six retired bureaucrats and diplomats wrote to the President that the EC was suffering from a “crisis of credibility”, stating that the EC is failing to discharge its constitutional responsibilities.

The Prime Minister repeatedly invoked the Indian Army for votes while the Indian Railways served tea in cups adorned with the BJP campaign slogan.

It was also surprising that the dissent of Mr. Ashok Lavasa, Election Comm. was not made public.

Suggestions: The Law Commission in its 255th Report recommended three changes for this:

- firstly, **awarding constitutional protection regarding removal** to the Election Commissioners;
- secondly, **altering the appointment process** from a system of unilateral appointment to a consultative process and;
- thirdly, **creating a permanent, independent secretariat** of the EC.

Most importantly, **it is imperative to restore trust in the Election Commission**, for it is the guardian of elections in India, the very foundation of Indian democracy.

CHALLENGES WITH THE STATE ELECTION COMMISSION

- **Lack of Safeguard for SEC:** Though the State Election Commissioner shall not be removed from his/her office except in like manner and on the like grounds as a Judge of a High Court (Art 243K(2)), yet it has been diluted on many instances.
- **Non Uniform Service Conditions for SECs:** Article 243K(2) states that the tenure and appointment will be directed as per the law made by the state legislature and thus each SEC is governed by a separate state Act.

- **Lack of Autonomy:** Although the state election commission on many occasions tried to exercise its duties enshrined in the constitution of India, they struggled to assert their independence.

SUGGESTIONS

- **Law Commission 255th Report on Electoral Reforms:** A separate independent and permanent Secretariat can also be made for the State Election Commissions to ensure autonomy, and free and fair local body election.
- **Constitution of the State Election Commission:** The State Election Commissioner should be **appointed by the Governor on the recommendation of a collegium**, comprising the Chief Minister, the Speaker of the State Legislative Assembly and the Leader of Opposition in the Legislative Assembly.
- The state governments need to follow the guidelines given by the Supreme Court in **Kishan Singh Tomar vs Municipal Corporation of Ahmedabad case**:
 - The provisions of Article 243K of the Constitution, which provides for setting up of SECs, are almost identical to those of Article 324 related to the ECI.
 - Also, the **state governments should abide by orders of the SECs during the conduct of the panchayat and municipal elections**, just like they follow the instructions of the EC during Assembly and Parliament polls.

LOKPAL AND LOKAYUKTAS

- Lokpal and Lokayukta are centre and state levels **India's anti-corruption ombudsman** respectively which look into corruption charges against certain categories of public servants.

Powers and Procedures

- The Bill provides that a **complaint can be lodged to the Lokpal or the Lokayukta, firstly**, in the case of a grievance by the person aggrieved, and **secondly**, in the case of an allegation by any person other than a public servant.
- The Lokpal or the Lokayukta may, **in his discretion**, refuse to investigate any complaint involving a grievance or an allegation.
- However, if he decides to investigate a complaint, he shall forward a copy of the complaint, along with the grounds thereof to the relevant public authority concerned.
- He shall give him an **opportunity to offer his comments** on such complaints or statements.
- The procedure for conducting an investigation by the Lokpal or the Lokayukta is to be such as **he considers appropriate in the circumstances of the case**.
- The identity of the complainant and the identity of the Public servant affected by the investigation is **not to be disclosed to the press or the public either before or after the investigation**.

- He has **all the powers of a civil court** while trying a suit under the Code of Civil Procedure, 1908 in respect of certain matters.
- Similarly, any proceedings before the Lokpal or the Lokayukta shall be **deemed to be a judicial proceeding** within the meaning of section 193 of the Indian Penal Code.
- The Bill, however, provides that no person shall be required or authorised to furnish any information or answer any question or produce any document, **which might prejudice the security or defence or international relation of India**, or the investigation or detection of crime, or which might involve the disclosure of proceedings of the Cabinet or any committee of the Cabinet of the Government of India.

The Lokpal and Lokayuktas Act of 2013

- On January 16, 2014, **The Lokpal and Lokayuktas Act, 2013** (Lokpal Act), a historic Indian anti-corruption law, came into effect.
- The Act **allowed setting up of an anti-corruption ombudsman** called Lokpal at the Centre and Lokayukta at the State-level.
- The act **extends to the whole of India** and is **applicable to "public servants"** within and outside India.
- The **States were asked to institute Lokayukta within one year** of the commencement of the Act.
- **Every State shall establish a body to be known as the Lokayukta** for the State, if not so established, constituted or appointed, by a law made by the State Legislature, to deal with complaints relating to corruption against certain public functionaries, **within a period of one year from the date of commencement of this Act**.
- Establishing a Lokayukta and further appointments are **under the regime of the states**.
- The Act has a **provision for attachment and confiscation of property** acquired by corrupt means even while the prosecution is pending.
- It is a **compulsion for public servants to declare their assets and liabilities** along with their spouse and dependent children.
- The Act ensures that **public servants who act as whistleblowers are protected**.
- All entities receiving donations from foreign sources in the context of the Foreign Contribution Regulation Act (FCRA) **in excess of Rs. 10 lakhs per year are brought under the jurisdiction of Lokpal**.
- Lokpal will have power of **superintendence and direction over any investigation agency** including CBI for cases referred to them by Lokpal.
- A high powered Committee chaired by the Prime Minister will recommend selection of the Director, CBI

Key features of the Lokpal Act include:

- **National and State-level Bodies:** The Act will establish a national-level Lokpal, which will include a chairperson and a maximum of eight members, and Lokayukta at the state level.

- **Broad Jurisdiction:** The jurisdiction of the Lokpal will include all levels of public servants, including the Prime Minister.
- **High-level Authority:** The Lokpal will have power to oversee and direct the investigative agencies, including the Central Bureau of Investigation, that are inquiring into allegations received by the Lokpal.
- **Clear Timelines:** The Act establishes clear timeframes in which allegations should be investigated and tried. A preliminary inquiry into allegations must be completed in three months (although this period may be extended by three months); the investigation should be completed in six months (may be extended by six months at a time); and a trial must commence within one year after an investigation is complete (may be extended by one year).
- **Harsher Penalties:** The maximum jail time under the Prevention of Corruption Act was increased from seven to ten years. Minimum punishments for certain sections of the Prevention of Corruption Act were also increased

ISSUES/LIMITATIONS

- **Lack of political will in appointing Lokpal for 5 years-** For more than five years, the chairperson and members of the Lokpal were not appointed as the government claimed lack of Leader of Opposition in the Parliament.
- In March 2019, Justice Pinaki Chandra Ghose was appointed as the Chief of the first Lokpal, with another 8 members.
- **Exclusion of the judiciary** from the ambit of Lokpal is unfair to Legislature and Executive.
- The specific details in relation to the appointment of Lokayukta have been **left completely in the States.**
- The **appointment of Lokpal can be manipulated in a way as there is no criterion to decide** who is an 'eminent jurist' or 'a person of integrity.' These words are not properly defined and are vague in nature.
- The Lokpal has been provided with **no constitutional backing and no provisions** are made regarding appeals against orders of the Lokpal.
- **Imbalance between three branches of the system-** The Lokpal bill attempts to alter the balance between three branches of government attained through the years. Any alteration of it could lead to accumulation of power either with one of these or with Lokpal itself.
- **Parallel system created-** It can dismiss serving all India civil servants, a power the only President has. It has **authority over CBI officers on deputation.** With no additional resources, the power to dismiss a case as frivolous or false and fine the complaint.
- Many countries have established national-level Ombudsmen and have started functioning effectively, **but in India, it still remains a theoretical construct.**
- **Some of the plausible reasons attributed to this situation could be listed as-** the lack in general of political will, at times failure to arrive at consensus among political

actors, the absence of strong public opinion against corruption and corruption being treated by common man as a way of life and fait accompli.

SUGGESTIONS

- Authorities should ensure that **delays in appointments are avoided**. The Lokayuktas in the remaining states should also be appointed without any further delay.
- Mechanism to address the **inclusion of Judiciary** within the ambit of Lokpal's jurisdiction.
- Lokpal and Lokayukta must be **financially, administratively and legally independent** of those whom they are called upon to investigate and prosecute.
- Setting up machinery which would take **cognizance of complaints of favouritism and nepotism** against central and state ministers.
- This system which should cover actions of not only the whole central government **but also that of local government** and where even the little man can approach easily and get the redressal for his grievances arose due to the faulty administrative system.
- To determine the success of the institution, implementation of the **law needs to be foolproof**.
- **The Lokpal in isolation cannot work successfully**. So along with this, the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 (Citizens Charter Bill), Whistleblowers Protection Bill and Judicial Accountability Bill should have been passed.

AIRPORT ECONOMIC REGULATORY AUTHORITY ACT 2021 –

The Airports Economic Regulatory Authority of India (Amendment) Bill, 2021 was introduced in lok-sabha which seeks to broaden the category of airports for which the Airports Economic Regulatory Authority (AERA) of India can determine tariff by amending the definition of major airports.

The definition of a major airport

- As per the AERA Act, 2008, a major airport is one which “has, or is designated to have, annual passenger throughput in excess of three-and-a-half million or any other airport as the Central Government may, by notification, specify”.
- It does not specifies the determination of tariff for a group of airports.

The Amendment Bill has amended the **definition of a major airport to include “a group of airports” after the words “any other airport”**.

About the Airports Economic Regulatory Authority of India -

- The AERA Act, 2008 was passed to set up the AERA as a statutory body.
- It was set up, as country needed to have an independent regulator who has transparent rules and can take care of the interests of the service providers as well as that of the consumers.
- It regulates tariffs and other charges (development fee and passenger service fee) for aeronautical services (air traffic management, landing and parking of aircraft, ground handling services) at major airports.

Need to amend the AERA Act -

- **For Public – Private partnership** - Airports Authority of India (AAI) awarded 12 airports — Lucknow, Ahmedabad, Jaipur, Mangaluru, etc. for operations, management and development in public-private partnership mode.
- **Clubbing the smaller airport** - The Ministry of Civil Aviation plans to club each of these airports with nearby smaller airports for joint development.
- **Regulation of tariffs** - There are a total of 154 airports in the country. Among these, AAI owns 136 airports and provides air traffic services over the entire Indian airspace and adjoining oceanic areas.

Criticism of act -

- **Lack of clarity** - Lack of clarity regarding the criteria for deciding which airports get clubbed together.
- **Ensure non-monopoly** - Governments also have to ensure that a monopoly situation is not created in the airport operating business while awarding a group of airports to the same entity.
- **Packaging** - Success of the bill will also depend on how the airports are packaged and if there are enough growth prospects, economic activity or tourist attractions near the non-profitable airports that will be clubbed

Benefits of the new law -

- **Development of new & smaller airports** - The revenue earned by AAI from these airports will be utilized for the development of airports in Tier-II and Tier-III cities.
 - It would help encourage the development of smaller airports.
- **Expansion in air connectivity** - This approach would help in the development of more airports through the PPP route thus, expanding the air connectivity to relatively remote and far-flung areas.

Steps taken by Govt for revival of Air sector -

- Provide support to airlines through various policy measures.
- Provide airport infrastructure through the Airports Authority of India and the private operators.
- Promotion of private investments in existing and new airports through the PPP route
- Provide an efficient Air Navigation System.
- Through Air Bubble Arrangements, efforts have been made to ensure fair and equitable treatment to our carriers in the international sector.
- Goods and Services Tax (GST) rate reduced to 5% from 18% for domestic Maintenance, Repair and Overhaul (MRO) services.
- A conducive aircraft leasing and financing environment has been enabled.
- Route rationalization in the Indian airspace in coordination with the Indian Air Force for efficient airspace management, shorter routes and lower fuel consumption.
- Coordination with stakeholders to resolve issues.

TRIBUNALS

TRIBUNAL REFORM ORDINANCE 2021 –

Recently, Tribunal Reforms Bill, 2021 passed by parliament, which seeks to lay down terms for service and tenure of members of various tribunals.

About tribunals -

- The tribunals are the special judicial bodies formed to resolve the disputes in a particular area of law.
- These institutions are judicial or quasi-judicial in nature.
- Their objective is to reduce the caseload of the judiciary or to bring in subject expertise for technical matters.

Creation of Tribunals

- In 1976, by 42nd Amendment the Articles 323A and 323B were incorporated in the Constitution of India .
- **Article 323A** – Empowers the Parliament to constitute **administrative Tribunals both at central and state level**, with aim adjudication of matters related to recruitment and conditions of service of public servants.
- **Article 323B** – Some **specific subjects such as taxation and land reforms** , for which Parliament or state legislatures may constitute tribunals by enacting a law.
- **Article 262** - The Constitution provides a **role for the Central government in adjudicating conflicts surrounding inter-state rivers** that arise among the state/regional governments.
- In 2010, the Supreme Court clarified that the subject matters under **Article 323B are not exclusive, and legislatures are empowered to create tribunals** on any subject matters under their purview as specified in the Seventh Schedule.

Tribunal Reforms ordinance, 2021

With the enactment of Tribunals ordinance some specific changes were made as -

- **Dissolution of Existing Bodies** -This ordinance seeks to dissolve certain appellate bodies and transfer their functions to other existing judicial bodies.
- **Merging of Existing Bodies** – On the basis of Domain, the merged tribunals based on domain.
- **Search-cum-selection Committees** - The Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a Search-cum-Selection Committee. The Committee will consist of –
 - The Chief Justice of India, or a Supreme Court Judge nominated by him, as the Chairperson (with casting vote).
 - Two Secretaries nominated by the central governments.
 - The sitting or a retired Supreme Court Judge, or a retired Chief Justice of a High Court.
 - The Secretary of the Ministry under which the Tribunal is constituted (with no voting right).
- **State Administrative Tribunals** - It will have separate search-cum-selection committees with the Chief Justice of the High Court of the concerned state, as the Chairman (with a casting vote).
- **Eligibility and Term of Office** – This ordinance provides for a four-year term of office (subject to the upper age limit of 70 years for the Chairperson, and 67 years for members).

- Minimum age requirement of 50 years for appointment of a chairperson or a member.
- **Removal of Tribunal Members** - The central government shall, on the recommendation of the Search-cum-Selection Committee, remove from office any Chairperson or a Member.
- **Transfer of functions** - Transfer of functions of key appellate bodies as proposed under the ordinance are as follows –
 - The Cinematograph act 1952, trade marks act 1999 & Customs act 1962 will have appellate body as High Court.
 - The copyright act 1957 will have appellate body as Commercial Court / Commercial division of High court.

Issues raised by Supreme Court -

- **Bypassing the legislative process** – This ordinance contains the same provisions that were struck down by the Court in the Madras Bar association case (2021).
 - while there was no discussion in parliament which amounts to “unconstitutional legislative overriding” of the judgement passed by the SC.
- **Ignoring the directions of Court** - The provisions in the ordinance regarding conditions of service and tenure of Tribunal Members and Chairpersons were already struck down by the Supreme Court. But the government enacted the same.
- **Issue over the Security of Tenure** - The Tribunals Reforms Act, 2021 bars appointments to tribunals of persons below 50 years of age. It undermines the length/security of tenure.
- **Violates separation of powers and judicial independence** - Central Government can take a decision on the recommendations made by the selection Committee within three months from the date of such recommendations.
 - Section 3(7) mandates the recommendation of a panel of two names by the search-cum selection committee.
 - This violates the principles of separation of powers and judicial independence.
- **large number of vacancies in the Tribunals** - Currently, there are 16 tribunals including the National Green Tribunal, the Armed Forces Appellate Tribunal, and the Debt Recovery Tribunal, etc.
 - Many of these tribunals suffer from crippling vacancies.
- **Detrimental to the Decision-making Process** - These cases will be transferred to High Courts or commercial civil courts immediately.
 - The lack of specialization in regular courts could be detrimental to the decision-making process.

NATIONAL TRIBUNAL COMMISION (NTC) -

The idea of formation of NTC was mooted in 1997 (Chandra Kumar vs Union of India) but Government is yet to constitute the National Tribunals Commission (NTC)

- It is an **independent umbrella body to supervise the functioning of tribunals, appointment of and disciplinary proceedings against members**, and to take care of administrative and infrastructural needs of the tribunals.
- Developing an **independent oversight body for accountable governance requires a legal framework** that protects its independence and impartiality.

- As the **Finance Ministry has been vested with the responsibility for tribunals until the NTC is constituted**, it should come up with a transition plan.

Advantages of NTC

- The NTC would ideally take on some duties relating to administration and oversight.
- It could set performance standards for the efficiency of tribunals and their own administrative processes.
- It could function as an independent recruitment body to develop and operationalise the procedure for disciplinary proceedings and appointment of tribunal members.
- Giving the NTC the authority to set members' salaries, allowances, and other service conditions, subject to regulations, would help maintain tribunals' independence.

ADMINISTRATIVE TRIBUNALS

- In pursuance of the provisions in Article 323A, Parliament passed the **Administrative Tribunal Act, 1985**, providing for all the matters falling within the clause(1) of Article 323-A.
- According to this Act, **there must be a Central Administrative Tribunal (CAT) at the centre** and a **State Administrative Tribunal (SAT) at the state level** for every state.

NEED FOR ADMINISTRATIVE TRIBUNALS

There are various reasons that lead to formation of administrative tribunals. These are:

- **The inadequacy of the judicial system**, **For instance**, conflicts between employees and employers comprising of strikes and lockouts among other disputes is an issue that cannot be settled only through stern interpretation of law. Various other factors need to be taken into consideration and for that one needs a body of experts. This comes in the form of Industrial Tribunal and Labour courts
- **The judicial system is conservative, rigid and technical**
- **Provisions for preventive measures**: Unlike ordinary courts, administrative authorities can take preventive measures such as licensing and rate-fixing even before the parties in dispute appear.
- **Effective enforcement**: Administrative authorities can undertake such processes to enforce the preventive measures that were mentioned earlier which may include suspension, cancellation or revocation of licences and destruction of contaminated articles among others. The conventional courts usually don't have these solutions.
- **Need for expertise**: Disputes are naturally technical sometimes. It is not expected of the judicial system to preside over such technicalities and decide them. Administrative tribunals are handled by experts and thus are able to cater to and solve such issues.
- **Others**: To add to all of it, administrative adjudication is inexpensive, fast and flexible.

ISSUES AND SUGGESTIONS

The Law Commission of India (Chairperson: Dr. Justice B. S. Chauhan) submitted its report on '**Assessment of Statutory Frameworks of Tribunals in India**' to the Ministry of Law and Justice on October 27, 2017.

- **Pendency in tribunals:** The Commission observed that the **high pendency of cases in some tribunals** indicates that the objective of setting them up has not been achieved.
- **Selection of members:** The Commission stated that the selection of members should be impartial. It suggested that the **involvement of government agencies should be minimal**, since the government is typically a party in every litigation.
- The Commission recommended that the chairman, vice-chairman, and judicial members of tribunals should be **appointed by a selection committee headed by the Chief Justice of India or a sitting judge of the Supreme Court**. Further, the selection committee should have two nominees of the central government. The appointment of other members such as administrative members, accountant members, and technical members should be undertaken by a **separate selection committee headed by a nominee of the central government**, appointed in consultation with the Chief Justice of India.
- **Uniformity in service conditions:** The Commission noted that currently there is no uniformity in the age of retirement of tribunal members. It recommended that **there should be uniformity in the appointment, tenure, and service conditions** for the: (i) chairman, (ii) vice-chairman, and (iii) members of tribunals. The chairman should hold office for three years or till the age of 70, whichever is earlier. The **vice-chairman should hold office for three years or till the age of 67**.
- Further, the Commission recommended that to **ensure uniformity across all affairs of various tribunals**, the function of monitoring their working should be transferred to a single nodal agency, set up under the Ministry of Law and Justice.
- **Appeal:** The Commission observed that tribunals were established to reduce the burden on courts. It recommended that **appeals against a tribunal's order should lie before a High Court only** where the law establishing such a tribunal does not establish an appellate tribunal. Further, **orders of an appellate tribunal may be challenged before the division bench of the High Court** having jurisdiction over the appellate tribunal.
- The Commission observed that **if decisions of appellate tribunals are appealed before High Courts regularly, the purpose of establishing tribunals may be defeated**. It suggested that a party aggrieved by an appellate tribunal's decision should be able to approach only the Supreme Court on grounds of public or national importance.
- **BENCHES OF TRIBUNALS:** Tribunals **should have benches in different parts of the country** to ensure access to justice by people across geographical areas. These benches should be located where High Courts are situated.

Distinction between Courts and Tribunals

Courts	Administrative Tribunal
A Court of law is a part of the traditional judicial system.	The administrative tribunal is an agency created by a statute endowed with judicial powers.
A Court of law is vested with general jurisdiction over all the matters.	It deals with service matters and is vested with limited jurisdiction to decide a particular issue.
It is strictly bound by all the rules of evidence and by the procedure of the Code of Civil Procedure.	It is not bound by the rules of the Evidence Act and the CPC unless the statute which creates the tribunal imposes such an obligation.
It is presided over by an officer expert in the law.	It is not mandatory in every case that the members need to be trained and experts in law.
The decision of the court is objective in nature primarily based on the evidence and materials produced before the court.	The decision is subjective i.e. at times it may decide the matters taking into account the policy and expediency.
It is bound by precedents, the principle of res judicata and the principle of natural justice.	It is not obligatory to follow precedents and principle of res judicata but the principle of natural justice must be followed.
It can decide the validity of legislation.	It cannot decide the validity of legislation.
The courts do not follow investigatory or inquisition functions rather it decides the case on the basis of evidence.	Many tribunals perform investigatory functions as well along with its quasi-judicial functions.

UPSC GS2 SYLLABUS : GOVERNMENT POLICIES AND INTERVENTIONS FOR DEVELOPMENT IN VARIOUS SECTORS AND ISSUES ARISING OUT OF THEIR DESIGN AND IMPLEMENTATION.

BASICS OF POLICY MAKING

- Public policy making is the **principal function of the state**. According to Vehezkel Dror, public policy making is a **complex, dynamic process** whose components make different contributions to it.
- It **decides major guidelines for action directed at the future**, mainly by the governmental organs. These guidelines [policies] formally aim at **achieving what is in the public interest** by the **best possible means**.
- Public policy can be an authoritative **allocation of values by the political system**, a slight variation from the previous or existing policy, equilibrium reached out of the competing group struggle, a rational choice or the preference of the governing elite. It can also be a combination of these processes.
- In policy formulation **various agencies participate directly or indirectly**. The role of the governmental agencies is direct while the role of the non-governmental agencies indirect.
- **Some of the agencies which take part in policy formulation are** legislature, cabinet, state governments, civil servants, judiciary, boards and commissions, mass media, political parties, pressure groups and public.

Legislature:

- In a democratic form of government, the **role of the legislature as the prime policy making body** is significant. Since it is the representative body, **it deliberates on various issues and formulates the policies**.
- Yet, it is now widely accepted that the **power of the legislature is more real in a constitutional sense** than in terms of practical politics. **Legislatures in the 20th century have declined in power** in relation to the executive despite the fact that they still have many functions.
- It is now regarded as a **constitutional procedural device for legitimizing the policies** and decisions of government, rather than as an independent policy making unit.

Cabinet:

- In the democratic form of government, it is the **constitutional task of the Cabinet to decide the policies** which are to be placed before the legislature for its sanction.
- Members of the Cabinet are the **immediate and proximate policy makers**".
- Within the Cabinet it is said that the **power of the Prime Minister in recent times has increased**. It is also stated that the **Prime Minister exerts strong influence over**

policy decisions if he has the majority support of members of the union legislature. Same is the case with the Chief Minister at the state level.

- The **Cabinet and the Cabinet Committees play only an advisory and deliberative role** while the real decisions are taken by the Prime Minister himself.

State Governments:

- In a federal polity like ours the Union Government and the State Governments participate in policy making.
- The State Governments formulate policies and make laws on items mentioned in the **state and concurrent lists**.
- At the state level, the **state legislature and council of ministers** under the leadership of the Chief Minister and other advisory bodies participate in the formulation of policies.
- However in most of the federations the **role of the state governments got reduced** to the minimum owing to various domestic and international political and economic factors.
- Since the **financial resources are concentrated in the Central Government** the states have necessarily to look to the center for funds.
- It is axiomatic, according to the centres mode of thinking, that **one who provides money also exercises control** and the states are thus made to look to the centre more and more specially since the adoption of socio-economic planning in the fifties.

Boards and commissions: (Permanent)

- Various boards and commissions attached to different ministries like the Railway Board, the University Grants Commission(UGC), and the Union Public Service Commission(UPSC) assists the respective ministries or the cabinet as a whole in **policy formulation when public policy is not in its final stage**.

Commissions or Expert Committees: (Ad hoc)

- Apart from Boards and Commissions, which are permanent in nature, the **government also constitutes ad hoc expert committees or commissions** to seek recommendations regarding administrative reforms and policy initiatives.
- **For example**, in the field of education, the Government of India constituted the University Education Commission under the chairmanship of Dr. S. Radhakrishnan and the Secondary Education Commission under the chairmanship of Sri L.S. Mudhuliar and the Indian Education Commission, under the chairmanship of Sri D.S. Kothari.
- The recommendations of these commissions in the field of education provided the **basis for various policy initiatives by the government**.

Bureaucracy:

- Public servants at the top management level **assist the ministers in policy making**.

- They are recruited, in theory, **to serve ministers by carrying out their decisions**. Yet, **in reality, they exercise much more power** in the making of public policies than the formal description of their responsibilities suggest.
- The administrator who is **concerned with the ends and not merely with the means**, is called upon increasingly to provide the rational elements in the policy process.
- The administrator's role in policy making is **to clarify the choices open to politicians and to anticipate their consequences**.
- The bureaucracy, in the developing countries, **plays a dominant role in policy making**, because of the underdeveloped nature of the political system.

Judiciary:

- The Judiciary is also **regarded as an important agency** in the policy making process.
- In the United States and India, **constitutions entitle the Supreme Courts to exercise judicial review**. Policies in many areas have been influenced by judicial decisions.

Mass Media:

- In an ideal situation, **mass media is an important means of communication** between the citizen and the government, and so **helps in shaping their reactions to each other's decisions**.
- It communicates information to the citizens about the decision of the government. On the other hand, the **media helps the public to articulate their demands and communicates them in political terms**. It is a source of information for the government on the public reactions to contemporary problems and issues.

Political Parties:

- Political parties are an important part of the machinery for policy-making. The party system is itself a **source of policy making in many democracies, especially the Western ones**. But no such claim can be made in the Indian context.
- Since the government is formed by the leaders of the political party with a majority of seats in the legislature, the **party leadership engages in the formulation of public policy**.
- The **political parties also provide a mechanism through which people can participate** in public activities which are supposed to influence policy making.

Pressure Groups:

- **Organized groups or associations** of workers, farmers, teachers, students, traders, civil rights groups, environmental action groups and other non-governmental organizations **articulate their demands through various channels**.
- Influential groups **pressurize and adopt lobbying techniques** to influence the policy decisions.

Public Opinion:

- Democracy is defined as the government by public opinion. Popular response to government policies **provides input in policy making**.
- Public participation also **helps in effective implementation of the policies**. People's participation is a **sine-qua non for the success of government policies**, which is even more so in the case of education.
- Since the public is not a homogeneous unit, the **concerned public actually responds to the specific policy initiatives**.

ISSUES WITH REGARDS TO POLICY MAKING PROCESS

Excessive Fragmentation in Thinking and Action:

- One of the main problems with policy-making in India, is **extreme fragmentation in the structure**.
- **For example**, the transport sector is dealt with by five departments/Ministries .**Similar examples exist in the energy, industry and social welfare sectors** as well.
- Such fragmentation **fails to recognize that actions taken in one sector have serious implications on another** and may work at cross purposes with the policies of the other sector.
- Besides, it becomes very difficult, even for closely related sectors, **to align their policies in accordance with a common overall agenda**.

Excessive overlap between policy making and implementation:

- Policy-making in Indian ministries occurs at the levels of Director and above, but **the most important level is that of the Secretaries to the Government of India**, who are their Ministers' "policy advisers-in-chief".
- However the **very same Secretaries spend a large part of their time bogged down on routine day-to-day administration** of existing policy.
- **Partly the problem is symptomatic of over-centralization**—excessive concentration of implementation powers at the higher levels of the Ministries. **Partly, it is also due to such officers being more comfortable with implementation matters than with policy making.**

Lack of non-governmental inputs and informed debate:

- Often public policy is **made without adequate input from the outside government** and without adequate debate on the issues involved.
- The **best expertise in many sectors lies outside the Government**. Yet the policy processes and structures of Government have no systematic means for obtaining

outside inputs, for involving those affected by policies or for debating alternatives and their impacts on different groups.

- **Most developed countries have a system of widespread public debate before a policy is approved.**
- **For example**, in the US , the legislature subjects a new policy initiative to extensive debate not only in Committees but also in the Senate and House. Such debates **not only enable an assessment of different viewpoints but also help build up a constituency in support of the policy** through sound arguments.
- Probably the **only example of fairly systematic consultation of outside expertise in India is in the process of formulating the Central Budget**, where there is a long tradition of pre-budget confabulations with chosen members of industry, labour and academia.
- **There are several reasons for a poor pre-policy consultative process:**
 - structures for consulting outsiders either do not exist or if they do, are moribund
 - in the absence of good consultative structures, outsiders who do make themselves heard in the policy-making process are often single issue advocates.
 - outsiders involved in policy are usually allowed to make spasmodic or single issue inputs but are not required to sustain their interaction, to confront trade-offs or to meet the objections of other outsiders with opposite views
 - as a result of the first three, there is a lack of identification of stakeholders with any policy

Lack of systematic analysis and integration prior to policy-making:

Policy decisions are often made **without adequate analysis of costs, benefits, trade-offs and consequences**. There are several underlying causes for this:-

- **Excessive fragmentation:** Fragmentation has led to a widespread prevalence of the 'blind men and the elephant' syndrome in policy-making.
- **Inadequate time spent on policy-making**, mainly due to excessive overlap of policy-making and implementation and to over centralisation of implementation authority.
- **Inadequate professionalism of policy-makers and advisers:** Debates have been common in India about the pros and cons of 'generalists' vs. 'specialists' in Government.
- **Inadequate consultation of in-house specialists:** Even conceding that public policy-making might not be improved by insisting on specialists becoming the policy-makers, it is nevertheless crucial that specialist knowledge be fully consulted and utilised in arriving at policy.
- **Mediocrity of in-house specialists:** While there are many outstanding specialists working for the Government, there is a widespread feeling that many in-house specialists are not on top of their specialisms. This perception of mediocrity vis-à-vis outside experts tends to worsen the problem of inadequate consultation of even the good in-house specialists.

According to C. Hood, efficient implementation requires the fulfilment of the following conditions:

- “The subject matter of implementation **must gain complete political acceptability and import**. This is a prerequisite.
- The **resource availability of required scale and quality** must be ensured.
- The **administrative system for the program must be organized on the army line** with a single line of command. The administrative system must in other words, be unitary.
- **Rules to be enforced must be uniform and objective** must clearly ascertainable.
- Existence of **well enforced obedience and administrative control**.
- **High level communication and coordination** should prevail between administrative units”

Policy Impact

- “Impact assessment are **undertaken to estimate whether or not intervention produce their intended effects**. The basic aim of an impact assessment is to **produce an estimate of the ‘net-effects’ of an intervention**”.

According to Thomas R. Dye, the impact of a policy includes:

- “It's Impact on the target situation or group.
- Its impact on situations or groups other than target (“Spillover effects”)
- Its impact on the future as well as immediate conditions.
- Its direct costs, in terms of resources devoted to the program.
- Its indirect costs including loss of opportunities to do other things”

ISSUES WITH REGARDS TO DESIGN AND IMPLEMENTATION

- **Implementation' is the heart of administration** as it consists of carrying out basic policy decisions.
- In the policy cycle, **it is critical to the successful fulfilment of policy objectives**. But implementation is not automatic. The implementation phase is faced with numerous problems.
- **Effective implementation requires a chain of command**, and the capacity to coordinate and control; often there are shortfalls in this exercise, more so in a developing country like India.
- Problems in policy implementation can be understood under following headings:

Conceptual Problems

- Implementation of public policy has been **hindered by conceptual problems in understanding the nature of contextual problems**, and the kinds of policies and procedures necessary to address these problems.
- These conceptual problems **may be related to policy design and policy analysis**:

1. Policy Design

- The chances of a successful outcome will be increased if, **at the stage of policy design, attention is given to potential problems of implementation**.
- In order to avoid major shortfalls in implementation **the following ten propositions that policy makers should ensure that**:
 - **circumstances**, external to the implementing agency, **do not impose crippling constraints**;
 - **adequate time and sufficient resources** are made available to the programme;
 - there are **no constraints in terms of overall resources**, and even at each stage of the implementation process;
 - policy to be implemented is based upon a **valid theory of cause and effect**;
 - **relationship between cause and effect is direct** and there are few, if any, intervening links;
 - there is a **single implementing agency** that need not depend upon other agencies for success;
 - there is **complete understanding of, and agreement upon the objectives** to be achieved, and that these conditions persist throughout the implementation process;
 - in moving towards agreed objectives, **the tasks to be performed by each participant should be specified in complete detail** and perfect sequence;
 - there is **perfect communication among, and coordination of, the various elements** involved in the programme; and
 - those in authority can **demand and obtain perfect obedience**.
- **Another conceptual problem in policy design relates to lack of key regulatory principles** in most public policies in India. It has been observed, **for example**, that most industries in States have not come out strongly to comply with provisions of the Environment (Protection) Act, 1986 and the Water (Prevention and Control of Pollution) Act, 1974.
- Similarly, the National Water Policy (NWP) adopted by the National Water Resource Council (NWRC) in 1987, was a desirable step in the direction of evolving national consensus. But it has **largely remained unimplemented because of poor design**.

2. Policy Analysis

- Implementation of public policies in India has also been **hampered by conceptual weaknesses in policy analysis**.
- **For example**, the National Health Policy (1983) was adopted without examining alternative policy options.

- The **inability to set priorities and evolve appropriate strategies** for reduction in health problems by the State departments of health has resulted partly from inadequate policy analysis.
- In addition, **major policies have been adopted without due deliberation** on various policy alternatives. Often, this was due to strong adherence to secrecy within the bureaucracy.

3. Policy Statement

- Often policy statements announced by the government contain **ambiguous and contradictory terms, posing problems in implementation**.
- The implementers at the field level often face a variety of problems **because the policy statements lack clarity**.
- Consequently, **implementers use their own discretion while implementing them** or they refer the statements back to the higher rungs of administration for clarification. In such instances, policy implementation is adversely affected.

Political Problems

- Political problems in the implementation of public policies are grave and complex. These **hamper effective implementation** as discussed in the following areas of politics.

1. Centralized Policy Process

- **Friction between central and state government relations** has affected the policy implementation processes adversely. **Policy decisions taken at the central level**, including goal setting and procedure, ignore the local culture.
- Although the central government has been enthusiastic in adopting innovative population, health, education and environmental policies and programmes, the **state governments have been dragging their feet when it came to effective implementation** as the latter often lacked the requisite political will.
- **Most state governments do not allocate sufficient funds** for education, health, environment, and population since these are perceived as a nonproductive investment.

2. Unionization of Bureaucracy

- Another glaring implementation lacunae is **due to the unionisation of civil services**, at the lower levels in particular.
- This has **destroyed not only the work culture and discipline, but it also demoralised, considerably the supervisory levels** into withdrawal and prompting them to take the line of least resistance.
- **Endemic political interference by the political executive** has compounded the marginalisation of the higher bureaucracy, thereby undermining its capacity to implement public policies effectively.

3. Interest Group Politics

- In many cases, it is observed that the **policies are not implemented because of interest group politics.**
- **Industrialists influence the policy-implementation process** either directly or through business lobbies and representatives of the business interests concerned.
- Needless to mention that **most industrialists in India wield a lot of political clout.** They have enduring links with the elites of the ruling parties.

Administrative Problems

- One way of analysing implementation problems is to begin by **thinking about the limits of administration.**
- Christopher Hood uses the term '**perfect administration**' in comparison to economists' use of '**perfect competition**'.
- **He defines 'perfect administration'** as a condition in which 'external' elements of resource availability and political acceptability combine with 'administration' to produce '**perfect policy implementation**'.
- Some of the administrative problems that occur in the policy implementation are:

1. Lack of inadequate Institutional Capacity

- The institutional structure and administrative capabilities for implementation of laws and policies, for example, are **by no means adequate in the face of the complexities** of environmental, political, social, and economic problems.
- **The institutional structure includes the whole system of rules and regulations** by which administrative tasks and responsibilities are clearly defined and juxtaposed with the capabilities of the administrators concerned.

2. Lack of Personnel and Financial Resources

- Further, it is observed that most of the policies are **not implemented because of deficient staff, and lack of financial resources.**
- Social policies in many developing countries have **not been implemented in full scale owing to lack of trained staff.**
- Well planned policies **fail to attain the proper goals** without competent personnel.
- For moving into the implementation phases of the policies, implementers need financial and infrastructural resources.
- However, provision of funds in the budget does not mean much when **the sanctioned amount does not usually reach the implementing agencies on time.** Furthermore, the amounts sanctioned are not generally adequate to meet the requirements.
- At the state level, **serious financial problems exist due to deficit budgets.** Part of the deficit is made up by central subvention. Despite this, **financial problems persist in the health, and education sectors.**

3. Pressure of Time

- It is observed that the **pressure of time often creates the implementation gap**. Normally, while fixing the time frame, the **policy formulators do not take into consideration the prevailing conditions**.
- They tend to be **idealistic** while setting the targets, and forget the workload of the respective implementing agencies.

4. Lack of Administrative Will and Motivation

- Without the **conscious cooperation of implementers**, nothing can be done.
- It is found that **social policies have remained unimplemented largely for lack of administrative will and motivation**.
- In the present environment, **officials are not likely to feel enthusiastic about implementing policies**.

5. Lack of Coordination and Cooperation

- **Poor coordination and missing links** among the administrative agencies have also stood in the way of adequate and appropriate policy actions.
- **For example**, at the administrative level, different departments are concerned with the implementation of policies relating to poverty alleviation programmes.
- Similarly, **gaps in policy implementation are found in population and family planning programmes**. Lack of proper coordination and cooperation among the multitude of administrative agencies is an important lacunae in the whole institutional set-up.

Lack of Public Involvement

- **Public involvement in policy implementation programmes**, such as, education, health, population control, pollution control, forest conservation, etc. **puts tremendous pressure on administrative staff to produce results**.
- By staging demonstrations and protests, and by launching mass movements, **the public has tried to offset the power base of interest groups and lobbies** that tend to influence policy implementation in their favour.
- The strength and endurance of the peoples' movements for implementing and enforcing regulations have **not been a match to that of the vested interests**, which are bent upon thwarting the implementation of public policies.

CONDITIONS FOR SUCCESSFUL IMPLEMENTATION

- Implementation is seen varying along a continuum, ranging from the most successful to aborted attempts. **Successful implementation involves many operations and procedures as well as time and resources**.

- However, '**successful implementation should not be equated with impact measures**', as implementation is not the same thing as impact.
- **For example**, the National Health Policy (adopted in 1983) may be fully implemented and yet has, little intended impact.

W. Williams makes an attempt to identify ways in which policy failure can be prevented.

He exhorts policy makers to pay more attention to implementation capacity and sets out a checklist of questions:

- **How well articulated** is the public policy to the implementers?
- **How capable are the policy-makers** in developing meaningful guidelines for and assistance to implementers'?
- **How capable are the implementers** to develop and carry out a new policy?
- **How much power do either have to change** (i.e., the policy makers and implementers) the order.

Mazmanian and Sabateir formulate a set of six sufficient conditions of effective implementation. They are noted below:

- The **enabling legislation mandates policy objectives that are clear and consistent** or at least provides substantive criteria for resolving goal conflicts.
- The **enabling legislation incorporates a sound theory identifying the principal factors and causal linkages** that affect policy objectives and gives implementing officials sufficient jurisdiction over target groups and other points of leverage to attain the desired goals.
- The **enabling legislation structures the implementation process to maximize the probability** that implementing officials and target groups will perform as desired. It involves **assignment to sympathetic agencies with adequate hierarchical integration**, supportive decision rules, sufficient financial rules, and access to supporters.
- The leaders of the implementing agency possess **substantial managerial and political skills**. They are committed to statutory goals.
- The programme is **actively supported by organised constituency groups and key legislators**, throughout the implementation process, with the courts being neutral and supportive.
- The **relative priority of statutory objectives is not undermined over time** by the emergence of conflicting public policies or by changes in relevant socio-economic conditions that weaken the statute's causal theory or political support.

Christopher Hood sets out five conditions for perfect implementation, which are stated below.

- an ideal implementation is a product of a unitary 'army' like organisation, with clear lines of authority
- norms would be enforced and objectives given;
- people do what they are asked to;
- there should be perfect communication in and between units of organisation; and
- there would be any kind of pressures of time

CO-OPERATIVE UNDER RBI –

About Co-operative Banking - A Co-operative bank is a financial entity which belongs to its members, who are at the same time the owners and the customers of their bank.

- It is registered under the State's Cooperative Societies Act.
- The Co-operative banks are also regulated by the Reserve Bank of India (RBI) and governed by Banking Regulations Act 1949 and Banking Laws (Co-operative Societies) Act, 1955.

History of Urban Cooperative Banks

The historical origins of the UCB movement in India can be traced to the close of the nineteenth century when, inspired by the success of the experiments related to the cooperative movement in Britain and the cooperative credit movement in Germany such societies were set up in India.

- The term **Urban Co-operative Banks (UCBs)**, though not formally defined, refers to primary **cooperative banks** located in urban and semi-urban areas.
- These banks, till 1996, were allowed to **lend money only for non-agricultural purposes**. This distinction does not hold today.
- These banks were **traditionally centred around communities**, localities and workplace groups.
- They essentially lent to small borrowers and businesses. Today, their scope of operations has widened considerably.

Cooperatives represented a new and alternative approach to organization as against proprietary firms, partnership firms and joint stock companies which represent the dominant form of commercial organisation.

Features of the Co-operatives -

- **Entities owned by Customer** - These members elect a board of directors and they have equal voting rights
- **Profit distribution** - A significant part of the yearly profit is usually allocated to reserves and a part of it can also be distributed to the members
- **Part of Financial inclusion** - They have played a significant role in the financial inclusion of unbanked rural masses.

Cooperative Credit Institutions in Rural India

- The short-term co-operative credit structure operates with a three-tier system –
 - **Primary Agricultural Credit Societies (PACS)** at the village level - PACS are outside the purview of the Banking Regulation Act, 1949 and hence not regulated by RBI.
 - **Central Cooperative Banks (CCBs)** at the district level.

- **State Cooperative Banks (StCBs) at the State level** - StCBs/DCCBs are registered under the provisions of State Cooperative Societies Act of the State concerned and are regulated by RBI.
- National Bank for Agricultural and Rural Development (NABARD) under Banking Regulation Act has power to conduct inspection of CCBs & StCBs.

Urban Cooperative Banks (UCBs) - Urban Cooperative Banks (UCBs) – sometimes called Primary Co-operative Bank cater to the financial needs of customers in urban and semi-urban areas.

- They are **primarily registered as cooperative societies under the provisions of either the State Cooperative Societies Act of the State concerned or the Multi State Cooperative Societies Act, 2002** if the area of operation is two or more states.
- Though the Banking Regulation Act came into force in 1949, the banking laws were made applicable to cooperative societies only in 1966 through an amendment to the Banking Regulation Act, 1949.
- Since then there is **duality of control** over these banks with Banking related functions being regulated by RBI .
- **Management related functions regulated by respective State** Governments/Central Government i.e by State Registrar of Co-operative Societies and Central Registrar of Co-operative Societies.
- **RBI regulates the banking functions** of StCBs/DCCBs/UCBs under the provisions of Sections 22 and 23 of the Banking Regulation Act, 1949.

Recently, the **committee headed by former RBI Deputy Governor NS Vishwanathan** has proposed setting up an umbrella organisation to oversee co-operative banks.

Key Findings

- **About Merger** - The RBI should use the route of mandatory merger to resolve Urban Cooperative Banks (UCBs) that do not meet the prudential requirements.
- **Governance** - The governing Organisation should be financially strong and be well governed by a professional board and senior management, both of which are fit and proper.
- **Opening of branches** - The panel suggested that they should be allowed to open more branches if they meet all regulatory requirements.
- **Form 4 tiers** – The panel has suggested a four-tiered structure to regulate them, based on size of deposits.
 - **Tier 1** with all unit UCBs and salary earner's UCBs (irrespective of deposit size) and all other UCBs having deposits up to Rs 100 crore.
 - **Tier 2** with UCBs of deposits between Rs 100 crore and Rs 1,000 crore.
 - **Tier 3** with UCBs of deposits between Rs 1,000 crore and Rs 10,000 crore.
 - **Tier 4** with UCBs of deposits more than Rs 10,000 crore.
- **Capital to risk weighted asset ratio (CRAR)** - The panel has suggested that the minimum capital to risk-weighted assets ratio (CRAR) for them could vary from 9 per cent to 15 percent and for Tier-4 UCBs the Basel III prescribed norms would apply.

- **Capital raising from market** - The governing organisation, structured as an NBFC, will be able to raise capital from the market and also on-lend it to member UCBs.
- **Universal Bank** - The governing/umbrella organisation (UO), at a later stage, can consider converting into a universal bank owned by member banks.
- **Globally Accepted System** - As an alternative to mandatory consolidation, the Committee preferred smaller banks acquiring scale via the network of the UO, which is one of the successful models of a strong financial cooperative system globally.
- **Role of RBIs in consolidation** - On consolidation of UCBs, the panel said the RBI should be largely neutral to voluntary on consolidation except where it is suggested as a supervisory action.
- **Compulsory amalgamation** - The powers to order compulsory amalgamation should be used as the backstop.

Issues in UCBs

- **Failure of Banks** – The co-operative banks in India have been struggling to survive for the last few years. For example , recently the Punjab and Maharashtra Cooperative (PMC) bank fiasco, which left frantic depositors visiting the branches in attempts to withdraw their hard-earned money.
- **New alternatives** – The growing changes in the financial sector combining and integrating micro finance, FinTech companies, payment gateways, social platforms, e-commerce companies, and NBFCs challenge the continued presence of the UCBs, which are mostly small in size, lack professional management and have geographically less diversified operations.
- **Issues of balance sheet** - Sharper decline is seen both in terms of loans and deposits.
- **Large share of Rural cooperatives** - They make up 65% of the total size of all cooperatives taken together.
- **Diminished share in agricultural lending** - Cooperative banks have played a major role in providing financial support to the rural sector.
 - They started with an aim to promote saving and investment habits, specifically in the rural areas.
 - Report noted that despite this crucial role played by the sector, its share in total agricultural lending diminished considerably over the years from as high as 64% in 1992-93 to just 11.3 % in 2019-20.
- **Decline in number of UCBs** - After liberalisation in licensing policy in 1993, nearly one-third of the newly licensed ones became financially unsound within a short period.
- **Dual control** - For years, such banks have escaped scrutiny despite failures and frauds due to dual regulation by the state registrar of societies and the RBI.
- **Problems of the asset quality** - This, due to Covid , fraud even bank run, resulted in the decline of profitability of Urban Cooperative Banks.
 - Lax corporate governance standards combined with political influence and interference was a prominent reason for the downfall of the sector.

What needs to be done ? -

- **Stringent RBI control** - Recent amendments giving the central bank more regulatory and supervisory leeway will probably encourage the UCBs to function in a disciplined manner.
 - Besides, with the shrinkage of 'dual' control, the RBI will be able to regulate UCBs more directly and effectively. Consequently, a lot of legal complexities will also be reduced.
 - **Selling if the Banks** - Most of the unit banks could be sold to those new generation banks who need to improve their footprint, if need be, by a DICGC financial bail-out.
 - **Review of Desirability** - Further, there is an urgent need to review the desirability or otherwise of having a genre of banks creating confusion and doubts in the minds of depositors and regulators.
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UPSC GS2 SYLLABUS : DEVELOPMENT PROCESSES AND THE DEVELOPMENT INDUSTRY —THE ROLE OF NGOS, SHGS, VARIOUS GROUPS AND ASSOCIATIONS, DONORS, CHARITIES, INSTITUTIONAL AND OTHER STAKEHOLDERS.

NON-GOVERNMENTAL ORGANISATIONS

- A non-governmental organisation (NGO) is an organization that is **neither a part of a government nor a conventional for-profit business**. Usually set up by ordinary citizens, NGOs may be **funded by governments, foundations, businesses, or private persons**.
- The existence of NGOs is **proving to be a necessity rather than a luxury** in societies as the **inability of the government alone to create just and sustainable societies** is persuasively demonstrated throughout history.
- NGOs play a **critical part in developing society, improving communities, and promoting citizen participation**.
- NGOs have a **clearer link to a guiding purpose, the greater good**. They actually take up the responsibility of fulfilling moral and social needs that ought to be taken by the government. After all, **there's more happiness in giving than receiving**; NGOS truly embody this thought.

Indian NGOs mainly comes under three segments – Societies, Trusts, Charitable Companies.

- **Societies:** Societies have to register under the Societies Registration Act, 1860.
- **Trusts:** Private trusts are registered under the central government's Indian Trusts Act, 1882, and public ones are registered under the state legislation concerned.
- **Charitable companies:** They are set up according to section 8 of the Companies Act, 2013. For charitable companies, the compliance requirements are high, as loans and

advances are easily available to them compared to a trust or a society. They have to even pay Income tax under IT act 1961.

Legislations Regulating the Finances of NGOs

Regulation of NGO under Constitution –

- Article 19(1)(c) on the right to form associations
- Article 43 of DPSP highlights the State's having an endeavour to promote cooperatives in rural areas
- Entry 28 in the Concurrent List mentions Charities and charitable institutions, charitable and religious endowments and religious institutions.

Foreign Contribution (Regulation) Act (FCRA), 2010

- Foreign funding of voluntary organizations in India is regulated under FCRA act and is **implemented by the Ministry of Home Affairs**.
- The acts ensure that the recipients of foreign contributions adhere to the stated purpose for which such contribution has been obtained.
- Under the act organisations require to register themselves every five years.

Provisions Under FCRA Amendment, 2020:

- Under the new amendments, it is requires that For registration of any organisation under FCRA will have to existed for at least three years and to have spent a minimum of Rs 15 lakh on its core activities during the last three financial years for the benefit of the society.
- Now the registered NGOs are mandatorily requiring to submit commitment letters from their donors, specifying the amount of foreign contributions and the purpose for which they are proposed to be given.

Foreign Exchange Management Act, 1999

- Foreign Exchange Management Act (1999) aims to **consolidate and amend the law relating to foreign exchange** with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India.
- A **transaction under FEMA is called a fee or a salary** while the same **under FCRA is called a grant or a contribution**.
- In 2016, the powers of the Ministry of Finance to monitor NGOs were placed under the **FEMA**. The idea was to bring all NGOs, which receive foreign contributions, under

one umbrella for better monitoring and regulations. The step was taken to ensure only one custodian monitors flow of foreign funds to these organisations.

ROLES OF NON-GOVERNMENTAL ORGANIZATIONS

Development and Operation of Infrastructure:

- Community-based organizations and cooperatives can acquire, subdivide and develop land, construct housing, provide infrastructure and operate and maintain infrastructure **such as wells or public toilets and solid waste collection services.**
- They can also develop building material supply centres and other community-based economic enterprises.
- **NGOs did a remarkable job post-2004 Tsunami.** Besides helping in rescue operations, NGOs also set up vocational training centres.

Supporting Innovation, Demonstration and Pilot Projects:

- NGO have the advantage of selecting particular places for innovative projects and specify in advance the length of time which they will be supporting the project - **overcoming some of the shortcomings that governments face in this respect.**
- NGOs can also be pilots for larger government projects by virtue of their ability to act more quickly than the government bureaucracy.
- It is **because of the efforts of NGOs that RTI has become a reality** in India.

Facilitating Communication:

- NGOs use **interpersonal methods of communication**, and study the right entry points whereby they gain the trust of the community they seek to benefit. They would also have a good idea of the feasibility of the projects they take up.
- The significance of this role to the government is that **NGOs can communicate to the policy-making levels of government**, information about the lives, capabilities, attitudes and cultural characteristics of people at the local level.
- NGOs can facilitate **communication upward** from people to the government **and downward** from the government to the people.
- Communication upward involves informing the government about **what local people are thinking, doing and feeling** while communication downward involves informing local people about **what the government is planning and doing.**
- NGOs are also in a **unique position to share information horizontally**, networking between other organizations doing similar work.

Technical Assistance and Training:

- Training institutions and NGOs can develop a **technical assistance and training capacity** and use this to assist both CBOs and governments.

Research, Monitoring and Evaluation:

- Innovative activities need to be carefully documented and shared - effective participatory monitoring would permit the **sharing of results with the people themselves as well as with the project staff.**

Advocacy for and with the Poor:

- In some cases, **NGOs become spokespersons or ombudsman for the poor** and attempt to influence government policies and programmes on their behalf.
- This may be done through a variety of means **ranging from demonstration and pilot projects to participation in public forums and the formulation of government policy** and plans, to publicizing research results and case studies of the poor.
- **NGOs such as YUVA and SPARC in cities like Mumbai** have repeatedly opposed the demolition of huts even as they try to improve the quality of life in the sprawling slum clusters.
- It is due to the efforts of NGOs that the **government has banned sex determination** of foetus as it leads to evils like abortion of the female fetus.
- Thus **NGOs play roles from advocates for the poor** to implementers of government programmes; from agitators and critics to partners and advisors; from sponsors of pilot projects to mediators.

Effects of NGOs

Positive Effects of NGOs:

- **Financial aid:** Granted that most of the NGOs have been set up to provide aid to various sections of the society and to that end they are quite effective in **providing local governments with either much-needed funds or help to fund/develop local infrastructure** projects.
- **Education:** Several NGOs have **contributed and even helped build several educational institutions across the world**, mainly in Asia and Africa. Most of these schools and higher institutions of learning are funded by **NGOs**, various charities and as such, they offer the local residents educational opportunities at low or zero cost.
- **Health:** Several key NGOs are involved in **sourcing expensive medications and giving them at discounted rates to those in need**. These NGOs are also actively involved in running several health camps and help provide for a free medical checkup.

Negative Effects of NGOs

- **Interference in local government:** Of late, rather than focusing on their charitable operations, it has been noted that several of the **NGOs are interfering in local elections to help get their preferred official elected**. It is apparent that several of the NGOs who are funded by specific groups have been directed to interfere in local elections for a specific agenda.

- **Little or no respect to local customs:** There's another reason why NGOs are viewed **less favorably by the local residents** because of their interference with some of the local customs and traditions. What's more, it has been suggested that some of the NGOs had been rather overzealous in spreading their message of peace that **the line between charity and direct intervention soon starts to blur**.
- **No rules or regulations:** NGO's are **not governed by any international charter or agreement** and as such, there is very little to regulate their activities. As a result, several NGO operatives have started **using their base of operations for other purposes besides charity**, namely child abuse.
- **No governmental control:** **Local governments cannot prosecute an NGO**; instead they have issued a show cause notice and asked to leave the country.

Advantages and Disadvantages

Advantages

- They have the **ability to experiment freely** with innovative approaches and, if necessary, to take risks.
- They are **flexible in adapting to local situations** and responding to local needs and therefore able to develop integrated projects, as well as sectoral projects.
- They **enjoy good rapport with people** and can render **micro-assistance to very poor people** as they can identify those who are most in need and tailor assistance to their needs.
- They have the **ability to communicate at all levels**, from the neighbourhood to the top levels of government.
- They are **able to recruit both experts and highly motivated staff** with fewer restrictions than the government.

Disadvantages

- **Paternalistic attitudes** restrict the degree of participation in programme/project design.
- **Restricted/constrained ways of approach** to a problem or area.
- **Reduced replicability of an idea**, due to non-representativeness of the project or selected area, relatively small project coverage, dependence on outside financial resources, etc.
- "**Territorial possessiveness**" of an area or project reduces cooperation between agencies, seen as threatening or competitive.

ISSUES AND CHALLENGES

Lack of Funds

- Most of the NGOs in India are suffering from paucity of funds. **Government does not give cent percent grants in aid** or make delay in sanctions of grants for numerous programmes.
- Nowadays **charity is not so strong in the minds and hearts of the people** as it was in ancient society. This was another reason for languishing funds for NGOs.

Lack of Dedicated Leadership

- Leadership qualities of the leaders in NGOs **determine the quality and condition of the services rendered by any organization.**

Inadequate Trained Personnel

- It is believed that the personnel working in NGOs may be personnel working in such organizations with a sense of dedication and commitment and interest in the social services.
- The present trend is that those who **are having professional education are not interested in working with NGOs**. Their vision has changed and they are **interested in working in urban areas only**.
- Moreover, these **professionally trained persons have high expectations** in terms of salaries, status, opportunities for their growth in the career of their choice.

Misuse of Funds

- It is the matter of fact that some unscrupulous elements have made fortunes by **floating NGOs for their personnel gains** and managing grants from the government.
- It is a common experience that there have been serious charges of misuse and misappropriation of funds received as grant-in-aid from the government, foreign donors and **raised through their own resources by the most of the NGOs**.

Monopolization of leadership

- It has been observed that there is a **growing tendency towards monopolization and interlocking of leadership** at the top level of voluntary action groups and organizations
- The greatest disadvantage of such leadership is that **fresh blood is not allowed to flow into the organization and leadership.**

Lack of Public Participation

- NGOs are meant to provide opportunities to the citizens for democratic participation but they have **not been able to fulfil this obligation due to the method and manner in which they function**, and failed to attract people interested in construction work and develop channels for peoples enthusiastic participation.
- **Some of the factors responsible for such a state of affairs are** general backwardness of the people, absence of adequate number of dedicated persons, over

emphasis on targets and time bound programmes, political interference and vested interests, easy availability of funds without proper planning and assessment of felt needs and safeguards for the community, etc.

Centralization in Urban Areas

- NGOs are **more developed in urban areas** as compared to rural areas.
- The **backwardness and ignorance of the rural people and lack of enthusiasm** among social workers among them in the absence of availability of minimum comforts are the two important reasons for the backwardness of the NGOs in rural areas.

Lack of Coordination

- The **absence of coordination between NGOs existing at local, state and national level** has led to the common problems such as overlapping, duplication, non-coordination etc.
- The absence of such a common forum also **incapacitates NGOs to offer a united stand against the government** when it humiliates them by extraneous considerations at the behest of politicians and egoistic government officers.

Lack of Volunteerism/Social work among Youth

- The basic characteristic of an NGO is volunteerism. The **extent of volunteerism is declining** day by day and turning it into professionalisation.
- Even the young graduates from social work are **interested in making their career in professionalism**. This leads to lack of efficient volunteers in NGOs.

Modernization

- Because of modernization, professionalisation and introduction of management techniques, the **traditional NGOs need certain minimum, infrastructure and administrative expenses**.
- Unfortunately, **grants-in-aid rules do not allow for such administrative expenditure** except contingencies.
- This leads to evaporation of traditional NGOs in the country which used to be led by great leaders.

Target orientated and time-bound Programmes

- It has been observed that the donor or government who sanctions grants will **put target and time-bound programmes in front of NGO**.
- This leads to **deteriorating quality of service** and is below expected standards.

Area of Interest

- Sometimes, **NGO will prefer the donor area of interest in welfare activities** going beyond his own interest or working in more than one programme.
- This also leads to **deterioration in quality of service in particular programmes**.

SUGGESTIONS/REMEDIES

Liberalize the Rules And Regulations

- The government of India has to **liberalize the rules and regulations of grants-in-aid** and to sanction more grants to NGOs.
- At the same time, the government **should appoint commissions of enquiry or committees** to cross check the misuse of funds by NGOs.

NGOs under Government's Scanner

- With the recent Government of India crackdown on Greenpeace and several other NGOs coming under the scanner of Indian government, **it is important for NGOs to achieve and maintain a high degree of transparency** in not just their work but also their financials.
- NGOs need to keep their income and expenditure open to public scrutiny.

Encourage People Participation

- **Young graduates from universities, colleges and schools** have to conduct public seminars, meetings, symposiums etc., and use the local media to advertise the importance of volunteerism, success stories of NGOs and **encourage people to participate in voluntarism**.

Inculcate the Essence of Voluntarism

- NSS and NCC should **encourage students to participate in voluntarism from childhood** days onwards.
- Universities, colleges and schools have to collaborate with NGOs and **conduct campus interviews for the young graduates who are interested in voluntarism**.

Success Stories of Great Leaders

- The **government of India has to introduce the success stories of great leaders and their style of leadership** qualities, voluntarism, dedication and commitment towards social work in the curriculum of social work departments and in the school syllabus to build leadership qualities in the coming generation.
- The **new ideas, initiatives and innovation** in the minds of youth have to help them to become great leaders.

Coordinating Organizations

- **There must be coordinating organizations like** Association of Voluntary Association for Rural Development (AVARD), Coordination Council of Voluntary Association (CCVA) etc., to solve the problems of NGOs.
- These associations are to **facilitate the exchange of information** between the government and the NGOs.

Increased Role in Rural Areas

- In India, 65% of populations belong to rural areas. NGOs, therefore, **need to operate in rural areas on a bigger scale** to enlist the cooperation of village people in making their lives better.
- At the same time, these NGOs have to encourage the educated young graduates of rural areas to participate in voluntarism.

Monopolization of Leadership Should Be Avoided

- NGOs should **recruit young and efficient people as leaders** and retire the persons who are nominated members for very long tenures in any group or agency.

Improve the Living Standard of NGO Workers

- The **government should revise the pay-scales and allowances to the personnel of NGOs**. At the same time some **special funds to be allotted for the NGOs** to train the personnel at the grass root level.

Use of Technology

- The NGOs should **use the latest technologies like the internet, websites etc.**, for raising of their funds, to have mutual associations, to advertise their products and for the selection of efficient personals.

Income Generation

- **NGOs with assets can use any surplus to help generate income.** Renting out buildings, offering training, providing consultancy, creating and selling products and trading on your name are just a few examples.

Maintain the Quality

- The government or donor should concern that particular NGO while giving a target orientated or time bound programme.
- The government or donor while sanctioning the grants for a particular programme **has to consider the interest of that particular NGO**. According to NGOs interested in the programme, the funds to be sanctioned.

SELF HELP GROUPS

National Bank of Agriculture and Rural Development defines Self-Help Groups as 'a homogenous group of rural poor voluntarily formed to save whatever amount they can conveniently save out of their earnings and mutually agree to contribute and emergent credit needs'.

- SHG is a **mini voluntary agency for self-help at the micro level and has** been focused on the weaker section particularly women for their social defense. So basically the concept of SHGs serves the principle "**by the women, of the women and for the women**".
- The **SHGs comprise very poor people who do not have access to formal financial institutions**. They act as the forum for the members to provide space and support to each other. It also **enables the members to learn to cooperate and work in a group environment**.
- The **SHGs provide a savings mechanism, which suits the needs** of the members. It also provides a cost effective delivery mechanism for small credit to its members.
- The **SHGs significantly contribute to the empowerment of poor women** by involving them in some productive activity which in turn will yield something to overcome their poverty.

Origin

- SHGs **originated in 1975 in Bangladesh by Mohammed Yunus** of Chittagong University. It is a programme related to **the eradication of poverty in general, rural development** through women empowerment in particular.
- Its **initiation-credit in India in 1986-87 goes to National Bank for Agriculture and Rural Development (NABARD)**. But the real effort was taken **after 1991-92 from the linkages of SHGs with banks**.
- A SHG is a voluntary **informal organization of 10-20 persons from the same social and economic status category** people, basically poor living below the poverty line.
- Their groups are **promoted by the Governments**, both central and state, nationalized commercial banks, regional rural banks, co-operative banks and non-governmental organizations.

The main objectives of SHG is to inculcate the habit of thrift savings, banking culture, that is, availing the loan and repaying the same over a given period of time and in the process, again economic prosperity through credit. SHGs are mostly informal groups whose members pool their savings and relent within the group on a rotational or need basis.

Who helps to form SHGs?

- A **reasonably educated and helpful local person** has to initially help the poor people to form groups. He or She tells them about the benefits of thrift and the advantages of forming groups. **This person is called an 'animator' or 'facilitator'**. Usually, the animator is a person who is already known to the community.

- The animator talks to people in the village or at their homes. **He or she explains the benefits of thrift and group formation.** The animator **guides and encourages the leader** and the group members.

Major Functions of an SHG

- **Savings and Thrift:**
 - **All SHG members regularly save a small amount.** The amount may be small, but savings have to be a regular and continuous habit with all the members.
 - **“Savings first — Credit later”** should be the motto of every SHG member.
 - SHG members take a step towards self-dependence when they start small savings. They learn financial discipline through savings and internal lending. (**Advantage: This is useful when they use bank loans.**)
- **Internal lending:**
 - The SHG should **use the savings amount for giving loans** to members.
 - The purpose, amount, rate of interest, schedule of repayment etc., are to be decided by the group itself.
 - **Proper accounts to be kept** by the SHG.
- **Discussing problems:** In every meeting, **the SHG should be encouraged to discuss and try to find solutions** to the problems faced by the members of the group. Individually, the poor people are weak and lack resources to solve their problems. When the group tries to help its members, **it becomes easier for them to face the difficulties** and come up with solutions.
- **Taking bank loan:** The SHG takes loan from the bank and gives it as loan to its members.

ISSUES WITH SELF-HELP GROUPS

- **Ignorance of Members/Participants:** Even though the authorities take measures for creating awareness among the group members about the schemes beneficial to them, still the majority **of the group are unaware of the schemes of assistance offered to them.** Many are Ignorant about the scheme.
- **Inadequate Training Facilities:** The training facilities given to the members of SHGs in the specific areas of product selection, quality of products, production techniques, managerial ability, packing, and other technical knowledge are **not adequate to compete with that of strong units.**
- **Problems Related with Raw Materials:** Normally each SHG procures raw materials individually from the suppliers. They purchase raw materials in smaller quantities and hence they **may not be able to enjoy the benefits of large scale purchases** like discount, credit facilities etc.
 - Moreover, there is **no systematic arrangement to collect raw materials in bulk quantities** and preserve them properly. There is **no linkage with major suppliers of raw materials.** Most of the SHGs are Ignorant about the major raw

material suppliers and their terms and conditions. All these **cause a high cost of raw materials.**

- **SHGs are run by non-professionals:** There is no professionalism within the SHGs. This **does not promote the expansion and improvement of the SHGs.** This does not allow for the increase of wages of the members and improvement in their living conditions. This also leads to error in accounting and mismanagement.
- **Problems of Marketing:** Marketing is an important area of functioning of the SHGs. However they face different problems in the marketing of products produced by them.
- **Following are the major problems relating to marketing.**
 - Lack of sufficient orders.
 - Lack of linkage with the marketing agencies.
 - Lack of adequate sales promotion measures.
 - Lack of permanent market for the products of SHGs.
 - Absence of proper brand name.
 - Poor/unattractive packing system.
 - Poor quality of products due to the application of traditional technology, resulting in poor market,
 - Stiff competition from other major suppliers.
 - Lack of a well defined and well knit channel of distribution for marketing.
- **Lack of Stability and Unity Especially among women SHGs:** In the case of SHGs dominated by women, **it is found that there is no stability of the units** as many married women are not in a position to associate with the group due to the shift of their place of residence. Moreover, **there is no unity among women members owing to personal reasons.**
- **Exploitation by Strong Members:** It is also observed that in the case of many SHGs, **strong members try to earn a lion's share of the profit** of the group, by exploiting the ignorance and illiterate members.
- **Too much dependence on government and NGOs:** Many SHGs are dependent on the promoter agencies for their survival. In case these agencies withdraw their support, the SHGs are vulnerable to downfall.
- **Lacks up-gradation of skills:** Most SHGs are not making use of new technological innovations and skills. This is because there is **limited awareness with regards to new technologies** and they do not have the necessary skills to make use of the same. Furthermore, there is a lack of effective mechanisms
- **Weak Financial Management:** It is also found that in certain units the return from the business is not properly invested further in the units, and the **funds diverted for other personal and domestic purposes** like marriage, construction of house etc.
- **Inadequate Financial Assistance:** It is found that in most of the SHGs, the financial assistance provided to them by the agencies concerned is not adequate to meet their actual requirements. The **financial authorities are not giving adequate subsidies** to meet even the labour cost requirements.

SUGGESTIONS

Suggestions to the Government

- Government should **encourage and support NGOs to attempt group approaches and create a favourable policy environment** for SHGs to open their bank accounts with ease.
- There is a possibility of loss of resources of the poor if not protected adequately against any possible crisis. So there is an **urgent need to streamline the norms that regulate the microfinance initiatives** in the country.
- The literacy levels of rural women are low and hence **efforts to enhance literacy levels in the area should be given priority**.
- **More emphasis should be given on the training programmes** so as to create awareness about the different types of activities like mushroom cultivation, cattle breeding, computer education, yoga and meditation.
- The government could **make SHGs as statutory bodies** and allowed them to work with the local bodies to channelize women's development programmes.
- Governments should **make rural people realize that the SHGs are the main medium of rural employment generation** and support by the government will solve the problem of rural employment.
- Government can **take necessary steps to sell the SHG products through civil supplies**, for example good products may be sold in ration shops and agricultural depots.
- Government should **encourage export of goods** which are produced by the group members.

Suggestions to the Bankers

- **Individual loan and Housing loan should be provided** to the members of SelfHelp Groups.
- The banks **need not insist on the members to submit 'No Dues' certificates** in order to get new loans. Instead, they may go by taking into account the nature of activity and the progress of the group.
- Delay in sanctioning of loans and also red tapism in the banks must be curbed by **implementing a special scheme for SHGs**.
- Banker has to **inform the SHG about the new plans or schemes**. Formalities may be simplified.

Suggestions to NGOs

- The members suffer from lack of finance for the expansion of their operations. This needs to be attended by banks and other financial institutions. The **NGOs may help them in getting loans from the Government**.
- NGOs may help SHG in **identifying new marketing areas and methods of distribution** of products manufactured or marketed by SHGs.

- NGO officials have to **enhance the literacy level of SHGs members.**

Suggestions to the Groups

- Self-Help Groups must **try to function independently instead of depending on NGOs** and Block Development Officers for their effective functioning.
 - A Self-Help Group should not only concentrate on the growth of the group, but should **also show active involvement on the social issues and other essential issues** like health, sanitation etc. to develop the entire village.
 - Groups should be **aware of all government schemes** and should make use of them for their development.
 - The **members should be trained to rotate the money** for the benefit of meeting emergencies of the needy rather than sharing equally among themselves.
 - There should be **rotation of group leadership**, so that all the members of the group get an opportunity to play managerial roles.
 - **Unmarried women can be allowed to become members**, a lesser financial commitment may be drawn up for them.
 - **Self-Help Groups can utilise National Small Industries Corporation, State Small Industries Corporation, Small Industries Development Organisation, Indian Institute of Foreign Trade, Handicrafts and Handloom Exports Corporation of India and State Small Industries Corporation for marketing their products.**
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UPSC GS2 SYLLABUS : WELFARE SCHEMES FOR VULNERABLE SECTIONS OF THE POPULATION BY THE CENTRE AND STATES AND THE PERFORMANCE OF THESE SCHEMES; MECHANISMS, LAWS, INSTITUTIONS AND BODIES CONSTITUTED FOR THE PROTECTION AND BETTERMENT OF THESE VULNERABLE SECTIONS.

GOVERNMENT SCHEMES BASICS

- Indian Government, at all levels, announces Welfare Schemes for a cross section of the society from time to time. These schemes could be **either Central, State specific or a joint collaboration** between the Centre and the States.
- Central welfare schemes, implemented by the government to **provide financial and other aids to individuals who cannot support themselves**, can be categorised into two sections — **centrally sponsored schemes and central sector schemes**.
- **Centrally Sponsored Schemes (CSS)** are those schemes which are implemented by the state government but sponsored by the central government with a defined shareholding. The funding is borne by the states in the ratio of 50:50 or 90:10 or 75:25 or 70:30.

- These schemes are aimed at supplementing efforts undertaken by the state government because the central government has more resources at its disposal. These schemes can either be national or regional in character. In CSS, the funding by the central government works as an initiation, with further spending coming from states towards the cause.

Difference Between Central Sector Schemes And Centrally Sponsored Schemes?

- **Central sector schemes** are implemented by the central government and the budget or financing needed for the scheme is entirely sourced by the central government. By comparison, the implementation of a centrally sponsored scheme is done by state governments. **For example**, the Mahatma Gandhi National Rural Employment Generation Scheme is a centrally sponsored scheme, while the National Rural Health Mission is a central sector scheme.
- **Centrally sponsored schemes can be further divided into two sections** — core of core schemes and core schemes. Green Revolution, White Revolution, Blue Revolution, Pradhan Mantri Gram Sadak Yojana, Pradhan Mantri Krishi Sinchai Yojana, Pradhan Manti Awas Yojana, Swachh Bharat Mission, Mid-day meals in schools and National Livelihood Mission are some **core schemes**.
- **Core of the core schemes**, on the other hand, include the umbrella scheme for development of scheduled castes, umbrella scheme for development of minorities, and the Mahatma Gandhi National Rural Employment Generation Scheme. Core of core schemes are **implemented for social inclusion and social protection**, and they are fully funded by the central government.

ISSUES IN DESIGN AND IMPLEMENTATION

- **Financial Resources:** In most of the central schemes funds are devolved to districts through corresponding states, **Many a time funds are stuck at state level due to various political and administrative reasons** and district administration feels crunch of funds. Comptroller and Auditor General (CAG) have highlighted the **lack of administrative capacity of the village panchayat members** to run MNREGA scheme in a designed and decentralised manner.
- **Planning and Coordination:** Though schemes provide broader guidelines, **yet at district level planning is required** for implementation of schemes taking various parameters of development into account. Many times backward areas including certain blocks and villages of the district get ignored during the process. **Unclear and overlapping roles create confusion** and accountability cannot be fixed. **Overlapping objectives of many schemes especially in health services**, lead to poor implementation of one or the other scheme.
- **Infrastructure:** Non availability of **adequate infrastructure is also a big challenge** in implementation. This includes infrastructure ranging from roads, electricity, drinking water supply, IT infrastructure, primary health care infrastructure. **Non connectivity of**

distant villages from district excludes them from getting benefited from many schemes.

- **Human Resource and Skills:** Though most of the government run scheme faces the challenge of both number and quality manpower while implementing, this is most visible in Sarva Shiksha Abhiyan which was started to ensure Right to Education Policy for children however reports shows the poor pupil to teacher ratio and quality of education is such that student of class VII are not able to read the textbook of class III and do basic arithmetic.
- **Political Intervention and Corruption:** Statistics clearly indicate that the poverty alleviation programmes have had a minimal effect on poverty levels in India due to corruption. The actual funds that reach the beneficiaries are very little compared to the funds allocated for welfare schemes. Corruption of the local governments leads to the exclusion of specific sections of the society. Mid Day meal and PDS distribution systems are bright examples of corrupted supply and manipulation of the sanctioned food grains and cereals.
- **Field Level Monitoring and Beneficiary verification:** Insufficient monitoring by the central government, misalignment of incentives which encourage rent seeking activities and finally, a lack of accountability which distorts the management of funds. These are some of the common trends witnessed in the poor implementation of many schemes such as ICDS in Bihar, NREGA in Maharashtra, Madhya Pradesh and Orissa, Mid day Meal in Madhya Pradesh etc.
- **Caste and gender discrimination and Power Structure:** In India social structure of caste and patriarchy many a time hamper the implantation of schemes and desired results from them. Dominating caste groups along with collusion in district administration and political system usurp the benefits of welfare schemes and vulnerable groups are excluded.
- **Effectiveness Evaluation and feedback Mechanism:** District administration most of the time is process oriented rather than focusing on effectiveness of the scheme. These make the whole process complex and cumbersome while implementing. Even Most of the schemes don't have any effective evaluation mechanism or feedback mechanism from the target group so scope of improvements gets closed.
- **Grievance redressal mechanism:** No administration can claim to be accountable, responsive and user-friendly unless it has established an efficient and effective grievance redress mechanism.

VULNERABLE SECTION OF SOCIETY

- Vulnerable groups are the groups which would be **vulnerable under any circumstances** (e.g. where the adults are unable to provide an adequate livelihood for the household for reasons of disability, illness, age or some other characteristic), and groups **whose resource endowment is inadequate to provide sufficient income** from any available source.

- Certain groups in the society often encounter **discriminatory treatment and need special attention** to avoid potential exploitation. This population constitutes what is referred to as **Vulnerable Groups**.
- Vulnerable groups are **disadvantaged as compared to others** mainly on account of their reduced access to medical services and the underlying determinants of health such as safe and potable drinking water, nutrition, housing, sanitation etc
- In India there are **multiple socio-economic disadvantages** that members of particular groups experience which limits their access to health and healthcare.
- There are **multiple and complex factors of vulnerability** with different layers and more often than once it cannot be analysed in isolation.
- There are **several prominent factors** on the basis of which individuals or members of groups are discriminated in India, i.e., **structural factors, age, disability, mobility, stigma** and discrimination that act as barriers to health and healthcare.
- The vulnerable groups that face discrimination include **Women, Scheduled Castes (SC), Scheduled Tribes (ST), Children, Aged, Disabled, Poor migrants, Sexual Minorities**.
- Sometimes each group faces **multiple barriers due to their multiple identities**. For example, in a patriarchal society, disabled women face double discrimination of being a women and being disabled.

VULNERABLE GROUPS FACING STRUCTURAL DISCRIMINATION

- **Structural norms are attached to the different relationships** between the subordinate and the dominant group in every society. A group's status may **for example**, be determined on the basis of gender, ethnic origin, skin colour, etc.
- Access to health, healthcare and education etc. for the subordinate groups is **reduced due to the structural barriers**.

WOMEN

- Women in the Indian society have been **considered as inferior than men for many years**. Because of such type of inferiority they have to face **various issues and problems in their life**.
- A woman is seen in the society with more **intense ridicule and becomes at higher risk of honor killing** if she is involved in the love marriage or inter caste love marriage.
- Women face a lot of challenges because of the **existence of patriarchal society, child bearing and family care roles, deep rooted cultural norms, etc.** in the Indian society.
- Women in India **do not have equal access** to autonomy, mobility to outside the home, social freedom, etc. than men.
- Women in India face **lots of social issues and problems all through life** which are a big struggle for them right from their beginning of life. **Female infanticide** is the most common practice of killing girl child in mother's womb in the Indian society.

- Another common problem for women is **sex discrimination** which they face from their birth and continues till their death. **Illiteracy, lack of proper education, responsible for household works, rape, sexual harassment at workplace, etc.** are some big issues for the women in India.

ISSUES FACED BY WOMEN IN INDIA

There are various issues and problems which women generally face in the society in India. Some of the problems are mentioned and described below:

- **Selective abortion and female infanticide:** It is the most common practice for years in India in which abortion of female fetus is performed in the womb of mother after the foetal sex determination and sex selective abortion by the medical professionals.
- **Sexual harassment:** It is the form of sexual exploitation of a girl child at home, streets, public places, transports, offices, etc by the family members, neighbors, friends or relatives.
- **Dowry and Bride burning:** It is another problem generally faced by women of low or middle class families during or after the marriage.
- **Disparity in education:** The level of women education is less than men still in the modern age. Female illiteracy is higher in the rural areas where over 63% or more women remain unlettered.
- **Domestic violence:** it is an endemic and widespread disease that affects almost 70% of Indian women according to the women and child development officials. It is performed by the husband, relative or other family member.
- **Girls have no property rights like boys forever.**
- **Child Marriages:** Early marriage of the girls by their parents in order to be escaped from dowry. It is highly practiced in rural India.
- **Inadequate Nutrition:** Inadequate nutrition in childhood affects women in their later life especially women belonging to the lower middle class and poor families.
- **Domestic violence and status in the family:** It is the abuse or violence against women.
- Women are considered inferior to men so they are **not allowed to join military services.**
- **Status of widows:** Widows are considered as worthless in the Indian society. They are treated poorly and forced to wear white clothes. In ancient Indian society women were adored and worshipped as goddesses.

Constitution of India and Women Empowerment:

- India's Constitution makers and our founding fathers were very **determined to provide equal rights to both women and men.**
- It provides provisions to **secure equality in general and gender equality in particular.** Various articles in the Constitution safeguard women's rights by putting them at par with men socially, politically and economically.

- The **Preamble, the Fundamental Rights, DPSPs and other constitutional provisions** provide several general and special safeguards to secure women's human rights.
- **Preamble:** The Preamble to the Constitution of India assures justice, social, economic and political; equality of status and opportunity and dignity to the individual. Thus it treats both men and women equally.
- **Fundamental Rights:** The policy of women empowerment is well entrenched in the Fundamental Rights enshrined in our Constitution. **For instance:**
 - **Article 14** ensures women the right to equality.
 - **Article 15(1)** specifically prohibits discrimination on the basis of sex.
 - **Article 15(3)** empowers the State to take affirmative action's in favour of women. Several acts such as Dowry Prevention Act have been passed including the most recent one of Protection of women from domestic violence Act 2005.
 - **Article 16** provides for equality of opportunity for all citizens in matters relating to employment or appointment to any office.
 - **Article 23:** Under the fundamental right against exploitation, flesh trade has been banned.
 - These rights being fundamental rights are justiciable in court and the Government is obliged to follow the same.
- **Directive Principles of State Policy:** Directive principles of State Policy also contain important provisions regarding women empowerment and it is the duty of the government to apply these principles while making laws or formulating any policy.
- Though these are not justifiable in the Court but these are essential for governance nonetheless. Some of them are:
 - **Article 39 (a)** provides that the State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.
 - **Article 39 (d)** mandates equal pay for equal work for both men and women.
 - In the case of **Randhir Singh vs Union of India**, SC held that the concept of equal pay for equal work is indeed a constitutional goal and is capable of being enforced through constitutional remedies under Art. 32.
 - **Article 42** provides for the State to make provision for securing just and humane conditions of work and for maternity relief.
 - **Art. 44:** It urges the state to implement a uniform civil code, which will help improve the condition of women across all religions. It has, however, not been implemented due to politics. In the case of Sarla Mudgal vs Union of India, SC has held that in Indian Republic there is to be only one nation i.e. Indian nations and no community could claim to be a separate entity on the basis of religion. There is a plan to provide reservation to women in parliament as well.
- **Fundamental Duties:** Fundamental duties are enshrined in Part IV-A of the Constitution and are positive duties for the people of India to follow. It also contains a duty related to women's rights:

- Article 51 (A) (e) expects from the citizens of the country to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practises derogatory to the dignity of women.
- **Other Constitutional Provisions:** Through **73rd and 74th Constitutional Amendment of 1993**, a very important political right has been given to women which is a landmark in the direction of women empowerment in India. With this amendment women were given **33.33 percent reservation in seats at different levels** of elections in local governance i.e. at Panchayat, Block and Municipality elections

Specific Laws for Women Empowerment in India which were enacted by the Parliament in order to fulfil Constitutional obligation of women empowerment:

- The Equal Remuneration Act, 1976.
- The Dowry Prohibition Act, 1961.
- The Immoral Traffic (Prevention) Act, 1956.
- The Maternity Benefit Act, 1961.
- The Medical termination of Pregnancy Act, 1971.
- The Commission of Sati (Prevention) Act, 1987.
- The Prohibition of Child Marriage Act, 2006.
- The Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- The Sexual Harassment of Women at Work Place (Prevention, Protection and) Act, 2013.

Specific Laws for Working Women

- Contract Labour (Regulation and Abolition
- Contract Labour (Regulation and Abolition) Act, 1976
- Employees State Insurance Act, 1948
- Equal Remuneration Act, 1976
- Factories (Amendment) Act, 1948
- Maternity Benefit Act, 1961 (Amended in 1995)
- Plantation Labour Act, 1951

SUGGESTIONS FOR SOLVING THE PROBLEMS OF WOMEN

- In the first place **women should be educated as education widens their horizons** and broadens their outlook making them aware of their constitutional and legal rights, reproductive rights, and human rights both in their work and in the social sphere. So **mass literacy campaigns should be organised** on a large scale.
- **Emphasis should be laid on enrolment and retention of the girl child** in formal schooling and no- formal education through incentive schemes such as mid day meals, free supply of textbooks, uniform, school bags, science kits, scholarship and residential and hostel facilities and removal of gender bias in the curriculum.

- **Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994** (PNDT) to ban the sex determination of unborn child to check female feticide and infanticide and other enactments relating marriage divorce, adoption, succession, dowry and moral protection should be **implemented for the protection and emancipation of women.**
- **Proper crèches should be made available** at or near her place of work for the proper care of her children while she is away to work.
- A keen interest and sincere attention of the government is highly essential to **improve the health and nutrition** of this vulnerable section of the society. **Protection should be given against sexual harassment.** Women must not be discriminated upon.
- The Indian Society can't progress until we **provide equal opportunity to women in every walk of life.** All bodies of government must treat women in an equal manner and respect their rights.
- A proven way to overcome many systemic barriers to a woman's success has been increased **participation by women in local, regional and national legislation** as empowered change agents. A woman's voice and her ability to become a leader in her community is fundamental to empowering women.
- **The administration of the criminal judicial system should be overhauled.** The police in India are not sensitive towards the victims of sexual crime because they belong to the same patriarchal mindset. But as an authority they need to uphold the rule of law without being influenced by any person or politician or his superior etc. The Apex court has provided certain guidelines but the implementations of these guidelines are still pending.
- To improve the state of women it **is compulsory that the law related to women should be uniform.** We need to have uniform law except the caste, creed or religion. As far as personal law is concerned there is no uniformity there, this leads to exploitation of women by the impulse of man.
- There are only two ways to curb the evil of prostitution in India. Firstly, the government can curb the exploitation and harassment of prostitutes to a significant extent as well as **sex workers can be integrated within purview of national health programmes.** Secondly to **legalize the sex trade in India.** If we legalize this trade then we can monitor the trade and rehabilitate and provide medical aid to the people involved in it.
- The Government has to open **Legal Aid Clinic, Legal Seminars and other programmes in urban as well as rural areas** to aware them about their rights. These programmes are designed specifically for women, so they are more aware about their rights and if there is any violation of their rights then they can report them to appropriate authorities.
- As suggested by Justice J.S Verma Committee that to provide safety to women there has to be sufficient **public transport in day and night** and at night **every transport vehicle has a security guard.** There has to be an identity card for each and every person working and they can only ply the vehicle.
- **The Nirbhaya Fund should be utilized for the rehabilitation of victims of sexual offences** which includes acid attack. The victims compensation should be provided to

them at the earliest, the fund should also be utilized for the upliftment of women in society their rehabilitation, medical aid and counselling is done by the government.

BACKWARD CLASSES

- The **constitution does not define the term backward classes**. It is up to the center and the states to specify the classes that belong to this group.
- However, it is understood that classes that are **not represented adequately in the services of the state** can be termed backward classes.
- The 'backward classes' **do not constitute one single whole but a multitude of social groups** with varying positions and socio-economic standing in the social hierarchy of Indian society.
- They suffer from **disadvantages and disabilities** which are age-old and which derive their sanction mainly from the caste system.
- **Low status, poverty and illiteracy are social problems**, which they have inherited due to their ascribed status of being born in a low caste or tribe.

Backward Classes and the Indian Constitution

- The Indian Constitution is **silent on the definition of the backward classes**. What one finds, however, is the **characteristics of backwardness described and spread over the different articles** of the Constitution.
- **Article 15 (4)** speaks of social and educational backwardness. In **Article 16 (4)**, mention is made of backward classes and their inadequate representation in services.
- **Article 23** speaks of forced labour. **Article 46** refers to the weaker section of the people in which the scheduled castes and scheduled tribes are included.
- Along with such references of backwardness, the **Constitution also makes special provision for their upliftment**. In addition, there is also legal provision.
- **Article 17 of the Constitution**, for example, abolishes untouchability. This gives the scheduled castes the same legal rights as any other caste. To reinforce this, the **Untouchability (Offences) Act was passed in 1955**, which fixed penalties for offences on this score.
- Similarly, the **extension of adult franchise** has given the scheduled castes the political power.
- The real problem, however, is not the removal of legal disabilities but social disabilities. To overcome this, the Constitution has laid down certain provisions under **Article 46**. It states that the **state shall promote with special care the educational and economic advancement** of the weaker sections of the people, in particular the scheduled castes and scheduled tribes. It shall also protect them from social injustice and all forms of exploitation.
- **Article 330 and Article 332 of the Constitution** respectively provide for reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes in the House of the People and in the legislative assemblies of the States.

- Under Part IX relating to the Panchayats and Part IXA of the Constitution relating to the Municipalities, reservation for Scheduled Castes and Scheduled Tribes in local bodies has been envisaged and provided.
- Article 338 and Article 338-A provides for a National Commission for the Scheduled Castes and Scheduled Tribes with duties to investigate and monitor all matters relating to safeguards provided for them, to inquire into specific complaints and to participate and advise on the planning process of their socio-economic development etc.
- Finally, there is Article 340 which makes provision for the state government to investigate the condition of the backward classes.

Composition of Backward Classes

- The backward classes constitute a **large and mixed category of persons**. They comprise roughly one-third of the total population of the country.
- They are made up of (i) the **scheduled tribes** (adivasis); (ii) the **scheduled castes** (the Harijans), and (iii) the **other backward classes**.
- The scheduled castes (SC) and the scheduled tribes (ST) are well-defined categories in the Indian Constitution. The **other backward classes are not listed and defined**.

SCHEDULED TRIBES

A tribe is defined as a **group of people who can be identified as a homogeneous unit** with certain common characteristics. The common characteristics that they share are a common territory, a common language and descent from a common ancestor.

Distribution

- According to the 1981 census, the scheduled tribes constituted nearly seven per cent of the total population. And as per the **1991 census they constitute 8.08 percent** of the total population.
- They are believed to constitute the **aboriginal element in the Indian society** referred to as the '**Girijan**' or '**Janjatis**' or '**Adivasi**'.
- **The Scheduled Tribe Lists Modification Order, 1956** listed **414 tribes** in various states of India. They are scattered over **almost every state in India**. They have, however, a fairly large concentration in Madhya Pradesh, Orissa, Bihar, West Bengal, Rajasthan and Gujarat. In **Madhya Pradesh (M.P.)**, there are **nearly seven million tribal people** who belong to 68 different groups.
- **Article 164 provides for a Ministry of Tribal Welfare** in Bihar, Madhya Pradesh and Orissa while the **6th Schedule of the Indian Constitution** provides a considerable degree of social, cultural and political autonomy for the tribal areas of Assam, Meghalaya, Tripura and Mizoram.

- The other tribal regions i.e. besides those which came under the 6th Schedule are referred to as the “**Scheduled Areas**” for the purpose of administration in the Constitution.
- The **total tribal population in north-eastern states is small** in comparison to those of the other states; but **the tribals constitute a large percentage of the total population** of these states.

Distinguishing Features

- The tribal populations in India **speak a large variety of dialects**. There are numerous variations in their habits, customs and arts. They live generally in the **hill and forest areas**.
- **The ecological and social isolation** has been historically one of the principal features of the tribal population. This **isolation had left a definite mark on their social system**. **For example**, until recently, they enjoyed a certain measure of political autonomy.
- Today, it is **difficult to define the tribal people of India in terms of any single set of criteria**. The difficulty arises from the fact that tribes in India are tribes in transition. Their political boundaries have collapsed. Their **ecological and social isolation has been broken**.
- **Problem of description is not merely an academic problem**, it is also a problem of vital practical concern. The benefit of many welfare programmes goes only to those groups which are listed under the category of scheduled tribes.
- **The list of the scheduled tribes** has, therefore, been drawn after **careful consideration of each individual tribe** so that no group is left out. Generally, such lists have been drawn keeping in mind the geographical isolation and the relative independence of their political and cultural system.

Economic Status

- Economically, tribes **vary all the way from food gatherers to the industrial labour force**. There are many tribes such as the Kadar, the Malapantaram and the Paniyan of Kerala, the Paliyan of Tamil Nadu who are dependent on forest products.
- They are **essentially food gatherers**. They collect fruits, roots and other forest products and supplement them with hunting and fishing.
- The bulk of the tribal population of India is **dependent on agriculture with forest produce as secondary support**. Some of these like the Mizo, the Garo, the Khasi, the Naga, practice shifting or ‘jhum’ (i.e. slash and burn) cultivation.
- Others like the Oraon, the Munda, the Bhil, the Gond are engaged in permanent, settled cultivation. Many of the tribal groups have also **migrated in large numbers to Assam and West Bengal and work as plantation labourers**.
- Similarly, areas in Bihar, Madhya Pradesh and West Bengal, which are rich in coal, iron and other minerals, have **led to the emergence of industrial labour force which consists of the tribals**.

PROBLEMS OF TRIBAL PEOPLE

Social Problems

1. High Incidence of Illiteracy and Gender Gap

- **Early participation of children into work, abject poverty, lack of supportive education culture** at home and in the community have contributed to the high incidence of illiteracy and very high rate of early dropout among the tribal population.
- The reservation in educational institutions and in government jobs and the provision for education stipend for the tribal children **remain underutilized**.
- According to the 1991 Census, **nearly 70 per cent of the tribals are illiterates**. Although it cannot be denied that education can act as the instrument for betterment of the tribals ensuring greater participation for them in the development process, **still there are certain factors which inhibit the tribals from taking to education**.

2. Problems of Assimilation with the Non-tribal Population

- The tribals have largely come under the **impact of the dominant cultural streams of India**. New divisions have been created among the tribals due to cultural change in their ranks.
- **Stratification in tribal society in India has its roots in British policy**, unevenness due to the impact of economic development, and varied cultural contact with the wider society.
- The tribals, who have been uprooted from their lands, have **not been absorbed in the new system**. Hence, they are facing a new form of pauperisation without a traditional support base.

3. Erosion of Identity

- Most of the Indian tribes have been in contact with other populations since time immemorial. In some cases, the contact has been very intimate. As a consequence, the **identity of tribal communities in respect of society and culture has been eroded gradually**.
- Increasingly, the **traditional institutions and laws of tribals are coming into conflict** with modern institutions which create apprehensions among the tribals about preserving their identity.
- **Extinction of tribal dialects and languages** is another cause of concern as it indicates an erosion of tribal identity in certain areas.
- In certain areas, a social stratification system resembling those of Hindu caste system evolved.
- Apart from this socio-economic crisis, they also faced a **cultural crisis because of losing their ethnicity** for entering into civic society.

4. Drug Addiction

- **Consumption of alcohol is a part of social rituals** among the tribal communities. At the national level it is noted that about half of **Scheduled tribe men (51%) consume some form of alcohol.**
- The prevalence of alcohol consumption was found to be much lower among non-Scheduled Tribe men (30%). Therefore, such a pattern of drinking alcohol among Scheduled Tribe men has a negative **effect on their health.**

5. Gender Issues

- The degradation of the natural environment, particularly through the destruction of forests and a rapidly shrinking resource base, **has had its impact on the status of women.**
- The opening of the tribal belts to mining, industries and commercialisation has **exposed tribal men and women to the ruthless operations of the market economy**, giving rise to consumerism and to commoditisation of women.

Economic Problems

1. Loss of Control over Natural Resources

- **Before the coming of the British**, the tribals enjoyed unhindered rights of ownership and management over natural resources like land, forests, wildlife, water, soil, fish, etc.
- With the advent of industrialisation in India and the discovery of mineral and other resources in tribal inhabited areas, **these pockets were thrown open to outsiders and state control replaced tribal control.**
- Thus began the **story of unending miseries for the tribals**. With the impetus to the development process after independence, pressure on land and forests increased.

2. Lack of Awareness about Government Schemes

- In the Indian context, scheduled tribes have the special provisions, constitutional rights for their social, economic and educational promotion.
- In the field survey in different Gram Panchayat areas of Mal subdivision, it is found that most of the tribal people are very much poor, **but they could not manage BPL ration cards, job cards for 100 day works etc.** Most of them **hardly know the name of the BPL ration card.**

3. Subsistence Economy

- **Tribal economy is characterised as subsistence oriented.** The popular forms of subsistence economy are that of collecting, hunting and fishing or a combination of hunting and collecting with shifting cultivation.

- The tribal labour force engages itself predominantly as small cultivators, agricultural labourers, and plantation labourers which require minimum education and skill and produce minimal returns.
- **The main problem of subsistence economy is that if the system fails, and it can no longer meet the needs** of those who exist within the economy, then it is difficult to obtain resources from elsewhere.

4. Health and Nutrition

- Because of economic backwardness and insecure livelihood, the **tribals face health problems, such as prevalence of disease**, like malaria, cholera, tuberculosis, diarrhoea and jaundice, problems associated with malnutrition like iron deficiency and anaemia, high infant mortality rates, low levels of life expectancy, etc.

5. Displacement and Rehabilitation:

- After independence, the focus of the development process was on heavy industries and the core sector. As a result huge steel plants, power projects and large dams came up—most of them in the tribal inhabited areas. The mining activities were also accelerated in these areas.
- **Acquisition of tribal land by the government for these projects led to large scale displacement of the tribal population.** The tribal pockets of Chotanagpur region, Orissa, West Bengal and Madhya Pradesh suffered the most.
- The cash compensation provided by the government was **frittered away on wasteful expenditure. No settlements were provided for the displaced tribals** within the industrial areas, who were forced to live in peripheries in slums or to migrate to adjoining states to work as unskilled workers in conditions of poverty.
- The migration of these tribals to the urban areas causes **psychological problems for them** as they are not able to adjust well to the urban lifestyle and values.

Environmental Problem

1. Man-Animal conflicts

- **Man-animal conflicts are very common.** Wild animals were very common to wander through the thick jungles. But after thinning of jungles, the wild animals' habitat has been degraded rapidly.
- **In recent years man-animal conflict has gone up steeply** owing to the increase in human population; land use transformations, developmental activities; species habitat degradation and fragmentation; growth of ecotourism and also increasing wildlife population as a result of conservation strategies.

2. Physical Constraints

- Traditionally, tribal people are **interested to live in remote places** of jungles and mountains.
- There are forest areas, tea gardens, remote hilly tracts etc. **Transportation and way of communications are very hard with civilised society.**

Suggestion to Improve the Conditions of Scheduled Tribes in India

It would be worthwhile to refer to Nehru's Panch Sheel for tribes and their development and integration.

This includes the following five principles:

The Nehru's Panch Sheel :

- **Non-imposition**—People should develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and culture.
- **Respect of Tribal customs**-This respect applies particularly to their customs about land ownership, allocation for use of forest resources within their jurisdiction.
- **Development of Tribal Youth**-We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will, no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.
- **Simplicity of Administration**-Proliferation of bureaucracy should be avoided. The voluntary agencies or suitable local organs should be involved to carry out the developmental tasks.
- **Emphasis on human growth**—We should judge results, not only by Statistics or the amount of money spent, but by the quality of human character that is evolved.

THE SCHEDULED CASTES

- This term was **coined by the Simon Commission** (1927). The expressions '**Depressed Classes**', '**Exterior Castes**' and '**untouchables**' were commonly used for the scheduled castes during the colonial period.
- **Gandhiji called them 'Harijans'**, (the people of God). But since the passage of the Government of India Act of 1935 they have been generally referred to as 'scheduled castes'.

Distribution

- The scheduled castes constitute **about 15.3 percent of India's total population** according to the 1981 census and **15.93 percent as per the 1991 census.**

- They, unlike the tribes, **did not have a history of isolation**. They have lived with the other castes and communities in segregation rather than isolation.
- Whereas the tribal people are concentrated in blocks in specific geographical regions, **the scheduled castes are scattered through every state and practically through every district**.
- They are concentrated in rural areas and are found commonly in multi caste villages. Such distributional characteristics lead to certain difficulties.
- It is **easier to implement special programmes of development for the scheduled tribes than for the scheduled castes**. There is also more scope for the development of separatist political movements among the tribal groups than amongst the scheduled castes due to the very same reason of disparate needs and socio-economic statuses of each group.

Economic Status

- Economically, they are **among the poorest sections of the Hindu society**. Traditionally, as mentioned before, they were engaged in the most degrading occupations like scavenging, removing dead cattle, leather work and so on.
- Being **predominantly rural**, they are mainly engaged in agriculture today. Even in agriculture they are mainly found as **landless agricultural labourers and marginal sharecroppers and peasants**. As a result they are found in varying degrees of bondedness in different parts of the country.

PROBLEMS FACED BY SCHEDULED CASTES IN INDIA

1. Social Problem:

- These **problems pertained to the concept of purity and pollution**. The untouchables were given a very low position in the society. The **high-caste Hindus maintained a social distance** from them.
- They were **denied many basic amenities** of life which were accorded to the high-caste Hindus. They were **dependent on the tradition of Hindus** for items of food and drink.

2. Religious Problems:

- These pertained to the **denial of the right of entering temples** which were exclusively served by the high-caste Brahmins.
- The untouchables were **neither allowed to enter the temples nor served by the Brahmins**. They had no right to worship the Gods and Goddesses in the temple.

3. Economic Problems:

- They suffered from many economic problems. They had to face many economic hardships and they were **not given proper reward for their service**.

- Traditionally, untouchables were **deprived of landed property of their own**. They were not allowed to carry on any business. They were **not permitted to engage themselves in the professions** which were being carried out by the people of other castes.
- The untouchables were **not free to choose any occupation according to their own ability**; they had to clean the streets, remove dead cattle and undertake heavy agricultural work. **Mostly they were landless labourers**. They worked in the fields of high-caste Hindus as labourers.

4. Public Disabilities:

- Harijans had to face many public indignities because they were **denied the right to use the services of public utilities** like wells, public transport as well as educational institutions.

5. Educational Problems:

- Traditionally the untouchables were deprived of getting education. They were **not allowed to use public educational institutions**. Even today most of the illiterates are untouchables.
- **Describing the conditions of Harijans, K.M. Pannikar has remarked**, their position, when the system functioned in its pristine glory, was in **many ways worse than that of slavery**. The slave at least was a chattel of the master and therefore, he stood in an individual relation to his owner. Considerations of economic self-interest and even human feeling modified the barbarism of personal slavery.
- **But these mitigating factors did not apply to the system of untouchability**, which was mostly perceived as a system of communal slave holding. Instead of an individual owning slave, each village held the untouchable families attached to it in a kind of slavery. **No individual of the higher castes was supposed to have any personal relations with an untouchable**.

Suggestions to Improve the Conditions of Scheduled Castes in India

Enforcement of Laws:

- The one way to improve the conditions of dalits is to **enforce the laws made for their protection right from the grass root level**. Officers from the government should be appointed with special powers to **ensure that the discrimination against the dalits is stopped**.
- Each **State could be divided into small regions** with each region being assigned to one officer who would be responsible for the protection of the rights of dalits. If the **officer fails to perform his duties; he should be punished appropriately**.

Compulsory Education:

- Primary education should be made compulsory not only by law but should be put into practice also.
- The government should appoint a Special Committee that would then conduct surveys to identify those dalits who are not allowed to go to school and the persons who do not allow them to have education. Such denying dalits should be brought to justice.

Economic Stability:

- Monetary support by way of ensuring decent minimum wages should be provided to the parents of the Dalit children so that parents allow their children to go to school and pursue education.
- This step would reduce the burden of earning which otherwise is on the shoulders of the young children specially the girls who are not allowed to pursue their studies or if they are pursuing, they are forced to take a drop

Proper Grievance Redressal:

- The State Governments should come out with a concrete plan whereby Grievance cells should be formed in each state which would have an officer and also an investigative team which could go to the interior villages and find out the true facts about the harassment of the dalits and then report to the officer.
- The officer in charge should also be given adequate powers to give punishment to all those who are responsible for the inhuman acts on the Dalits.

Adoption of Dalit Children:

- The childless couples who do not have any children due to any reason, should be motivated to adopt dalit children, so that they get a deprived child who really needs their love, affection and care.
- On the other hand the Dalit children will be benefited as they would get proper education and would be able to develop their personality.
- This would also set examples for others who still discriminate on the basis of caste. This could also bring a social change in the minds of the people who then would come forward and take voluntarily the responsibility of a Dalit child.

Priorities in Reservation:

- The Government should also devise ways and means to give priorities in reservation to the weakest among the weaker section of the Scheduled Castes and simultaneously call upon the economically and socially better off among the Scheduled Castes to voluntarily abstain from claiming benefits.

Role of voluntary organizations:

- The **services of voluntary organizations may also go a long way** in creating awareness among the Scheduled Castes who remained neglected by the official agencies due to lack of missionary zeal.
- The **government should put earnest efforts to pick up good voluntary agencies** and encourage them to expand their activities undertaken by them for the promotion and safeguards of the Scheduled Castes in the State.

Empowering Dalit Women:

- **Recognition of Dalit women as a distinct social category** and their contribution to national productivity and well being, ensuring that she enjoys equity share in the country's wealth and resources.

Special Protection for Victims:

- The **victims should be ensured adequate security and special economic assistance** under any specialized scheme, till the completion of the trial of the atrocity case.
- And in case if the trial results in conviction, **such dalit victims need a special economic protection**.
- The persons who figure as **witnesses in atrocities cases, must also need special protection** till the completion of the trial.

THE OTHER BACKWARD CLASSES

- The Indian Constitution **specially provides reservation for the scheduled castes and scheduled tribes**. Ever since the framing of the Constitution, **the demand has been raised for a similar provision** for castes, other than the scheduled castes and tribes, which are **educationally and socially backward**.
- This category is, however, mentioned in the Constitution in only the most general terms. **There is no all India list for the other backward classes**. Lists have of course, been drawn by the Ministry of Education and by the State Governments.
- **The Backward Classes Commission was hence set up in 1953 under the chairmanship of Kaka Kalekar**, with a view to decide the criterion on the basis of which socially and educationally backward classes could be identified.
- The Commission pointed to a good deal of ambiguity in the lists prepared by the Central and State Governments.
- **It also prepared a detailed list of the other backward classes**. The list was prepared on the basis of the **position of the castes in social hierarchy, percentage of literacy and its representation in services and industries**.
- The Commission was of the view that the **majority of the backward classes are ignorant, illiterate and poor**. The recommendation of the Commission was not accepted as authoritative by the Government and hence its recommendation was not implemented.

- The Central Government constituted the **Mandal Commission** to look into the Backward Classes. No sooner was the Mandal Commission report published than the question of reservation became an issue of heated debate and controversy.
- Even though the commission submitted its report in 1980, the Union Government implemented its recommendation in 1990 only. The **terms of reference of the Mandal Commission** inter alia
 - to determine the criteria for defining social and educational backwardness,
 - to recommend steps to be taken for the advancement of the socially and educationally backward classes of citizens of India,
 - to examine the desirability or otherwise of making provisions for the reservation of posts in favour of the backward classes.
- Similar commissions were also instituted by the state **Governments of Gujarat (Baxi and Rane Commissions) and Madhya Pradesh (Mahajan Commission)**. The acceptance of their recommendations by the respective state Governments led to widespread violence by the upper castes in these two states.

Criterion

- The Central Government has since 1961 been pressing for the **adoption of economic criteria in defining the Other Backward Classes**. There has been some opposition to this from a number of state governments.
- Some of the castes included in the earlier lists of the other backward classes are fairly powerful in state politics. They have, therefore, **exerted pressure on state governments to have the old criteria retained**. The **Lingayats of Karnataka and the Ezhavas of Kerala** provide good instances.
- By now the **majority of the states have adopted the economic criterion for defining backwardness** for the award of scholarships to the other backward classes, other than the scheduled castes and scheduled tribe.

Economic Status

- The core of the other backward classes **consists of peasant castes of various descriptions**. The position occupied by these castes is different from that of the scheduled castes.
- Frequently, they **occupy a low position in the caste hierarchy**, but are above the untouchables.
- They have **no tradition of literacy**. They have, therefore, **lagged behind in the pursuit of modern education**. They are often poorly represented in government jobs and white-collar occupations.
- In spite of this, **such castes sometimes occupy a dominant position** in the economic and political system of the village.
- It appears that **dominant castes of this kind have developed a vested interest in remaining backward in the legal sense** i.e. as a category, so that they can enjoy the number of benefits in education and employment provided by the Government.

ISSUES FACED BY THE OBCS

- **Sanskritisation:** The other backward classes occupied a **low position in the traditional society** but were above the line of untouchability. Many of the castes included in this category also enjoyed a measure of economic and political dominance.
- **Social movements:** The upper castes such as the Brahmans, Kshatriyas, and the Vaishyas not only adopted the western lifestyle but took up western education with all seriousness. In view of this, **only the members of these castes could get the jobs, in the government services** and could further increase their prestige.
 - Thus, **the social inequality was perpetuated in the new system to a large extent.** The lower castes realised that mere Sanskritisation was not enough to improve their social condition. **It did not provide them the avenue to obtain well paid and prestigious jobs** in the administrative services.
- **Reservation:** If caste-based reservation is carried on, then the **benefits are likely to be grabbed by those within the concerned castes** who are economically and educationally better off.
- **Non Recognition:** While Scheduled Castes and Scheduled Tribes are listed in the Constitution, the third group i.e. **Other Backward Class is unlisted.** Instead it is loosely defined. As a result of the **absence of clear definition**, the problem of Other Backward classes is very complicated and very difficult to deal with.

VULNERABILITY OF CHILDREN

- India is home to almost 1.3 billion people and is the second most populous country in the world. **Children represent 39% of the population in India.**
- Any person **below the age of 14 is considered a child** by the constitution of India and by most government programmes.
- However, according to the **United Nations Convention on the Rights of the Child (UNCRC)**, a **child means every human being below the age of 18.**
- They are most vulnerable because of their age and are **always at risk of exploitation, getting abused, subjugated to violence, and suffering from neglect.**
- There are various factors that make Indian children **vulnerable and exposed to risks.** Some of these aspects are age, physical disabilities, lack of capability to defend themselves, illness, lack of education, lack of identity.
- According to the **Census of India 2011, there are 8.2 million child labourers aged 5-14 years** in India. For the age bracket of 5-18 years, this figure shoots up to a staggering 33 million children.
- As per the findings of the National **Crime Record Bureau in 2016, around 150 children go missing in India every day** and crimes against children have increased fivefold in the last 10 years.

Constitutional Safeguards for Indian Children

- **Article-15 & 15(1):** The State shall prohibit discrimination against any citizen on the grounds of religion, race, caste, sex. Nothing in this article prevents the State from making any special provision for women and children.
- **Article -21 A:** The State shall provide free and compulsory education to all children of the age 6- 14 years in such manner as the State may, by law determine.
- **Article-24:** No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- **Article-39(f):** enjoins the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.
- **Article-45:** The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
- **Article-243 G** Provides for institutionalisation of child care by seeking to entrust programmes of women and child development to Panchayat (item 25 of Schedule 11)

ISSUES

Health issues

- **Diarrhoea and malnutrition are two of India's biggest killers** of children under the age of 5. Along with **poor access to nutritious foods**, both these issues are linked to poor hygiene, as infections trigger mineral depletion and loss of appetite.
- India finds prominent mention in the **annual global tally of deaths of children under the age of 5**.
- For every **1,000 live births, 42 die, and every 20 seconds a child dies** from preventable causes like pneumonia, preterm and birth complications, newborn infections, diarrhoea and malaria.
- **National Family Health Survey (NFHS) India** estimates show that 61 million children under the age of 5 are stunted, and 53 million are underweight. **Another 25 million have a low weight to height ratio**. One-third of the world's 'wasted' children live in India, and rampant in rural areas, among scheduled tribes.

Survival Issues

- **India leads the global tally of child (ages 0 – 5) deaths** – 1.2 million deaths were reported in 2015, a quarter of 5.9 million child deaths worldwide. Another finding reported that 1.83 million children die every year before their fifth birthday (of 26 million children born annually).
- Children from India's **poorest communities are at a higher risk of death before 5**. There are sharp inequities in mortality rates across India - under 5 mortality rate in Kerala is much lower (14 deaths per 1000 live births) than Madhya Pradesh (92 per 1000). At 1.83 million, India has the highest child deaths in the world.

Lack of Education

- A UN report recently revealed that **India is home to the world's largest population of illiterate adults** (287 million), and contributes 37% of the global total.
- While the latest data shows a rise in literacy, **population growth cancelled out these gains**, meaning no effective change in the number of illiterates.
- Primary education spending is a decider in literacy, as seen in Kerala, one of India's most literate states of the country, where education spending per pupil was about \$ 685. **Educational disparities are noticed in richer and poorer states.**
- However, **girl child education requires not only investment but also social awareness that educated girls are a valuable asset**. Today, India ranks 123 among 135 countries in female literacy.
- According to the ASER report 2018, the proportion of children (6-14 years) not enrolled in school has fallen below 3% for the first time.
- However, it is important to note that the **proportion of children dropping out from secondary education is 17.06% in general while for the Scheduled Caste community it is 19.63%**, for the ST community it stands much higher (24.40%) and for the Muslim community it is 24.12%.

Exploitation in the Form of Child Labour

- **India has the world's most number of people under 'modern slavery'** – 14 million. This includes slave labour conditions like bonded labour, sex trafficking, child labour, domestic 'help' etc.
- **Children today continue to be employed in hazardous occupations** - over 12 million children (aged 5 – 14) work in construction, manufacturing of beedis, bangles and fireworks industry.
- A 2016 amendment to **Child Labour (Prohibition and Regulation) Act, 1986** hasn't established a blanket ban, instead legalising a form of child labour by allowing children to work in family enterprises, creating scope for misuse.
- A recent analysis of census data in the country shows an **overall decrease in child labour of only 2.2 percent yearly, over the last 10 years**. Also, it has revealed that child labour has grown by more than 50 percent in urban areas.

Violence and Abuse

- **In 2013, India was among the top 5 countries with the highest rate of child sexual abuse.** A 2013 report by the Asian Centre for Human Rights revealed that sexual offences against children in India were at an "epidemic" level – citing, over 48,000 rape cases between 2001 to 2011, and a 337% increase in child rape cases from 2001 (2,113 cases) to 2011 (7,112 cases).
- **Child sex abuse (CSA) occurs across geographies, economic levels, and even across relationships** – strangers, friends, family members had all been perpetrators.

- In 2012, 9500 child and adolescent murders were reported, **making India the third largest contributor to child homicide** (WHO 2014, Global Health Estimates). One in 3 adolescent girls experiences violence (physical, sexual or emotional), from significant others.

The National Policy for Children, 2013

- On April 18th, 2013 the Union Cabinet approved the National Policy for Children **to help in the implementation of programmes and schemes for children all over the country**.
- The policy acknowledges the child as an **individual and the subject of his/her own development**, displays a quiet assurance and sense of purpose.
- The Policy lays down the **guiding principles that must be followed by National, State and Local governments** in their actions and initiatives for affecting children.
- The Constitution of India **guarantees Fundamental Rights to all children** in the country and empowers the State to make special provisions for children. The **Policy reaffirms the Government's commitment to the realisation of the rights of all children** in the country.
- It recognizes **every person below the age of eighteen years as a child** and that childhood is an integral part of life with a value of its own, and a long term, sustainable, multi-sectoral, integrated and inclusive approach is necessary for the harmonious development and protection of children.
- The policy identified **Survival, Health, Nutrition, Education, Development, Protection and Participation** as the undeniable rights of every child, and has also declared these as key priority areas.

Features of National Policy for Children 2013

Recognises that:

- a child is any person below the age of eighteen years
- childhood is an integral part of life with a value of its own
- children are not a homogenous group and their different needs need different responses, especially the multi-dimensional vulnerabilities experienced by children in different circumstances
- a long term, sustainable, multi-sectoral, integrated and inclusive approach is necessary for the overall and harmonious development and protection of children

Reaffirms that:

- every child is unique and a supremely important national asset
- special measures and affirmative action are required to diminish or eliminate conditions that cause discrimination

- all children have the right to grow in a family environment, in an atmosphere of happiness, love and understanding
- families are to be supported by a strong social safety net in caring for and nurturing their children

Operation and Supervision of the Policy

- The **Ministry of Women and Child Development will be the nodal ministry** for overseeing and coordinating the implementation of the policy and will lead the review process for the policy.
- A **National Coordination and Action Group (NCAG) for Children under the Minister** in charge of the Ministry of Women and Child Development will monitor the progress with other concerned Ministries as its members. Similar Coordination and Actions Groups will be established at the State and District level.
- There is a provision for **comprehensive review of this policy every five years** in consultation with all stakeholders, including children.
- The National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights will ensure that the **principles of this Policy are respected in all sectors** at all levels in formulating laws, policies and programmes affecting children.

Review of the National Policy for Children 2013 (NPC 2013)

Survival, Health and Nutrition related provision –

- The NPC 2013 put forwards that the right to life, safeguard against hunger, Deprivation & Malnutrition, survival, health and nutrition etc. are an inalienable right of every child and will receive the highest priority.
 - It also comprises the suitable measures for the differently abled, the girl child and HIV-affected children

Education and development related provisions-

- With the aim of overall development of the Child NPC 2013 envisages that every child has equal right to learning, knowledge and education, with due regard for special needs, through access, provision and promotion of required environment, information, infrastructure, services and supports, towards the development of the child's fullest potential.
- Though RTE has ensured near 100% gross enrollment ratio; ideal pupil-teacher ratio of the RTE Act is yet to be reached. However, the ASER report portrays the dismal state of learning among children.

Security & Protection related provisions –

- The NPC 2013 vouches that Child rights should be protected at any cost.
- The State shall create a caring, protective and safe environment for all children”
- Initiatives: E-POCSO Box for complaint against sexual harassment of children etc.

Participation & Overall development related provisions –

- The NPC 2013 envisages that it is the duty of state to provide an enabling environment, opportunities and support to develop skills, to form aspirations and express their views in accordance with their age, level of maturity and evolving capacities
- State should establish National/State Coordination and Action Groups to ensure field level implementation of child related schemes
- State with different child related NGO ,should try to spread awareness about child rights is still low and even child labour has gone unchecked at places.

Others provisions in NPC 2013 –

- The NPC 2013 talks about the Coordination among various programmes, and monitoring.
- There should be priority of capacity building and resource allocation
- At equal stances the Social audit and Community Score Card being used as tools to monitor effective implementation of the policy.
- NPC 2013 also put forth the idea of Child Budgeting in order to ensure budgetary accountability on commitments made for children.

ISSUES RELATING TO AGED POPULATION

Medical Problem

- Health problems are supposed to be the major concern of a society as senior citizens are **more prone to suffer from ill health** than younger age groups.
- Besides physical illness, the **senior citizens are more likely to be the victims of poor mental health**. Mental disorders are very much associated with old age.
- **Decline in mental ability makes them dependent**. Due to the generation gap the youngsters do not pay attention to their suggestions and advice.
- There is **lack of provision of medical aid, and proper familial care**, besides **insufficient public health services** to meet the health needs of senior citizens.
- Failing health due to advancing age is complicated by **non-availability to good quality, age-sensitive, health care** for a large proportion of older persons in the country.
- In addition, **poor accessibility of health services, lack of information, high costs of disease management** make reasonable elder care beyond the reach of senior citizens, especially those who are poor and disadvantaged.

Economic Problems

- Elderly people face several challenges and one of the most important among those is the **problem of financial insecurity**. **Old age dependency ratio is increasing** and it is projected to increase continuously, with higher share from rural areas than in urban areas.

- The National Sample Survey Organization (NSSO) in its 2006 report revealed that a **higher percentage of males in rural areas (32 per cent) are found to be financially fully dependent** as compared to that in the urban areas (30.1 per cent). Widows, poor and disabled elderly constitute more disadvantaged among elderly population.
- **Pension and social security is restricted** to those who have worked in the public sector or the organized sector of industry.
- **Retirement from service usually results in loss of income** and the pensions that the elderly receive are usually **inadequate to meet the cost of living** which is always on the rise.

Social Problems

- Sociologically, **aging marks a form of transition from one set of social roles to another** and such roles are difficult. However, in modern society, improved education, rapid technical changes and new forms of organization have **often rendered obsolete the knowledge, experience and wisdom of senior citizens**.
- **Older people suffer social losses greatly with age.** Their social life is narrowed down by loss of work associated, death of relatives, friends and spouse and weak health which restricts their participation in social activities.
- Due to loss of most of the social roles they once performed, **they are likely to be lonely and isolated. Severe chronic health problems** enable them to become socially isolated which results in loneliness and depression.

Psychological Problems

- **The common psychological problems that most of the senior citizens experience are:** feeling of powerlessness, feeling of inferiority, depression, uselessness, isolation and reduced competence. With growing age, senior citizens experience various anatomical and psychological changes.
- These changes bring many **psychological, behavioural and attitudinal changes** in them. The number of people in old age homes is constantly increasing and also most of the parents are now deciding to live in old age homes rather than living with their children.
- A moral duty is put on the children to take care of their parents. But nowadays what we are observing in our society is that **the children are not willing to take care of their parents** and they do not want to spend money on them.

Housing Problems

- Housing for the senior citizens **should be suitable not only to the living pattern** which they have established in optimum health, but also to **conditions of failing health and illness**, commonly associated with later years of life such as, failing eyesight, hearing, slowing and upsurges, diminishing energy and more acute disabilities, such as blindness, forgetfulness etc.

- On this pattern, the housing available to the majority of the senior citizens may be found **inappropriate and unsuitable to their requirement.**
- The sizable populations of older widows as well as the older males have been facing the **problem of “where to live peacefully”.**

SUGGESTIONS

Improving the Economic and Social Welfare of Old Age Persons

- For alleviating their economic problem, **old people who are able to work should be helped to find some work**, full-time or part-time, in the field of interest and ability. This will help to **reduce their feeling of dependence** on others as well as futility in life.
- Many persons who are receiving state pension, under the old age pension scheme. This is a **good thing especially for the destitutes**.
- The criteria for eligibility for Government pension, **the amount of pension and the method of disbursing pension should be modified** in such a way that all the deserving old should get adequate income regularly and without so many formalities.

Improving the Health Status of Old Age Persons:

- **The National Programme for the Health Care for the Elderly (NPHCE)** was launched by the Ministry of Health and Family Welfare during the 11th Five Year Plan period. This programme **has to be effectively implemented by prioritising states** having a higher proportion of elderly population.
- The **introduced RSBY guidelines will need to be expanded** to ensure coverage of all BPL elderly households and the cash limit for these households will need to be enhanced.
- **Geriatric wards are to be opened in every district hospital.** Orientation courses should be arranged for the doctors in the field of geriatric medicine. Whenever possible **paramedical staff for domiciliary services should be provided for the care of the old.**
- The **family members should be made aware of the psycho-social and health problems** of the old in such a way that they should take a sympathetic attitude towards the old.

Enhanced Participation of Old Age Persons

- **Integrated Programme for Older Persons (IPOP)** underscores the need for creating awareness on various schemes for the elderly.
- **The National Council for Older Persons is not active enough** to bring multiple stakeholders to the table to hear and respond to the voices and demands of senior citizens.
- **Day care centres should be started** where the old can meet and mingle with their peers and spend their time in a socially meaningful manner.

- **Voluntary organizations have a vital role to play in the care of the aged.** More financial support should be extended to them to set up old age homes, particularly for the downtrodden sections of the elderly persons.

Effective Implementation of National Policy and Programmes for Old Age Persons

- While framing policies and programmes, **the ageing population should be given equal importance as other age groups.** Voluntary organizations which come forward to provide assistance for the destitute old should be given assistance.
- **Society and the state also should give importance to the old** by acknowledging their problems and by framing policies and programmes for their welfare.
- **The Maintenance and Welfare of Parents and Senior Citizens Act (MWPSCA)** enacted in December 2007 to ensure need-based maintenance for parents and senior citizens **needs to be more fully and uniformly implemented** in all states as awareness of this Act.

VULNERABILITY DUE TO DISABILITY

- **Disability is an important public health problem** especially in developing countries like India.
- The **problem will increase in the future** because of an increase **in the trend of non-communicable diseases** and a change in age structure with an increase in life expectancy.
- **The issues are different in developed and developing countries**, and rehabilitation measures should be targeted according to the needs of the disabled with community participation.
- In India, **a majority of the disabled reside in rural areas where accessibility, availability, and utilization of rehabilitation services** and its cost-effectiveness are the major issues to be considered.
- Research on **disability burden, appropriate intervention strategies and their implementation** to the present context in India is a big challenge.
- Globally, around **785-795 million persons aged 15 years and older are living with disability** based on 2010 population estimates.
- Of these, **the World Health Survey estimates that 110 million people (2.2%) have very significant difficulties** in functioning while the Global Burden of Disease Survey estimates 190 million have (3.8%) have severe disability.
- Including children, over a billion people (**about 15% of the world's population**) were estimated to be living with disability.

Constitutional Framework in India

The Constitution of India applies **uniformly to every legal citizen of India**, whether they are healthy or disabled in any way (physically or mentally) and guarantees a **right of justice**,

liberty of thought, expression, belief, faith and worship and equality of status and of opportunity and for the promotion of fraternity.

Relevant Articles in Indian Constitution providing constitutional guarantees to all including disabled are:

- **Article 15(1):** It enjoins on the Government not to discriminate against any citizen of India (Including disabled) on the ground of religion, race, caste, sex or place of birth.
- **Article 15(2):** It states that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing places (ghats), roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public.
- **Article 17:** No person including the disabled irrespective of his belonging can be treated as untouchable. It would be an offence punishable in accordance with law.
- **Article 21:** Every person including the disabled has his life and liberty guaranteed.
- **Article 23:** There can be no traffic in human beings (including the disabled), and beggar and other forms of forced labour is prohibited and the same is made punishable in accordance with law.
- **Article 29(2):** The right to education is available to all citizens including the disabled. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds.
- **Article 32:** Every disabled person can move the Supreme Court of India to enforce his fundamental rights and the rights to move the Supreme Court.

Programme/initiatives for Disabled in India

- **Accessible India Campaign : Creation of Accessible Environment for PwDs:**
 - A nation-wide flagship campaign for achieving universal accessibility that will enable persons with disabilities to gain access for equal opportunity and live independently and participate fully in all aspects of life in an inclusive society.
 - The campaign targets at **enhancing the accessibility of the built environment, transport system and Information & communication ecosystem.**
- **DeenDayal Disabled Rehabilitation Scheme:** Under the scheme **financial assistance is provided to NGOs for providing various services** to Persons with Disabilities, like special schools, vocational training centres, community based rehabilitation, pre-school and early intervention etc
- **Assistance to Disabled Persons for Purchase / fitting of Aids and Appliances (ADIP):** The Scheme aims at **helping the disabled persons by bringing suitable, durable, scientifically-manufactured, modern, standard aids and appliances** within their reach.
- **National Fellowship for Students with Disabilities (RGMF)**

- The scheme aims to **increase opportunities to students with disabilities for pursuing higher education.**
- Under the Scheme, **200 Fellowships per year are granted** to students with disability.
- Schemes of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.

CHALLENGES FACED BY DISABLES

Economic Challenges

- **Disabled persons face economic deprivation.** Due to their disability status they **cannot compete equally with able bodied persons** in the income generating activities.
- The majority of these were **not even afforded equal opportunities to pursue education.** Society has looked down on the disabled. Thereby they are absent in the formal employment sector.
- For those who fortunate enough to acquire some education the **usually do not advance in higher positions due to discrimination** against the disabled.
- Due to these economic reasons their **medical needs cannot be adequately catered for.** They cannot even afford to acquire special appliances to aid them whether they are crutches, wheel chairs, hearing aids, braille, and artificial limbs etc.
- The **lack of resources creates a circle of poverty** to the disabled as they least afford to send their own children to school.

Physical Challenges

- The disabled have **difficulties in accessing various facilities.** They cannot easily maneuver due to the discriminatory manner buildings were built.
- Even where some buildings have provisions for wheelchairs, **disabled persons may require additional assistance to manoeuvre.** They also **suffer challenges when using public transport** which is the most affordable transport for them.
- **Some operators shun the disabled as they do not cater for the space** to accommodate the wheelchair even where it is foldable. The way the vehicles are designed also make it difficult for the disabled to board the vehicles.

Socio/Psychological Challenges

- Disabled persons also suffer from socio/ emotional and psychological challenges **due to the way society views the disabled.** People usually pass comments and remarks that are insensitive.
- **Generally people even use derogatory words when referring to the disabled persons.** It is for this reason the word disabled is being substituted with physically or mentally challenged.

- These societal attitudes are found at all levels from family, Government level and international level. For instance the 2016 Paralympics had difficulties in finding sponsors for the tournament yet the tournament for the able bodied had no difficulties in being sponsored.

Education

- The disabled persons lack equal opportunities to attain education. This is due to discriminatory practices that have always looked down on the disabled.
- The able bodied children are given first priority to attain education. For the disabled even if there are opportunities to attend school most schools may not be accessible or far away.
- The majority of the disabled persons also require special schools who are very few and cannot accommodate even those disabled who can afford due to geographical challenges.
- Further, reservations for the disabled in higher educational institutions has not been fulfilled in many instances.

Health

- The disabled have little access to sexual and reproductive education and general health information. They usually lack family planning knowledge and access. As a result they have many children compounding their financial challenges to look after the children.
- Access to health care facilities is also a challenge. Some clinics are far away and some are not affordable.
- There is no readily available material in braille for the blind. Some disabled are physically and sexually abused. By the time the abuse is discovered it will be too late to get proper and correct treatment.

Employment:

- Even though many disabled adults are capable of productive work, disabled adults have far lower employment rates than the general population.
- The situation is even worse in private sectors, where much less disabled are employed

Discrimination/Social Exclusion:

- Negative attitudes held by the families of the disabled, and often the disabled themselves, hinder disabled persons from taking an active part in the family, community or workforce.
- Differently-abled people face discrimination in everyday life. People suffering from mental illness or mental retardation face the worst stigma and are subject to severe social exclusion.

Government Intervention

- The Government has enacted various laws to address disability in order to mitigate the challenges that the disabled face.
- The Disabled Persons Act, the Mental Health Act are some of the legislature. **However these benefits are not accessible to the majority of the disabled.** For the few who are lucky to benefit they face a challenge on how to transport their benefits.

SUGGESTIONS

Prevention:

- **Preventive health programs need to be strengthened** and all children screened at a young age.
- Kerala has already started an early prevention programme. **Comprehensive Newborn Screening (CNS) programme** seeks early identification of deficits in infants and reduces the state's burden of disability.

Awareness:

- People with disabilities **need to be better integrated into society** by overcoming stigma.
- There should be **awareness campaigns to educate and aware people** about different kinds of disability.
- **Success stories of people with disabilities** can be showcased to inculcate positive attitudes among people.

Employment:

- **Disabled adults need to be empowered** with employable skills.
- The **private sector needs to be encouraged** to employ them.

Better measurement:

- The scale of disability in India **needs to be better understood** by improving the measurement of disability.

Education:

- **State-wise strategies on education for children with special needs** need to be devised.
- **There should be proper teacher training** to address the needs of differently-abled children and facilitate their inclusion in regular schools.
- Further there should be **more special schools and ensure educational material** for differently-abled children.

Access:

- Safety measures like **road safety, safety in residential areas, public transport system etc**, should be taken up.
- Further, it should be made **legally binding to make buildings disabled-friendly**.

Policy Interventions:

- **More budgetary allocation for welfare of the disabled.** There should be a disability budgeting on the line of the gender budget.
- **Proper implementation of schemes should be ensured.** There should be proper monitoring mechanisms and accountability of public funds.

VULNERABILITY DUE TO MIGRATION

Human migration involves the movement of people from one place to another with intentions of settling, permanently or temporarily, at a new location (geographic region).

- The movement often occurs over long distances and from one country to another, but internal migration (within a single country) is also possible; indeed, this is the dominant form of human migration globally.
- The Constitution of India (Article 19) gives the right to all citizens “to move freely throughout the territory of India and to reside and settle in any part of the territory of India.
- As per Census 2011, 45 million Indians moved outside their district of birth for economic opportunities (be it employment or business).

The migration can be classified in 02 major parts as –

- **External Migration** - External migration in India can broadly be classified as:
 - **Emigration** from India to various parts of the world.
 - **Immigration** of people from different countries to India.
 - **Refugee Migration**: There had also been a significant trend of an involuntary or forced immigration to India in the form of refugees.
- **The internal migration** - Internal migration in India is primarily of two types
 - **Long term Migration**, resulting in the relocation of an individual or household.
 - **Short term Migration**, involving back and forth movement between a source and destination.

IMPACTS Of Migration

Migration is becoming a very important subject for the life of cities. **Many opportunities and attractions in big cities pull large numbers of people to big cities.** Migration can have positive as well as negative effects on the life of the migrants.

Positive Impact

- **Unemployment is reduced** and people get better job opportunities.
- Migration helps in **improving the quality of life** of people.
- It helps to **improve the social life of people** as they learn about new culture, customs, and languages which helps to improve brotherhood among people.
- Migration of skilled workers leads to a **greater economic growth of the region**.
- **Children get better opportunities** for higher education.
- The **population density is reduced** and the birth rate decreases.

Negative Impact

- The loss of a person from rural areas, **impact on the level of output and development of rural areas**.
- The influx of workers in urban areas **increases competition** for the job, houses, school facilities etc.
- Having a large population puts **too much pressure on natural resources**, amenities and services.
- It is **difficult for a villager to survive in urban areas** because in urban areas there is no natural environment and pure air. They have to pay for each and everything.
- **Migration changes the population of a place**, therefore, the distribution of the population is uneven in India.
- Many migrants are completely illiterate and uneducated, therefore, **they are not only unfit for most jobs, but also lack basic knowledge and life skills**.
- **Poverty** makes them unable to live a normal and healthy life.
- Children growing up in poverty have **no access to proper nutrition, education or health**.
- Migration increased the slum areas in cities which increased many **problems such as unhygienic conditions, crime, pollution etc.**
- **Sometimes migrants are exploited**.
- Migration is one of the main causes of an increasing **nuclear family** where children grow up without a wider family circle.

MAJOR CAUSES OF MIGRATION IN INDIA

The 2011 Census highlight the 7 main causes of migration as –

- For business
- For work and employment
- Marriage
- Moved at birth (child moving with parents)
- Moved with families (dependent population moved along with employed population)
- Political reasons (mostly forced migration including ethnic, tribal, religious conflicts and displacement due to development projects)

- Education

These causes can be explained as -

- **Marriage:** Marriage is a **very important social factor of migration**. Every girl has to migrate to her in-law's place of residence after marriage. Thus, the **entire female population of India has to migrate over short or long distances**. Among the people who shifted their residence more than half (56.1%) moved due to marriage in 1991.
- **Employment:** People migrate in large numbers **from rural to urban areas in search of employment**. The agricultural base of rural areas does not provide employment to all the people living there.
- **Even the small-scale and cottage industries of the villages fail to provide employment** to the entire rural folk. Contrary to this, **urban areas provide vast scope for employment** in industries, trade, transport and services. About 8.8 per cent of migrants migrated for employment in 1991.
- **Education:** Rural areas, by and large, **lack educational facilities, especially those of higher education** and rural people have to migrate to the urban centres for this purpose. Many of them settle down in the cities to earn a livelihood after completing their education.
- **Lack of Security:** **Political disturbances and interethnic conflicts** drive people away from their homes. **Large number of people have migrated out of Jammu and Kashmir and Assam** during the last few years due to disturbed conditions there.
 - People also migrate on a short-term basis in search of better opportunities for recreation, health care facilities, and legal advice or for availing service which the nearby towns provide.
- **'Pull' and 'Push' Factors:** Urban centres provide **vast scope for employment in industries, transport, trade and other services**. They also offer modern facilities of life. Thus, they **act as 'magnets'** for the migrant population and attract people from outside. In other words, cities pull people from other areas. This is known as "pull factor".
 - People also migrate due to '**push factors**' such as **unemployment, hunger and starvation**. When they do not find means of livelihood in their home villages, they are 'pushed' out to the nearby or distant towns.
 - Millions of people who migrated from their far-off villages to the big cities of Kolkata, Mumbai or Delhi did so **because these cities offered them some promise for a better living**. Their home villages had virtually rejected them as a surplus population which the rural resources of land were not able to sustain any longer.

CHALLENGES & ISSUES FACED BY MIGRANTS

- **Health and Living Conditions:** The migrant labourers working in unorganized sectors work and live in unhygienic and polluted environments are vulnerable to health problems and sickness.

- **Spread of Communicable Diseases:** Each state has a unique epidemiological profile of communicable diseases. Several new cases of malaria have been reported in regions where the disease was absent, and this has been attributed largely to migration.
- **Violence Against Women:** Female migrant labourers face several important gender-based problems, including gender-based discrimination at work and violence.
- **Child Labour:** Children who migrate along with their families are deprived of the free and subsidised educational facilities offered by the state resulting in Child Labour.
- **Psychosocial Disorders:** Migrant labourers do not have social capital and social support structures in the place to which they have migrated. This gives rise to a good deal of psychological distress.
- **Occupational Diseases:** Migrant labourers are usually employed in the 3-D jobs – dangerous, dirty and degrading. These jobs are invariably associated with more occupational hazards than other jobs.
- **Documentation and Identity:** Proving their identity is one of the core issues impoverished migrants face when they arrive in a new place, a problem that can persist for years or even decades after they migrate.
- **Political Exclusion:** In a state of continuous drift, migrant workers are deprived of many opportunities to exercise their political rights. Because migrants are not entitled to vote outside of their place of origin, some are simply unable to cast their votes.
- **Exploitation by Agents:** Migration flows are mediated by an elaborate chain of contractors and middlemen who perform the critical function of sourcing and recruiting workers. The lowest links in this chain are most often older migrants who are part of the same regional or caste-based social network in the rural areas.

SUGGESTIONS TO PROMOTE DECENT WORK FOR MIGRANT WORKERS IN INDIA

- **Establishing institutional mechanisms** for inter-state coordination
- **Improving enforcement of labour laws**
- **Adopting a four-pronged approach for better protection of rights of workers** that defines the roles and responsibilities of the state, employers, workers/trade unions/civil society organizations and emphasizes the use of social dialogue and collective bargaining for promoting the rights of migrant workers
- **Ensuring access and portability of social security schemes**, for example, access to public distribution network/ subsidized ration in destination areas
- **Accessing housing, water and sanitation**
- **Providing identity documents to migrants**, which enables them to open bank accounts and enrol for welfare schemes
- **Universal registration of workers on a national platform** and developing comprehensive databases
- **Strengthening and/or setting up** district facilitation centres, migrant information centres and gender resource centres
- **Strengthening the role of panchayats** in registering workers

- **Strengthening the role of vigilance committees** to guard against bonded labour and child labour
- **Registering workers** by organizing enrolment camps
- **Providing education and health services** at the worksites or seasonal hostels
- **Providing skills training**, in particular for adolescents and young workers
- **Establishing a universal helpline** for migrant workers

MINORITIES

RELIGIOUS AND CASTE MINORITIES

- The Republic of India is home to a large number of minority and indigenous communities, including disadvantaged groups **such as Dalits** (scheduled castes) representing over 16% of the population, **as well as religious minorities like Muslims (14%), Christians (over 2%), Sikhs (over 1.5%), Buddhists, Baha'is, Jews and Parsis**, and indigenous groups such as **Adivasis, Nagas and Andaman Islanders**.
- **Geographic spread of minorities in India**
- Notified minorities constitute about 19% population of the country.
- In rural India during 2009-10, 11 per cent of **households followed Islam with about 12 per cent** of the population. **Christianity was followed by around 2 percent** of the households constituting about 2 percent of the population.
- In urban areas, the percentages of households and population following Islam were about 13 and 16 and following Christianity were about 3 and 3, respectively.
- The Government of India has also forwarded a list of 121 minority concentration districts having at least 25% minority population, excluding those States / UTs where minorities are in majority (J&K, Punjab, Meghalaya, Mizoram, Nagaland and Lakshadweep).

ISSUES/PROBLEMS FACED BY MINORITIES

Constitutional Nepotism:

- The preamble of the Indian Constitution disallows the formation of a theocratic state and precludes the state from identifying itself with, or otherwise favoring, any particular religion.
- Additionally, the constitution encompasses several provisions that emphasize complete legal equality of its citizens irrespective of their religion and creed and prohibit any kind of religion-based discrimination between them.
- But neither in laws nor in practice does there exist any separation between religion and the state; in fact, the two often intervene in each other's domain within legally prescribed and judicially settled parameters.
- Article 290A is one of the core examples of India constitutionally favoring a particular religion.

“Minorities”: A Term Undefined In The Indian Constitution:

- Articles 29, 30, 350A, and 350B of the Indian Constitution use the word “minority” and its plural forms, **but do not define it.**
- Due to state-based recognition of religious minorities, **some religious minorities have struggled to get national-level recognition** by India’s central government.

Discriminatory Laws and Violence Against Religious Minorities:

- **Since 2012, levels of communal violence in India have remained consistently high.** The most severe case during this period took place in Muzaffarnagar (Uttar Pradesh) in 2013, prior to the 2014 general election, leading to the death of over 60, and displacement of over 50,000, the majority of whom are Muslim.
- Lower-level violence against religious minorities has **increasingly been linked to communal mobilization** around anti-cow-slaughter and anti-conversion legislation.

Legal Assimilation of Sikhism, Buddhism, And Jainism into Hinduism:

- **Article 25**, sub-clause 1 of the Indian Constitution guarantees freedom of conscience and the right to freely profess, practice and propagate religion. However, **its sub-clause 2 (B) and its corresponding Explanation II is considered very controversial.**
- **This constitutional provision is very discriminatory**, as it connotes that even as a multi-faith state, India seems to be concerned about the social welfare of only one religion (Hinduism) and its religious institutions.

Exclusion of Christian and Muslim Dalits from the Prevention of Atrocity Act:

- **Dalit Christians and Dalit Muslims are excluded from the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act**, adopted in 1989, which aims at dissuading violence by providing harsher punishment for persons committing offences against individuals protected under this Act.
- As stressed by the UN Special Rapporteur on arbitrary executions, this exclusion not only **prevents them from securing reservations**, but it **also excludes them from the protection of this law** on a discriminatory basis.

Discriminatory Personal Status Laws:

- **The Hindu Marriage Act of 1955** serves to modify and categorize the laws relating to marital relationships among Hindus. Under this act, the ceremonial marriage is mandatory. However, because Sikh, Jain, and Buddhist communities are deemed Hindu per Article 25 sub-clause (B), **they are issued marriage certificates under the Hindu personal status laws.**
- **The Indian Divorce Act of 2001**, which restricts inheritance, alimony payments, and property ownership of people from interfaith marriages, is problematic for religious minority communities in India. The act **also interferes in the personal lives of**

Christians by not allowing marriage ceremonies to be conducted in a church if one of the partners is non-Christian

Access to Justice for Minority Victims:

- Access to justice for minority victims of communal violence is **frequently obstructed at various stages** – from initial filing of a case to prosecution – for reasons such as trust in authorities, destruction of evidence and intimidation.
- This is **often linked to degrees of state complicity** involved with these incidents, as well as **deeper institutional bias against minorities** within the criminal justice system.
- Aid distributed to victims of mass violence against religious minorities has been categorised as '*ex gratia*', and therefore voluntary, **lacking recognition of legal obligation** on the part of the state to "make available adequate, effective, prompt and appropriate remedies, including reparation", as per international standards.
- Further, there remains a **lack of progress towards addressing and securing reparation for gender-based violence (GBV) in these cases**, in contravention to recommendations by the CEDAW.

Minorities in Detention:

- According to 2015 statistics from the **National Crimes Records Bureau**, **more than 67% of those in India's jails are defendants under trial**, 25% of whom were in prison for over one year.
- **Muslims, Dalits, and Adivasis make up 55% of India's defendant population**, but only a combined 39% of the country's total population.
- **Overrepresentation of minorities in India's prisons reflects deeper institutional bias** against minorities in relation to law enforcement, with severe manifestations including cases of 'encounter killings' and physical abuse by authorities, especially in conflict areas such as Jammu & Kashmir.
- Further, **there remain challenges in holding public servants to account**, particularly in those areas where the Armed Forces (Special Powers) Act is applied.

NGO Law and Minority Rights Defenders:

- India has adopted measures which have **severely constrained activities of civil society, including the Foreign Contribution (Regulation) Act** that in December 2016 saw 20,000 NGOs blocked from receiving foreign funds.
- The FCRA, which does not meet international standards, has **seriously impaired efforts to protect and promote minority rights in India**, with many of those affected at the forefront of supporting victims of communal violence and advancing Dalit rights.

SUGGESTIONS/RECOMMENDATIONS

The government of India should:

- **Increase training opportunities** on human rights and religious freedom standards and practises for the members of its legislature, police, and the judiciary.
- **Operationalize the term “minority”** in its federal laws and comply with the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities.
- **Drop Explanation II in Article 25 of its constitution** and recognize Sikhism, Buddhism, and Jainism as distinct religions with their own separate religious identities. The government of India also should **adopt the recommendations of the Venkatachaliah Commission (2000–2002)**.
- **Not impose Hindu personal status laws on Sikh, Buddhist, and Jain communities**, but instead provide them with a provision of personal status laws as per their distinct religious beliefs and practices.
- **Adopt the International Convention on the Elimination of All Forms of Racial Discrimination**.
- **Implement the recommendations of the Commission for Religious and Linguistic Minorities (2007)**.
- **Stop its harassment of nongovernmental organisations, religious freedom activists, and human rights defenders** under the Foreign Contribution Regulation Act (FCRA) of 2010. The discriminatory amendment in the FCRA (introduced in March 2016 with retroactive implementation from 2010) should be revoked.
- **Reform the anti-conversion laws** and appreciate that both conversion and reconversion by use of force, fraud, or allurement are equally bad and infringe upon a person's freedom of conscience.
- **Establish a test of reasonableness surrounding the Indian state prohibitions on cow slaughter**. If the Indian government is keen to maintain this legislation based on religious sentiments, then it should also introduce legislation to recognize as hate crimes the desecration and mockery of sacred texts of any religion, places of worship, or prophets of any religion.

“Prime Minister’s New 15-Point Programme for the Welfare of Minorities”.

The Standing Committee on Social Justice and Empowerment (Chairperson: Mr. Hemanand Biswal) submitted its report on the implementation of the Prime Minister’s New 15 Point Programme for the welfare of religious minorities.

The Programme, launched in 2005, seeks to ensure the welfare of religious minorities through: (a) increasing educational and employment opportunities, (b) improving living conditions, and (c) preventing and controlling communal riots.

Currently, **Muslims, Christians, Sikhs, Buddhists, Parsis and Jains** are identified as religious minorities. **Jains were notified as a religious minority community in January 2014**. Major observations and recommendations of the Committee are:

- **Increasing educational opportunities:** The Committee recommended that the literacy rate of Muslims be improved, with a special focus on the educational and social development of Muslim women. Measures must be taken to promote Urdu.
- **The number of educational scholarships for minorities must be increased** such that every minority student has access to scholarships till the university level. Coaching academies to prepare students from minority communities for competitive examinations must be established.
- **The Ministry of Human Resource Development should collect data on children** dropping out of school, and the number of children finally completing school, in addition to the number of children enrolled.
- The Committee pointed out that while there has been an increase in the allocation of funds for improving the quality of education in madrasas, data on the output from these madrasas has not been collected.
- **Increasing employment opportunities:** Large and medium scale industries must be developed in notified minority concentration districts by members of minority communities as well as others.
- The Committee noted that the **government employed close to 10% of people from minority communities** in 2010-11 and public sector undertakings employed approximately 7%. It recommended that both recruit at least 15% of people from minority communities. **Data on schemes such as the Seekho and Kamao scheme must be collected** to determine their impact.
- **Improving living conditions:** The Committee noted that the poverty ratio is highest for Muslims in urban areas at 34%. Additionally, the ratio of workers in the total population (worker population ratio) is much higher for males than for females in all religious groups, especially in urban areas.
- While there has been a **decline in unemployment and an increase in the worker population ratio among Muslims**, the worker population ratio remains much lower than all India figures.
- The Committee recommended that **planning, sanctioning of projects, and allocation of funds be done at the block level** and not the district level. A list of persons below the poverty line belonging to minority communities must be prepared.
- **Each minority concentration block should have a nodal officer** to liaison with various government agencies. The Programme must provide for primary health care to minority communities with special facilities for women and children.
- **Preventing and controlling communal riots:** The Committee noted that 668 incidents of communal violence were reported in the country in 2012 in which 703 persons were killed and 1,506 persons were injured.
- The Committee recommended that **an elaborate block-wise programme involving various stakeholders should be evolved** to address communalism. This should involve confidence building measures, speedy rehabilitation of riot victims, and mobilisation of human resources and investment. Police forces must be sensitised on communal issues.

SEXUAL MINORITIES

- Sexual minorities are a **group whose sexual identity, orientation or practices differ from the majority** of the surrounding society. Usually, Sexual minorities comprise of lesbian, gay, bisexual and transgender individuals.
- **Homosexuality was treated as heinous offence in Manusmriti** and punishment for such offence was there. In the Manusmriti Lesbianism was treated as a serious offence and for it more serious punishment was there.
- In Islamic period, **the Muslim Shariat law treats homosexual conduct as a serious offence**. Therefore in different religion different punishments were provided to homosexual offences in India.
- **Although sexuality minorities have always existed in India** sometimes in various forms like culturally sanctioned (such as the hijra) and at other times in invisibility and silence, their issues have never seriously been articulated. **It is only in the final decade of the 20th century that the gay/ lesbian/ bisexual/ transgender movement brought to the fore the rights** of those discriminated against because of their sexuality.
- In fact, **most human rights organizations in India have not begun to address the question of rights** of gays, lesbians, bisexuals and transgender others who are oppressed due to their sexuality. Sexuality is sometimes viewed even in liberal and radical circles as a **frivolous, bourgeois issue**.

Key Provisions of the Transgender Persons (Protection of Rights) Act, 2019

- **Defining the transgender person:**
 - The Act defines a transgender person (Transmen / transwomen, person with intersex variations etc.) as one whose gender does not match the gender assigned at birth.
 - Intersex variations means a person who at birth shows the variation in primary sexual characteristics
- **Prohibition against discrimination:**
 - This law makes any discrimination against LGBTQ+ community a punishable course.
 - Any person who is found to be compelling a transgender person into bonded labour denying right of public passage to a transgender person, etc., can be penalised with imprisonment of not less than six months, that can extend up to two years.
 - The prohibited Grounds that discrimination against a transgender person are - denial, discontinuation or unfair treatment in educational establishments, services, employment, healthcare.
- **Identity certification :**
 - Under this act, any transgender person hold the right to self-perceived gender identity.
 - This certificate can be obtained at the District Magistrate's office and a revised certificate is to be obtained if sex is changed.
 - This act also provides the right of residence with parents or immediate family members.
- **Welfare measures by the government:**
 - The act mentions that the Government will formulate transgender sensitive, non-stigmatising and non-discriminatory welfare schemes and programmes.

- The government shall provide education, sports and recreational facilities for transgender people.
- Provisions for separate HIV surveillance centres and sex reassignment surgeries should also be provided by the government.
- The Central Government will set up the National Council for Transgender Persons (NCT).

ISSUES OF SEXUAL MINORITY COMMUNITIES IN INDIA

- **Scope of the Section 377 of IPC is Ambiguous:** Under section 377 of IPC scope of unnatural offences is an ambiguous because **there is no clear distinction between consenting and coercive sex, against the order of nature etc.**
- **Discrimination on The Ground Of Sex:** The fundamental right under the Constitution of India prohibits discrimination on the ground of sex. Therefore it is a violation of fundamental rights of LGBT Minority people as under.
 - Lack of educational facilities.
 - Right to life and personal liberty.
 - right to live with family
 - right to livelihood
 - Right to speech and expression.
 - Right to profession and business.
 - Equal pay for equal work.
 - Freedom of Religion
 - Right to live with human dignity
 - Right to equality.
- **Family Issues: Lack of communication and misunderstanding** between parents and their LGBT children increases family conflict. These problems with communication and lack of understanding about sexual orientation and gender identity **can lead to fighting and family disruption that can result in an LGBT adolescent being removed from or forced out of the home.**
- **Social Exclusion and Discrimination:** Sexual minorities find it difficult to get a house **on rent**, and frequently change their residence. Thus it is **difficult for them to produce proof of residence**. Subsequently, many of them **do not get social or disability pension, voters ID, ration card, passport** and many of them do not even get a caste certificate. There have been multiple instances in which they **had to approach the court for getting medical certificates**. They also get excluded in the population census. Hence, **they are a non-existent or an invisible community**, who do not get included in any social and health policy.
- **Discrimination at workplace:** Discrimination of LGBT persons at workplace is a significant factor in the **differences in socioeconomic status for LGBT persons**. Gay and transgender individuals suffer from socioeconomic inequalities in large part due to discrimination in the workplace. Discrimination **directly causes on their job, stability and it result in unemployment and poverty.**

- **Drug Addict:** Due to loneliness LGBT people become drug addicts and turn toward alcohol, tobacco and other drugs than the general population.
- **Physical health:** Sexual minorities are at **high risk for developing sexually transmitted diseases** (STDs) and HIV/AIDS. The reason for high prevalence of HIV is attributed to **re-use of needles and unprotected intercourse** as part of commercial sex work both in hetro- and homo-sexual relationship. They are also **high-risk victims of physical, sexual, economical and emotional violence** from the so-called normal community.
- **Victims of Crime:** These LGBT minority people become victims of violence and crime. However, LGBT individuals '**experiences of violence and discrimination differ depending on a number of factors** including race, gender, income, immigration, status and language barriers. **LGBT immigrants are more likely to face violence** based on race and ethnicity and/or sexual identity and/or gender identity.
- **Injustice on LGBT Minority:** Human rights and fundamental rights are applicable to all persons but the state **has failed to create special legislation which protects rights of LGBT minority community** and to provide real justice to them. They are also human beings and such treatment should be provided by the state to these people. In many instances **LGBT individuals are not legally protected from abusive and discriminatory actions.**

SUGGESTIONS

- State has to **protect their fundamental rights** without any discrimination.
- **Special law** should be enacted.
- **Provide opportunities** in social and economic activities.
- Need to **protect human rights**.
- Need to take **preventive measures** in family, public and domestic violence.
- Government should take **initiatives to support employers** in making the workplace and workplace culture more supportive and inclusive of LGBT people.
- **Need to change social attitudes** toward LGBT Minority people.
- **Free health facilities** should be provided by the states to them, including health.
- Need to **organize workshops and seminars** about their rights.
- To **overcome homophobia**, there is an urgent need to invest in research in this area and inclusion of issues on sexual minorities in the medical curriculum.

BODIES CONSTITUTED FOR THEIR PROTECTION AND BETTERMENT

THE NATIONAL COMMISSION FOR WOMEN

NATIONAL COMMISSION FOR SCHEDULED CASTES (NCSCs):

THE NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST)

NATIONAL COMMISSION FOR BACKWARD CLASSES

- National Commission for Backward Classes (NCBC) was **initially constituted by the Central Govt by The National Commission for Backward Classes Act, 1993** and so far the Commission had been **reconstituted 7 times up to 2016**. The Central Govt has repealed The National Commission for Backward Classes Act, 1993.
- **The present Commission (8th) has been accorded Constitutional Status** and constituted through “**The Constitution (One Hundred and Second Amendment) Act, 2018**, whereby **Article 338B** has been inserted, forming a Commission for the socially and educationally backward classes to be known as NCBC.
- Now through “the constitution (one hundred and five amendments) Act 2021, The states and union territories can make their separate list of backwardness.
- The **Commission consists of five members** including a Chairperson, Vice-Chairperson and three other Members appointed by the President by warrant under his hand and seal.
- The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members is **determined by the President**.

How Does The New Commission Be Different From Its Earlier Version?

- The **new act has recognized that BCs also need development in addition to reservations**. There are provisions in the act for development of Socially and Educationally Backward Classes (SEdBCs) and the new NCBC's role in the development process.
- The **new NCBC is entrusted with the additional function** of grievance redress of backward classes.
- **Article 342(A)** introduces greater transparency as it is made mandatory to take the concurrence of Parliament for adding or deleting any community in the backward list.
- Apart from list-inclusion and reservation, **it requires comprehensive and holistic development and advancement of each community** towards equality in all parameters of development and welfare.

NATIONAL SCHEDULED CASTES FINANCE AND DEVELOPMENT CORPORATION
(NSFDC)

NATIONAL SAFAI KARAMCHARIS FINANCE AND DEVELOPMENT CORPORATION
(NSKFD)

NATIONAL COUNCIL FOR OLDER PERSONS

SPECIAL OFFICER FOR LINGUISTIC MINORITIES

NATIONAL COMMISSION FOR RELIGIOUS AND LINGUISTIC MINORITIES

UPSC GS2 SYLLABUS : ISSUES RELATING TO DEVELOPMENT AND MANAGEMENT OF SOCIAL SECTOR/SERVICES RELATING TO HEALTH, EDUCATION, HUMAN RESOURCES.

SOCIAL SECTOR BASICS

Definition of Social Sector

- It is difficult to come across a formal definition of the term “social sector”. Generally, it is used to refer to **sectors like education, health and nutrition, etc.** that are concerned with the provisioning of ‘**merit goods**’ which are socially valuable but which may not always bring immediate or direct economic returns.
- Social Development focuses on the need to “**put people first**” in development processes. Social development is about **improving the well-being of every individual in society** so they can reach their full potential.

Different Approaches

Human Capital Approach

- This approach emphasizes **expenditure on education, health and nutrition** as a means of enhancing the quality of human capital which is generally defined as the “**stock of skills and productive knowledge embodied in people**”.
- Expenditure on schooling, health, on-the-job training, searching for information about job opportunities, migration, etc. are **investments that people make in themselves in the expectation of higher financial returns** from such investments in future. That is, investment in these sectors is emphasized as a ‘**means**’ to **higher productivity of the labour force** that will lead to higher earnings.
- However, **this approach mainly relies on private initiatives to investment in education, health, etc.**
- **It does not take into account issues like poverty, discrimination and social backwardness** and, hence, ignores the consequent inability of individuals to avail the opportunity of investing in themselves.

Human Development Approach

- This approach views basic attainments in education, health and nutrition, etc. **as an end in itself rather than as a means** to higher productivity and higher earnings.
- In this approach, **the ultimate goal is to improve the quality of life** of the people and measures such, as education, health and nutrition are emphasized for their intrinsic value and for their role in enhancing the basic capabilities of the people.

- Thus, in this approach, the social sector stands for those sectors **that help in the building up of human capabilities.**
- In this approach, the **acquisition of education, health, etc. are considered as basic rights** of the people and are promoted even if the conventionally measured rates of return on these investments are low.
- It is being increasingly realized that even for human capital to contribute to economic growth, it is **essential to ensure a minimum level of human development.**

Importance of Social Sector

- It is quite obvious from the definition of social sector that the level of development of this sector **directly affects the level of human development of a region.** However, the social sector can play a vital role in **influencing the rate of economic growth as well.**
- As the social sector develops, **quality of life improves, leading to better quality human capital** that leads to higher total factor productivity. Thus, the achievement in the economic front is closely dependent on and related to that in the social sector.

Example:

- Within India, the **experience of Kerala also demonstrates the importance of social sector** attainments in influencing human development as well as economic growth.
- Kerala's development experience was considered to be an **exemplary case that could be used to demonstrate the general possibility of achieving high levels of social development** even with very little economic advancement.
- Kerala's experience was, thus, held up as a "model" for the developing world, and the so-called "**Kerala model**" eventually became part of the global development discourse.

Public Spending on Social Sector

- Social sector provides the **requisite framework for attaining a desired level of human development.** Hence, the development of this sector is very crucial.
- The level of social sector development of a country depends on various factors. But perhaps the most important factor affecting the development of the social sector is the **political commitment to this area that determines the level of public spending on these sectors.**
- The **UNDP's Human Development Report 1991 introduced four expenditure-ratios** that were considered necessary to design and monitor the level of public spending on these sectors.
- The four ratios are:
 - the **Public Expenditure Ratio (PER)** defined as the percentage of national income that goes into public expenditures;
 - the **Social Allocation Ratio (SAR)** defined as the percentage of public expenditures earmarked for social services;

- the **Social Priority Ratio (SPR)** defined as the percentage of social expenditures devoted to human priority concerns (elementary education, preventive health care, 25 water supply and sanitation, and nutrition as human priority concerns); and
- the **Human Expenditure Ratio (HER)** defined as the percentage of national income devoted to human priority concerns (it can be expressed as the product of the other three ratios).
- According to the report, the **HER needs to be around 5% if a country wishes to do well in human development.** This may be achieved in an efficient manner by keeping “the PER moderate (around 25%), allocate much of this to the social sectors (more than 40%) and focus on the social priority areas (giving them more than 50%)” (UNDP, 1991).

Examples:

- The growth rates of Jamaica and Sri Lanka have been comparatively low but they **stand out sharply as high achievers in longevity than most other countries** at a comparable income level. Other exceptionally good achievers are Israel, Costa Rica and Barbados.
- Sri Lanka has been known for a long time as a unique example of a developing country whose **achievement in terms of basic needs has been extremely impressive** relative to its income level.
- The **experience of the East Asian countries also demonstrates that successful public action** in the field of social sector development has enabled these countries not only to achieve high levels of human development but also high rates of economic growth.

Trends of Public Spending in India and Other Countries

- Social sector spending has **always been low in India compared to other countries.**
- According to the Economic Survey 2017-18, the expenditure on social services, including health, education, and skill development, by the Centre and states as a proportion of gross domestic product (GDP) had **remained in the range of 6% during 2012-13 to 2014-15.**
- **India spends 1.02% of the gross domestic product on public healthcare**, while Maldives spends 9.4%, Sri Lanka 1.6%, Bhutan 2.5%, and Thailand about 2.9%. **Sri Lanka spends about four times as much as India per capita on health** and Indonesia more than twice, according to the National Health Profile 2018.
- In education, **India's public investment in education is around 2.7% of GDP**, while it is 3.4% in Sri Lanka and 7.4% in Bhutan.

Social Sector and Indian Economy

- Social Sector is an important sector of the Indian economy and includes those components which play an important role in the **contribution of human resource development**.
- Social Sector may also refer to **the value system of the economy** such as values of freedom, gender, nationalism, habit of saving and investment.
- The elements of **Liberalisation, Privatisation, Globalisation** are the important aspects of economic reforms which greatly govern the economic sphere.
- In the process of economic liberalization the state may not participate in all the economic activities but it has to **play a key role in the arena of physical and social infrastructure**.
- Any improvement in the social sector may bring about little growth but **it's a vital component of development**.
- The social sector expenditures as a percentage of total expenditure has been **continuously increasing till 1990-91 from 1984-85 onwards but since 1991-92 there has been a dip** in the percentage and the percentage change in social sector expenditure during the reform period is not too high.

How Social Sector Is Important For Economic Growth

Balancing Social and Economic growth for Human Capital Development

Continued push in the health, water and sanitation sector will help build a strong social fabric that will take forward the government's development agenda.

Inclusive Job Creation

- India's strength is its **vast entrepreneurial ecosystem** which has the potential to leapfrog job creation, innovation and inclusive economic growth.
- It needs to be **pushed further by the government** with enabling policies, regulatory framework and by creating a level playing field.
- **Women are essential stakeholders in the development process.** The prerequisite to ensuring **gender equality** is to formulate gender-aware and evidence-based policies with a conscious emphasis on gender-friendly workplace practices.
- The Government could consider **making gender audits mandatory** and certain indicators may need to be reported as part of the Annual Report.

Skilling for improved Employment

- **Education is the passport to the future**, for tomorrow belongs to those who prepare today.
- **Nearly 50% of India's population is under 25** and the level of youth illiteracy is about 15% indicating that even the literate lack skills required for employment.

- Budget 2019 announced major investments in education and skills (especially new-age skills). **Continued focus on youth education, skill development** will be critical factors in building a talented pool of resources for India Inc.

Making Social Goals intrinsic to Economic Revival

- Measures such as corporate tax rate cuts, bank recapitalisation, infrastructure spending plans, support to the auto sector etc. have **not really helped in increasing the consumption levels**. The government could **increase expenditure to create demand for consumption**.
- This could be done through **linking specific infrastructure creation with social sector schemes** like NREGA.
- In times like the present, more **social sector schemes directly relating to the poor would have a greater impact** and increase consumption levels than corporate tax cuts etc.
- While the role of the government in **framing coordinated policy measures for conducive economic growth** is crucial, as citizens we need to be equally proactive and participatory.

ISSUES

Resource gap and Lack of Funding,

- Over the last several years, the social sector has been struggling in the face of stagnant or declining budgets. Funding from international agencies has declined following the enactment of the Foreign Contribution (Regulation) Act, 2010, which regulates foreign funds being received by NGOs and how they are used.

CSR in India and its impact on the social sector

- the gaps in the managerial and organisational capabilities of the social sector continue to be a barrier. Public sector companies generally route their Corporate Social Responsibility (CSR) funds through self-run foundations, instead of nonprofits. Moreover, lack of trust, coupled with weak and cumbersome laws, discourage private philanthropists from funding these organisations as well.

Lack of Importance to Social Development

- The predominance of an **economic rather than human development approach persists** in conditioning developing countries to drastically restructure their economies as a means to establish appropriate incentives for economic growth.

Economic Liberalization and Unequal International Competitiveness

- Entangled in the fuzzy net of the international political agendas of the day, many aid agencies, international organizations, and governments **continue to pay lip service to the dramatic social crisis eroding developing societies** as a result of economic liberalization and conditions of unequal international competitiveness.

Flawed Development Strategies

- Development strategies too often refer to the poor as an abstract homogenous notion which permits categorizing individuals as **falling below a statistical line defined in economic terms**

SUGGESTIONS/RECOMMENDATIONS

Ashoka University's Centre for Social Impact and Philanthropy (CSIP), along with Lumen Consulting, conducted a study to **examine the legal and regulatory frameworks and government systems** for governing and engaging with the social sector.

These recommendations **were compiled into a report**, here are its key highlights:

- 1. Modernise and streamline the registration process** across all laws at the central and state level by developing, among other things, an online registration process, a common definition of 'charitable purpose', and a **national registration law** which co-exists with current state level registration laws.
- 2. Nonprofits should have the option to register under the new national law or the existing state laws**, and an online database of nonprofits registered across all laws should be maintained.
- 3. Keep nonprofit registrations active** as long as tax returns are filed regularly, instead of mandating periodic renewals.
- 4. Promote increased cooperation** between tax and other government departments like FCRA, Registrar of Societies, etc. to reduce the need for multiple filings.
- 5. Lessen the compliance requirements** for nonprofits within a certain budget.
- 6. Increase the income level** above which nonprofits need to get audited by a chartered accountant. Currently, it is INR 2.5 lakhs, as compared to INR one crore as total sales turnover for businesses and INR 50 lakhs as total gross receipts for individual professionals.
- 7. Revise the definition of 'income' under the IT Act**, and the related tax exemptions, so as to not consider voluntary contributions and donations as income.
- 8. Simplify FCRA provisions** so that nonprofits can effectively mobilise foreign funds for their work. There should be a focused effort on making this access as frictionless as possible.

9. Strengthen the grievance redressal system under FCRA with a defined turn-around time and escalation system. There should also be greater transparency, especially in cancellation of FCRA registrations.

- The Government could consider **making gender audits mandatory** and certain indicators may need to be reported as part of the Annual Report.

The National Policy on the Voluntary Sector 2007, developed by the erstwhile Planning Commission, clearly states that creating an enabling environment for the sector as one of its objectives.

The report highlights **key aspects**:

- 1. Increased public trust in nonprofits** and high levels of domestic philanthropy.
- 2. Legal frameworks** that build such trust by **maintaining a balance** between facilitation of the sector, and increased accountability for misconduct.
- 3. Regulations that promote efficiency for nonprofits**, and are low on red tape and complex burdensome processes.
- 4. Trained administrators** who are sensitive and enabling in their approach.

HEALTH CARE SECTOR BASICS

Healthcare has become **one of India's largest sectors** - both in terms of revenue and employment. Healthcare comprises hospitals, medical devices, clinical trials, outsourcing, telemedicine, medical tourism, health insurance and medical equipment. The Indian healthcare sector is **growing at a brisk pace due to its strengthening coverage, services and increasing expenditure** by public as well private players.

Indian healthcare delivery system is **categorised into two major components - public and private**. The Government, i.e. **public healthcare system comprises limited secondary and tertiary care institutions** in key cities and focuses on providing basic healthcare facilities in the form of primary healthcare centres (PHCs) in rural areas. The **private sector provides the majority of secondary, tertiary and quaternary care institutions** with a major concentration in metros, tier I and tier II cities.

India's competitive advantage lies in its **large pool of well-trained medical professionals**. India is also cost competitive compared to its peers in Asia and Western countries. **The cost of surgery in India is about one-tenth of that in the US or Western Europe**. India ranks 145th among 195 countries in terms of quality and accessibility of healthcare.

Government Initiatives

Some of the major initiatives taken by the Government of India to promote Indian healthcare industry are as follows:

- In the budget 2021-22, the main focus was on health infrastructure and govt has rolled new scheme – a new central sponsored scheme as - PM ATMA NIRBHAR SWASTH BHARAT YOJANA
 - This aims to develop the Develop capacities of primary, secondary and tertiary health care systems
 - This scheme will work in Strengthen existing national institutions such as National Centre for Disease Control (NCDC) and create new institutions such as National Institution for one Health.
 - Cater to detection and cure of new and emerging diseases.
- The Government of India aims to **increase healthcare spending to three percent** of the Gross Domestic Product (GDP) by 2022.
- In February 2019, the **Government of India established a new All India Institute of Medical Sciences** (AIIMS) at Manethi, District Rewari, Haryana at a cost of Rs 1,299 crore (US\$ 180.04 million).
- The Union Cabinet **approved setting up of National Nutrition Mission** (NNM) with a three-year budget of Rs 9,046 crore (US\$ 1.29 billion) to monitor, supervise, fix targets and guide the nutrition related interventions across ministries.
- On September 23, 2018, **Government of India launched Pradhan Mantri Jan Arogya Yojana** (PMJAY), to provide health insurance worth Rs 500,000 (US\$ 7,124.54) to over 100 million families every year.
- In August 2018, the **Government of India has approved Ayushman Bharat-National Health Protection Mission** as a centrally Sponsored Scheme contributed by both center and state government at a ratio of 60:40 for all States, 90:10 for hilly North Eastern States and 60:40 for Union Territories with legislature. The center will contribute 100 per cent for Union Territories without legislature.
- The **Government of India has launched Mission Indradhanush** with the aim of improving coverage of immunisation in the country. It aims to achieve at least 90 per cent immunisation coverage by December 2018 which will cover unvaccinated and partially vaccinated children in rural and urban areas of India.

ISSUES/CHALLENGES

Inadequate Outlay for Health

- According to the National Health Policy 2002, the Govt. contribution to the health sector constitutes **only 0.9 percent of the GDP**. This is quite insufficient.

Inequality in Urban and Rural Facilities

- In India, unlike other countries, **the urban vs. rural divide is huge**. Because the spending power is more by people in cities and towns, **all healthcare services are diverted only to this sector** leaving the rural areas lacking in medical facilities.
- According to health information **only 31.5% of hospitals and 16% hospital beds are situated in rural areas** where 75% of total population resides.
- **Moreover the doctors are unwilling to serve in rural areas..**

Inadequate Infrastructure

- The **ratio of the doctors, hospital beds, nurses to the number of patients is alarming**. There is one bed for every 2000 patients, one doctor for over 10000 people in a government hospital.
- There is **one state-run hospital for every 90000 people**.

No Optimal Insurance

- In India, **healthcare is becoming more expensive and practically unaffordable** to some strata of society. Hospitalization and treatment costs have skyrocketed. The only respite patients can get is through insurance.
- **India's per capita expenditure on insurance is the lowest in the world**, about 30% when compared to over 80% in the west. Over 70% of Indians have to pay out of pocket for medical bills as they do not have insurance.

Emphasis on Culture Method

- The **health system of India depends almost on imported western models**. It has no roots in the culture and tradition of the people. It is **mostly service based on urban hospitals**.
- This has been at the cost of providing comprehensive primary health care to all. Otherwise speaking, it has **completely neglected preventive, pro-motive, rehabilitative and public health measures**.

Shortage of Medical Personnel

- In India **shortage of medical personnel like doctors, a nurse etc.** is a basic problem in the health sector.
- **In 1999-2000, while there were only 5.5 doctors per 10,000 population** in India, the same is 25 in the USA and 20 in China.
- Similarly the **number of hospitals and dispensaries is insufficient** in comparison to our vast population.

Social Inequality

- The growth of health facilities has been highly imbalanced in India. **Rural, hilly and remote areas of the country are under served** while in urban areas and cities, health

facilities are well developed. **The SC/ST and the poor people are far away from modern health service.**

Less Emphasis on Preventive Care

- Another major challenge facing Indian healthcare is the **paucity of preventive care mechanisms**. The lifestyle choices and hectic schedule of people do not allow them to watch their health. This **unhealthy lifestyle and stress give way to diseases like diabetes and hypertension**.

Delay in Diagnosis of Illnesses

- There are **many incidents of delayed diagnosis** of major illnesses even with top hospitals and doctors.
- **The reasons for this are** either lack of infrastructure to run lab tests or lack of accountability of the healthcare staff or the inability to convert the test results into proper treatment decisions..

No Support for Medical Research

- Only research leads to true success in the healthcare of any country. Medicine and vaccines for infectious and chronic diseases need to be made accessible to all. Unfortunately, **healthcare is at the mercy of big pharmaceutical companies who only deal with drugs that are profitable and essential drugs are neglected**.
- The main reason for the lack of research interest is the overburdening of the research staff and lack of resources. **Most of the workforce in medical centers work long hours in continuous duty** and have no time for the research component of their medical practice.
- For those who do commence with research, they lose continuity or do not get funding and support. Unfortunately, **they are left to rely on medical data from other countries for prognosis and diagnosis**.

Challenges Faced by Hospitals in India

Improper Human Resource Management

- The biggest challenge faced by general and private Indian hospitals is **workforce shortage**. **Proper human resource management is not in place** to hire and deploy the right staff for the right job.
- **There is a huge shortage of doctors, nurses, and paramedical staff** who have the requisite skills.

High Attrition Rate

- The high attrition rate in hospitals **makes it difficult to plan and allocate human resources**. Healthcare specialists are finding opportunities abroad more lucrative and rewarding, prompting them to leave.
- **The attrition rate for doctors and nurses is about 40%, the highest in any industry.**

Less Acceptance of Technology

- The whole world is becoming digitized, and **hospitals and medical institutions are far off**.

Inadequate Patient Interaction

- Apart from medical knowledge, **soft skills are an essential part of treatment in a medical establishment**.

Getting Medical Staff to Work in Smaller Cities

- Hospitals in tier-2 and tier-3 cities **struggle to keep their well-qualified doctors and nurses working for them**.

Restriction on the Age of Doctors

- **The government has made a restriction on the age of doctors** to be above a certain level in government hospitals.
- **This must be removed**, and more young talent must be induced in hospitals.

Negligence and Error in Judgement

- Mistakes can happen in any services industry, but in healthcare, mistakes will prove too costly.
- **Improper diagnosis, treatment plans or errors in judgement are made by junior and sometimes even senior doctors in big hospitals**.
- This can be avoided by consultation, discussion and second opinions of other doctors.

Along with the above, the following are major roadblocks or healthcare in India:

- India faces the **epidemic of emerging chronic diseases** and infectious diseases.
- The public health programs **are not implemented properly in India**, and due to demographic transition, life expectancy is reduced in some regions.
- There is **minimal access to healthcare in some places** due to poor economic conditions.
- **Illiteracy and lack of awareness** lead to non-usage of the available medical facilities.
- In most parts of India, **there is poor sanitation and living conditions**, malnutrition, and no access to preventive cures for diseases.

- **Healthcare systems are not able to operate efficiently** to serve all because of the lack of education, high population and gender bias.
- **Some states in India who have financial constraints** do not have a budget for healthcare, and they cut down healthcare expenditure.

SUGGESTIONS

A committee was set up under **K. Srinath Reddy** (the then president of the Public Health Foundation of India) in 2010. The recommendations of the report are relevant even today.

Here are five key recommendations from the report:

1. Increase health-care spending to 2.5% of GDP

- At the moment, the **Indian government spends about 1% of its gross domestic product on health care**, according to the Organization for Economic Cooperation and Development.
- The report puts Indian public spending at 33% of the GDP, of which **only 4% is spent on health care**.
- Compare this to **Thailand**, a country with a robust health-care system, where health spending makes up **14% of total public spending**.

2. Pay for it with taxes, not user fees

- The government should **use existing tax revenues to pay for this system**.
- As the tax base widens, the government could also consider **levying a specific income tax to support the national health-care program**, in which case user fees on people above a certain income would be equivalent to charging them twice.
- **User fees don't actually help the system pay for itself**, and even minimal user fees can deter the poor from seeking care.

3. Spend more on primary care

- Additional funds **shouldn't go only to maintaining the present health system**, with its skewed spending choices.
- Much as in education, Indian health spending has often favoured treatment at hospitals in large cities over more widely available basic and preventive care. **Over time, 70% of public spending should be on primary care, the report says**.

4. Develop an all-India public health service

- The committee suggested the country needs an **all-India service of public health workers along the lines of the system that Tamil Nadu has**, which some observers say is the best in India.

5. Buy more drugs in bulk

- Again, Mr. Reddy suggested the **Indian government could take a cue from Tamil Nadu, which purchases drugs in bulk** and provides many medicines for free to patients.
- That would involve **significantly increasing public spending on drugs** from around \$1 billion now.

An 11-Step Guide To Improving The Public Health System In India

1. Bottom-up approach: By forming health committees to address people's concerns, **the Gram Panchayats can build a framework that can be shared with and implemented by the District Planning Committee.** With the involvement of health superintendents or health officials, MLAs and MPs, local governments, private medical institutions etc. the shortcomings of health facilities and infrastructure can be addressed.

2. Change of attitude among young doctors to serve in villages: The government should try to encourage these medical graduates to work in rural primary health centres. This could be done by **amending their syllabus to bring up the problems of village health centres**, their inability to get emergency medical services due to poverty, major health problems faced by the people, schemes brought in by the government, etc.

3. Controlling or checking private hospitals: The Government of India, various state governments and employment organisations provide medical insurance facilities to reduce out of pocket expenditure upto a certain limit on health expenditure. Taking this as an opportunity, **private hospitals across India are charging more to extract the money** provided under insurance from patients even for small diseases or injuries. The **state governments should strictly monitor these hospitals and regulate the prices for various services through policies.**

4. Recording daily details about available facilities made available to patients: You might know about the tragedy in Gorakhpur last year, where lack of oxygen killed several young children at a government hospital. To stop inadequacies like these, the **availability of medicines, oxygen, unoccupied beds, the number of patients admitted and the number of patients visiting each hospital should be recorded daily.**

5. Confidence building among people: To improve the image of public hospitals and create confidence among the people, **elected leaders and administrative heads should avail treatment only from government hospitals.**

6. Early comprehensive new-born screening: Kerala State Government has recently started a unique initiative that will help in the early identification and management of all deficits in infants at appropriate ages so that the state's burden of developmental delays and disabilities can be reduced in the long run. **Under the CNS initiative**, it plans to **converge all newborn**

screening programmes under a single umbrella on a web-based platform, with a unified reporting system and link-ups with District Early Intervention Centres (DEICs) so that every infant is tracked.

7. Efforts to be made towards a public-private partnership in setting up medical institutions: Since it is not always easy to set up healthcare facilities in different parts of the country, the government can look into public-private partnerships. These **institutions can serve as teaching centres for medical aspirants and also provide subsidised healthcare to the people.**

8. Learning from other states: Regular transfer of knowledge should happen among the states to know how effectively services are being provided. **Capacity building programs should also be conducted for doctors and nurses in emergency response.** For example, after the outbreak of Nipah virus in Kerala, the state took immediate steps to contain the spread of the disease.

9. Employ more counsellors and psychologists: As cities continue to expand, there is a huge pressure building among citizens, especially the youth. **Local governments and municipal administrations should provide counselling centres for citizens.** This would help address the extremely worrying rise of mental health issues in the country.

10. Enhancement of research activities in medical science: There has been a lot of research in the field of cancer, tuberculosis, diabetes, etc. but we have not been able to implement their findings and recommendations due to a lack of support from the government. So the **government should encourage innovative research by providing fellowships and also provide more infrastructure** for research.

11. A feedback mechanism should be brought into effect: An app can be developed by the Government to take feedback from patients **to know about the quality of services provided by government hospitals.** They should be able to share whether the doctor came on time, about hospital cleanliness, whether the patients were able to get medicines easily, etc.

Medical Tourism in India

- The **Organization for Economic Co-operation and Development** describes medical tourists as those who "travel across international borders with the intention of receiving some form of medical treatment."
- Medical tourism (also called medical travel, health tourism or global healthcare) is a term used to describe the **rapidly-growing practice of travelling across international borders to seek healthcare services.** Services typically sought by travellers include elective procedures as well as complex surgeries, etc.
- This covers a range of medical services but most often includes dental care, cosmetic surgery, elective surgery and fertility treatment. **People visit India for a variety of health care needs**, including cancer treatments, transplants and cardiac surgery.

- India's medical tourism industry **could grow by 200% by 2020, hitting \$9 billion, according to Ministry of Tourism figures.** As it tries to expand the industry, the country is trying to make it easier for people to come for medical reasons. **It's touting advanced facilities, skilled doctors and low-cost treatment but also traditional practices such as yoga and Ayurveda.**
- In 2015, **India ranked as the third most popular destination for medical tourism,** when the industry was worth \$3 billion. The number of foreign tourists coming into the country on medical visas sat at nearly 234,000 that year. By 2017, the number of arrivals more than doubled to 495,056, government figures show.
- **The e-tourist visa regime has been expanded to include medical visits as well.** Medical and medical attendant visas have been introduced to ease the travel process of medical tourists. **The maximum duration of stay in India under the e-medical visa is a longer duration of six months.**
- **Medical tourism is an example of how India is profiting from globalization and outsourcing.** It is also a new form of consumer diplomacy, whereby foreigners who receive medical services in India help the country to promote itself as a business and tourism destination.

Why is India a Preferred Medical Tourism Destination?

India holds advantage as a medical tourism destination due to following factors:

Lower cost of treatment

- With the cost of medical treatment in the developed Western world remaining high, the **Indian medical tourism sector has an edge because of cost-effective medical care.**
- Studies have shown that **healthcare in India saves 65-90 per cent money** compared to similar service in the United States.

World-class services and care

- **Indian doctors are recognised as among the best at the international level.** Medical technology, equipment, facilities and infrastructure in India are at par with international standards.
- **India has around 33 JCI** (Joint Commission International)-accredited **and 400 NABH-accredited hospitals, at present.**

Less wait of time

- The **wait time for surgery and medical treatment in India are non-existent** compared to Western nations, where patients have to wait for weeks or even months for life-saving treatments.

Ease of getting medical visa

- The introduction of e-Medical Visa and e-Medical Attendant Visa for travellers has been a game changer for India.
- Medical travellers from 166 countries can arrive in India through 26 designated airports and five designated seaports with e-Medical Visa.
- Unlike other categories of e-visa, a traveller can enter the country up to three times with an e-Medical Visa. There is also a provision of issuing an e-Medical Attendant Visa to two adult attendants for each patient.

Alternative treatments like Ayurveda, Naturopathy and Yoga

- India has an unmatched heritage represented by its ancient traditional treatment methods such as Ayurveda, Yoga, Unani, Siddha and Homoeopathy (AYUSH) which are now widely accepted as alternative treatment procedures in the entire world.

Attraction of 'Incredible India'

- India, with its ancient and modern heritage, diversities of culture and exotic destinations is always an attraction to international travellers.
- Medical travel offers a mix of pleasure, luxury and quality healthcare for medical patients coming to India.

Traditional Health Practices in India

- The traditional knowledge of health care, along with India's reputation in modern, Western approaches, is fueling the country's rise in medical tourism.

ISSUES WITH MEDICAL TOURISM IN INDIA

- India stands low in its regulatory regime compared to its competitors.
- The current regulatory regime needs to focus on some critical aspects like timely issuance of medical visas and registration of medical facilitators; the high cost of medical visas in India can discourage medical travellers from coming to the country.
- The present structure of medical visa fee needs to be revisited and rationalised; the more accredited hospitals a country has, the better its positioning in the global medical tourism arena.
- India must therefore aim to get more JCI and NABH accredited hospitals in the near future.
- India needs to be more 'tourist-friendly' for medical tourists coming to the country by way of ease of services at airports, faster immigration clearance for medical tourists, ambulance services at airports, proper transport infrastructure, affordable accommodation, food as per a patient's requirement, hygiene and an environment of holistic care.

SUGGESTION TO IMPROVE INDIAN MEDICAL TOURISM

- **Visas need to be issued faster**, and infrastructure upgraded to international standards for India to tap the medical tourism market, **which it stands to lose to Singapore**.
- As far as **Bangladesh** is concerned, **which constitutes 50 per cent of the medical tourism** market for India, the issue is the medical category visas. **It takes 15 days to get MVisas here whereas in Singapore, you get it overnight.**
- The other overriding factor is that we **need to develop more good roads and more airports of international calibre**. Above all, the government needs to play a pivotal role in promoting India as an attractive medical tourist destination, just like Singapore Tourism Board. **80 % of medical tourists from Bangladesh get split between Chennai and Kolkata**, Bangalore gets 20 %.
- India needs to tap the Middle East and South African markets,” **Visa regulations have to change**. A person, when he or she is a patient, has to be treated differently.
- **State governments have to realise the importance of wellness tourism** and include it as part of their tourism master plan **the way Karnataka has done**.
- **The Medical Council of India (MCI)'s main objectives are to** maintain uniform standards of medical education, recommending the recognition/derecognition of medical qualifications of medical institutions in India or abroad, maintaining a permanent registry of doctors with recognized medical qualifications and ensuring ethical practises in the medical profession.
- While medical care is generally excellent, in other service areas, **hospitals are not meeting patient expectations of an acceptable standard of service**; what may be acceptable to local patients is often seen as inadequate by international ones.

WAY FORWARD

India is on the right path to becoming a destination of choice for medical tourism. India today, is rightly called ‘**the pharmacy to the world**’. In order to achieve the stated vision of being ‘**the provider to the world**’ by delivering quality care at affordable cost, integrated effort by all key stakeholders including the government, health & tourism industry, service providers, facilitators and regulators is the need of the hour.

EDUCATION SECTOR IN INDIA

- Globally, the **Indian Education sector is amongst the largest**, with an extensive network of more than 1.4 million schools (with over 200 million students enrolled) and more than 850 universities and 40,000 higher education institutes and is **expanding rapidly in light of rising income levels and growing demand for quality education** in the country.
- Further, India also has the **world's largest population in the age bracket 3 to 23 years** which highlights the large addressable market for this sector.
- Education sector in India remains to be a **strategic priority of the government**. The Government of India has **allowed 100 percent Foreign Direct Investment (FDI) in the education sector** through the automatic route since 2002.

- India's education sector offers a great opportunity with **approximately 29 per cent of India's population being between the age group of 0-14 years**. India's higher education segment is expected to increase to US\$ 35.03 billion by 2025.
- **India has over 250 million school going students**, more than any other country. It also has one of the largest networks of higher education institutions in the world.
- The **industry in India can be broadly classified into two categories**; the formal education industry comprising schools, colleges and universities and the tutorial industry comprising private tutorials and coaching institutes.
- A major contribution to the formal education market is the **higher education segment** as shown in the below chart. The university count in India has gone up in the last two decades. The **number of universities in India has increased at a CAGR of 8.5%** from 367 (2010) to 850 (2018). Globally, the nation is **ranked 1st in terms of the number of universities**.
- Most of the schools, colleges and universities in the country were operated by the state, union or the local government. However, the scenario saw a change in the last two decades.
- **India has seen a surge in private universities** such as Amity and Sikkim Manipal universities entering the market. According to the University Grants Commission (UGC), **private universities account for 34.8% of the total universities in India** in 2018 compared to 3.4% in 2008.
- India is a young democracy and a progressing country. The literacy rate was lower than 30% at the time of independence in 1947 and 72 years after, **it presently stands at more than 75%**.
- This is a phenomenal growth, considering the fact that the population of the country has also risen from 33 million to 1.3 billion during the period.
- Currently, 29% of the population is under 14 years of age. The government has given special attention towards education through initiatives such as '**Right to Education Act**' and '**Sarva Shiksha Abhiyan**' (education for all). Resultantly, people in the **rural areas have an increased awareness of the importance of education** for their children.
- The **industry is completely recession-proof** since no matter what circumstances the economy is going through, people would still want to take at least the undergraduate education in the best possible institutes.
- Another peculiar feature of this industry is the **negative working capital requirement** as fees are taken in advance from students. The government support for this sector has been immense.

GOVERNMENT INITIATIVES

Some of the other major initiatives taken by the Government of India are:

- **Revitalising Infrastructure and Systems in Education (RISE)** by 2022 was announced and in Union Budget 2020-21 an outlay of Rs 3,000 crore (US\$ 429.55 million) was proposed.

- Under Union Budget 2020-21, the government proposed **apprenticeship embedded degree/diploma courses** by March 2021 in about 150 higher educational institutions.
- In November 2019, the **India Design Council (IDC)** launched the **Chartered Designs of India (CDI)** and the **Design Education Quality Mark (DEQM)**.
- In October 2019, the **Ministry of Skill Development and Entrepreneurship (MSDE)** signed an agreement with the Indian Institute of Management (IIM) Bangalore for introducing a **two-year fellowship programme Mahatma Gandhi National Fellowship (MGNF)** programme.
- In October 2019, NCERT added in the curriculum that for **pre- schoolers teaching will be in Mother tongue** and no homework for them.
- As of February 2020, 254,897 **training centres are registered in India** and around 2 crore candidates have completed training under the **Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA)**.
- Government provided Rs 400 crore (US\$ 51.23 million) for '**World Class Institutions' for FY 2019-20**'.
- Government promoted a new **scheme 'Study in India'** to bring foreign students to higher educational institutions.
- In August 2018, Government of India launched the **second phase of 'Unnat Bharat Abhiyan**' which aims to link higher educational institutions in the country with at least five villages. The scheme covers 750 such institutions.
- In order to boost the Skill India Mission, two new schemes, **Skills Acquisition and Knowledge Awareness for Livelihood Promotion (SANKALP)** and **Skill Strengthening for Industrial Value Enhancement (STRIVE)**, have been approved by the Cabinet Committee on Economic Affairs (CCEA), Government of India and will be **supported by the World Bank**.
- The **Ek Bharat Shreshtha Bharat (EBSB)** campaign is undertaken by the Ministry of Human Resource Development to increase engagement between states, union territories, central ministries, educational institutions and the general public.
- The Prime Minister launched the **Skill India initiative – 'Kaushal Bharat, Kushal Bharat'**. Under this initiative, the government has set itself a target of **training 400 million citizens by 2022** that would enable them to find jobs.
- **The initiatives launched include various programmes like:** Pradhan Mantri Kaushal Vikas Yojana (PMKVY), National Policy for Skill Development and Entrepreneurship 2015, Skill Loan scheme, and the National Skill Development Mission.

ISSUES/CHALLENGES

The following are the main problems faced in the progress of education:

- By far one of the most pressing problems is the **unavailability of money or inadequate funding of Indian Education programs or systems**.
- Due to insufficient funds most educational institutions **lack infrastructure, science equipment and libraries etc.** Due to this reason, desired results cannot be achieved.

- University, professional and technical education has **become costly in India**. Fee structure of technical and professional institutes like IIMs is quite high. IIMs charge Rs. 2 lakh per semester for MBA classes. It is **beyond the reach of the common man**.
- **Privatization of higher education** has led to the growth of profit hungry entrepreneurs. Nowadays **higher education is a costly affair**.
- The **medium of instruction** particularly in science subjects is **English**. So **rural students** who are not well versed in English, **cannot study science properly in English**.
- They suffer a lot; **Indian languages are still underdeveloped**. Standard publications are not available in the Indian language.
- When intelligent, talented and deserving candidates do not get suitable jobs in the country, they **prefer to go abroad seeking jobs**.
- So our country is **deprived of good talent**. This phenomenon is called 'Brain drain'.
- Despite constitutional directives and economic planning we are **not able to achieve cent percent literacy**. -Even now 35 percent of people remain illiterate.
- In India, **the number of illiterates is almost one-third of the total illiterates** in the world. Advanced countries are 100% literate; the position in India is quite dismal.
- Our education system is **based on General Education**. The dropout rate is very high in primary and secondary level.
- Most of the students in 6-14 age groups **leave the school before completing their education**. It leads to wastage of Financial and human resources.
- Our educational system is of General Education in nature. Development of **technical and vocational education is quite unsatisfactory**. So our education is unproductive.
- Hence the number of **educated unemployed persons is increasing day by day**. This has become a great concern for the Govt.
- **Maintaining the standard of Education** in more than million schools nationwide, offering training programs to teachers, and keeping a good balance with the Education system worldwide is **a big challenge**.
- Schools vary in size and are **forced to compromise in all round development opportunities** they must provide to students.
- Our primary education is **ridden with too many problems**. Large number of primary schools have no buildings to talk of **basic facilities** like drinking water, urinals and electricity, furniture and study materials etc.
- Large numbers of primary schools are **single teacher schools** and many schools are even without teachers. So the **drop rate is very high and a cause of concern**.
- The **ethnic diversity in India** poses challenges to implement consistent Education nationwide. There are more than 300 languages spoken in the country and makes it **difficult to offer Education tailored to specific social segments**.
- **Educating women in some societies is a big issue**. Children of poor families are forced to work and miss out the learning opportunities. **Illiterate adults have very limited opportunities** to get educated at a later age in their lives.

- A report by UNICEF estimates that there is a **40-percentage point difference** in attendance rate **between primary (69.4%) and secondary (39.1%) students** coming from poor families.
- Also, more children in the age group of 5-14, whose parents are not educated, seem to be **opting to go for work instead of staying in school** (UNICEF report).
- **Clearly financial stability and awareness** of the opportunities provided via a good education are big factors in ensuring continued education in these families.
- A comprehensive survey conducted by the **NGO Pratham, called ASER (The Annual status of Education Report)**- which has reached about 3,00,000 households and 7,00,000 children's, spanning every rural district in India – has put out interesting and alarming statistics.
 - 31.4% of std. III Children **cannot read words in their own language**.
 - 70.1% of std. III Children **cannot solve a 2-digit subtraction problem**.
 - 72.5% of std. V Children **cannot do a simple division problem**.
 - 51.8% of the std. V Children **cannot read a std. II level text**.
- **This is definitely a cause of worry**. Rural schools are not only failing existing students, but also poised to fail the 15.8 crore (158 million) children in the age group of 0-6 who are slated to join the ranks of primary school goers in the coming years.

SUGGESTIONS/CHANGES NEEDED

7 immediate changes needed in the Indian education system:

1. Rote Learning

- We have progressed with time; however, **we still have not been able to move away from rote learning**. While we know that International Schools (IB Board) are changing the education system at their level, we also need to understand that the population that goes to IB schools is very limited in nature.
- Not everyone can afford the education system that they offer. Hence, **the government needs to take the baton in their hands** and eradicate rote learning from the schools at all the levels.
- The **schools must be encouraged to introduce conceptual learning** which avoids students to mug up what they are being taught. While this will help students to understand the concepts better, they will also be able to retain and apply them better.

2. Evaluation System

- Marks still continue to play the most important card in deciding the future of children and **this often comes down upon students as a burdening factor**. The pressure of marks often makes students underperform.
- Instead of focusing the evaluation on a three-hour exam, **the focus of evaluation should be classroom participation** by a student, projects, communication and leadership skills and extracurricular activities.

- Only then will the **students give their best and be evaluated at their best.**

3. Equal Respect to All the Subjects

- We continue to survive in the education system where science topples the stream hierarchy. **Students are pushed to become a machine which only goes for high-profile subjects and subjects** like languages, communications, arts are looked down on and are not considered high-profile.
- **Students should rather be pushed to pursue the subject that they like** instead of creating a differentiation between subjects.

4. Better Training of Educators

- Teachers play the most important role in schools and hence, **they should be given the best of class training.** After all, they are shaping the future of the nation, the children. Teachers are often considered as second parents.
- Thus, they should **be imparted their training in a way that they can act as parents** to the children away from their homes.
- While teaching, they should **create a congenial and home-like atmosphere where students can feel the empathy and love** in the classroom and which can then be reflected in their behaviours.

5. Introduction of Technology

- We all know we have incepted in the era of the fourth industrial revolution. We are living the renaissance of technology and in such a state, technology and education system cannot be kept apart.
- **Students must be taught about technology right from the early years** of their education so that it does not come like an alien thing in their later times.
- **Indian schools must embrace technology and education** with an open heart and propagate the same to the students as it is there, where their future lies.

6. Personalize Education

- Indian education **needs to realize that the absorption power of every student cannot be the same.** Hence, the teaching method also cannot remain the same for every student in a class of 30.
- Some students have faster learning pace and some are slow. Teachers must have a **keen eye on observing each of their students.**
- While it is not humanly possible for a single teacher to pay attention to every student, **schools must start looking at the use of technologies like artificial intelligence and chatbots** who can become the helping hand to the teachers as well as students.

7. Teach them the Purpose of Education

- Our education system is still having the features that colonial educators inbuilt. **Education is not always about becoming a big, rich person.** It should be about humanism.
- Students must also be **taught in-depth about the morals of life and inculcated with humanistic values.** They should be taught that life is much beyond money and success is not measured in money.
- **If the Indian education system starts taking these points into serious consideration,** we can attain the level of the best education system in the world. It is high that we as a country start **taking education above the mediocre level** that we have been engrained with and perceive education from a holistic approach.

NATIONAL EDUCATION POLICY 2020

The Draft National Education Policy, 2019 is out in the public domain. Drawing inputs from the **T.S.R. Subramanian Committee report** and the Ministry of Human Resource Development (MHRD), the **K. Kasturirangan Committee** has produced the policy document.

Key provisions of NEP 2020 –

School education related provisions

- **Universalization of education** - This has been achieved by 2030 through 100% GER (Gross Enrollment Ratio) from pre-primary to secondary.
- **Open schooling system** should be allowed for out-of-school children.
- **New curriculum system** - 5+3+3+4 curriculum system replacing existing 10+2 system.
- **Vernacular teaching** - Teaching in mother tongue up to class 5 with no imposition of any language.

Higher education related provisions –

- **Holistic higher education** - This should be Broad-based, multi-disciplinary, holistic UG(Undergraduate) education with provisions of a flexible curriculum, integration of vocational education, multiple entries and exit points with respective degrees, and also undergraduate programs in regional languages.
- **Academic bank of credits** – This bank should be established with aim to enable transfers of credits between institutions
- **HECI (Higher education commission of India)** – HECI will act as a umbrella regulator except for legal and medical education.
- **Multilingual curriculum** – In higher education the multilingualism will be promoted.

Developments in one year of National Education Policy

- **More inclusive Class rooms** – During the covid National boards have brought in some changes in classroom transactions connected with well-being, inclusive education, joyful learning, etc.

- **New training modules** - CBSE has worked to build training modules in order to steer the programs of the NEP through its active sahodaya school complexes, with a task force to oversee implementation.
- **Learning hubs**- The hubs of learning have been activated.
- **Promotion to innovation** - Innovation ambassador programs are being created, which will help in strengthening the mentoring capacity where teachers are being trained on design thinking, innovations, etc. This will help create robust, smart future schools.

Planned initiatives under National Education Policy

On the first anniversary of the National Education Policy (NEP), the Centre decided to officially roll out some initiatives promised in the policy. This includes,

- **Academic Credit Bank** – In current academic year of 2021 -22 ,The much expected Academic Bank of Credit will be rolled out for students
- **Credit transfer system** – The institutions which are in top 100 of the National Institutional Ranking Framework as well as those who have achieved an A grade under the National Assessment and Accreditation Council will be allowed to participate in the credit transfer system.
 - **Academic Bank of Credit will keep records** of the academic credits of a student.
 - This will **help in credit verification, credit accumulation, credit transfer and redemption** of students, and promotion of the students
- **Engineering text in vernacular languages** - The government launched the engineering degrees in regional languages in about 14 smaller institutions.
- **Establishment of institution** - The government will also announce the establishment of the National Digital Education Architecture and National Education Technology Forum.

Views in support of Draft National Education Policy:

- The **school education will cover children of 3-18 years**, instead of the present 6-14 years under the RTE Act. It covers **three years under early childhood care and education (ECCE)** and **four years under secondary education**. ECCE would facilitate play and discovery-based learning for children of that age group.
- Its **emphasis on mother tongue-based education** and oral language development are critical.
- The **policy focuses on online learning** as an alternative to regular classroom interaction between teachers and students. It helps in **achieving the twin objectives of cutting costs and increasing enrollment**.
- It aims to **protect and promote our culture** through the study of classical languages, mother tongues, and regional languages.

- The **teacher education system will be transformed**, with rigorous preparation through a four-year integrated stage and subject-specific programs offered in multi-disciplinary institutions.
- The draft talks about the **better engagement of the private sector** and provisioning for government funding for R&D work through a proposed national research fund.
- **Professional education will become an integral part** of the higher education system.

Drawbacks in the Draft National Education Policy:

- The draft policy is **silent on the Institutions of Eminence** and agencies like the Higher Education Funding Agency.
- The policy **does not address with sufficient clarity curricular, pedagogical and teacher education-related issues** that plague the teaching and learning of early literacy in many Indian classrooms.
- The **policy proposes largely oral activities for the pre-primary grades**, reading hours for Grades 1-3, with an additional hour for writing starting only in Grades 4 and 5. It contradicts evidence suggesting that young children be taught listening, speaking, reading and writing simultaneously and not sequentially.
- It **lacks discussion about what it takes to prepare teachers to successfully teach foundational literacy** in a multilingual country. Instead, the document recommends recruiting volunteers and community members to support the acquisition of early literacy. Volunteers can be used, but **cannot be a primary mechanism to deliver foundational literacy** to students.
- It **misdiagnoses the causes behind the severe learning crisis** - namely poor school and teacher accountability. There is **no fundamental reform proposed** for revamping the accountability structures for schools. Instead, the NEP provides school management committees (SMCs). **SMCs already mandated under the RTE Act are ineffectual**.
- With the democratization of knowledge and availability of technology for easy access to information, **the draft should have focused more on how to teach and not only on what to teach**.
- The National Research Foundation (NRF) is tasked with "permeating the culture of research and innovation" and addressing societal challenges. But, **there is no mechanism**, such as innovative curricula or extension units, for tier II or tier III institutions to work on local problems. **It has no access or accountability to people or their representatives**.
- The Constitution puts education in the Concurrent List, giving authority and responsibility to both the States and the Centre. However, **the draft had robbed the States by creating an excessively centralized structure of authority** and vesting overarching powers with the PM-led Rashtriya Shiksha Aayog (RSA).
- In promoting the study of regional languages, **the importance of English is neglected**. Those who are fluent in the English language live in households with three times higher income than those without any knowledge of English. By ignoring this, **the Draft NEP19**

has laid out a "language trap", which will create social inequality and impede economic growth due to loss of the demographic dividend.

- The report **does not emphasize enough the role and importance of state governments** in imparting education to the masses.

Challenges in Implementation:

- Draft NEP recommended doubling of public funding to 6% of the GDP and increasing overall public expenditure on education to 20% from the current 10%. This is **desirable but does not appear to be feasible in the near future**, given that most of the additional funding has to come from the States.
- The report has appealed to philanthropists and companies to route their corporate social responsibility (CSR) funds to supplement government efforts, but it **forgets that such funds will not be ideologically neutral**.
- Expanding coverage under the RTE Act to include pre-school children is extremely important, but **should perhaps be introduced gradually**, keeping in mind the quality of infrastructure and teacher vacancies. Amendment of the Act can perhaps wait for a while.
- The idea of setting up the Rashtriya Shiksha Aayog is crucial in order to integrate the approaches and programs of multiple departments. However, **bringing medical or agricultural or legal education under one umbrella is likely to be met with stiff opposition**.

OVERALL HUMAN RESOURCE BASICS

- Human Resource Development is a **multidimensional concept**. In a broad sense HRD is the process of **increasing knowledge, will and capacities** of all the people in a given society.
- In the national context, HRD is a process by which the people in various groups are helped to **acquire new competence continuously** so as to make them **self-reliant** and simultaneously develop a sense of pride in their country.
- **McLean and McLean defined Human Development as** " Human Resource Development is any process or activity that, either initially or over the longer-term, has the potential to develop adults" work based knowledge, expertise, productivity, and satisfaction, whether for personal or group/team gain, or for the benefit of an organization, community, nation, or, ultimately the whole humanity".
- **The most important indicators of HRD can be classified in to -**
 - Country's stock of human capital,
 - those which measure the additions to this stock
- **About Human capital** – The human capital, means the investment in the individual in the following categories can improve his capabilities. They are
 - health facilities and services
 - on-the-job training (including apprenticeship),

- formal education,
- study programmes for adults (e.g., Non-formal education) and extension programmes in agriculture,
- migration of individuals and families in search of jobs.

Status of Human Resource Development in India:

- HRD lies at the heart of **economic, social and environmental development**. It is also a vital component for achieving internationally agreed **sustainable development goals, including the MDGs** and for expanding opportunities to all people particularly the most vulnerable groups and individuals in society.
- For optimum utilization of existing **physical capital, investment in human resources or capital** is essential, as technical, professional and administrative people are required to make effective use of material resources.
- **India has made huge progress** in terms of increasing primary education, attendance rate and expanding literacy to approximately two thirds of the population.
- Given that a **large proportion of students drop-out at Primary School level (at Standard V) and at Middle School** (at Standard VIII), it is evident that a large portion of the capacity and enrolment is up to these two levels of education.
- The country has witnessed a **steady increase in the Gross Enrolment Ratio, a steady decrease in Drop-Out Rates, and a steady increase in the enrolment in Education.**
- On the other side the **provision of health care services in India** features an **unequal health care system** run by the states and territories.
- **Governmental hospitals**, some of which are among the best hospitals in India, provide treatment **either free of cost or at minimized charges.**
- **Primary Health Care(PHCs)** provided by city, district hospitals and rural PHCs is focused on immunization, prevention of malnutrition, childbirth, postnatal care and treatment of common illness.
- In recent times **India has eradicated many famines**; however the country still suffers from high levels of malnutrition and diseases especially in rural areas.

Causes of Poor Performance Of India In The Sphere Of HDI

- **Unequal distribution income**
- **High gender discrimination**
- **Child malnutrition**
- **Inadequate implementation of government policies**

Suggestions for Development Of Human Resources

- The education policy should shift its **focus from enrolment to improvement** in the functioning of schools as well as towards raising the quality of education outcomes.

- **Special strategies are needed to improve the outreach of the school system to the disadvantaged and marginalized groups** in the country. A more systematic school mapping exercise should be undertaken to provide these groups access to both lower and upper primary classes, for removing social barriers to education.
- The **issue of child labour**, which is estimated at a whopping figure of 12 million children, should be tackled at the earliest, as without it, there can be no improvement in child participation in schools. The **implementation and monitoring of this strategy should be done at the state level**, for which respective governments should create additional supervisory structures and mobilize financial and human resources.
- Effective policies in the public health sector call for a **convergence of initiatives in different sectors**. The **focus should be on certain wider determinants of healthcare** like food and livelihood security, drinking water, women's literacy, better nutrition and sanitation, and above all, confidence in convergent community action.
- The public health policy should **focus on the prevention of diseases** by providing clean water and sanitation rather than fighting diseases by administering antibiotics. This necessitates **training of public health specialists and development of health facilities at all levels**.
- In the nutritional sector, in order to reduce malnutrition, it is imperative to **promote policies for increasing food productivity as well as for enhancing land use** and desirable cropping patterns.
- With malnutrition being a multi-dimensional issue, **national level programmes like the Integrated Child Development Scheme (ICDS) need to be revamped and restructured**, and efforts made to facilitate their convergence with schemes pertaining to health, education, water, sanitation and food security at all levels.
- **Food supplementation programmes** are essential for tackling hunger and food security issues, and for ensuring social equity. **Food supplements act as a transfer of resources to poor families** and are specially needed to reach some of the population groups like pregnant women and nursing mothers, children below the age of 5 years, school children, and adolescent girls.
- The government policy of divorcing employment creation from the growth process **must be reversed in order to address the issue of jobless growth of the organized sector**. The unorganized sector should be **strengthened and sustained** with investment to ensure its growth.
- The **effective participation of the people should be ensured** for facilitating accountability in social transfers. There is a need to tackle issues of economic and social equity, gender bias, and illiteracy at the grassroots level for this purpose.
- There is a **need to recognize the crucial role of women as agents of sustained socio-economic growth** and change. This necessitates focusing on removing gender gaps as well as on women's empowerment, which would have a significant impact on reducing poverty and inequality.

MISSION KARMAYOGI

The mission Karmayogi (National Programme for Civil Services Capacity Building (NPCSCB)) is the new Capacity building programme rolled by govt of India.

- It is a NPCSCB scheme for its 46 lakh civil servants including the officers and employees at all levels which aims to build a future-ready civil service with the right attitude, skills and knowledge, aligned to the vision of New India.
- This programme will last for 5 years from 2020-21 to 2024-25. This will be delivered through a digital platform called iGOT-Karmayogi.
- It is meant to be a comprehensive post-recruitment reform of the Centre's human resource development, in much the same way as the National Recruitment Agency approved last week is pre-recruitment reform.

The pillars of the mission - There are 6 pillars of the mission such as -

- Policy Framework
- Institutional Framework
- Competency Framework
- Digital Learning Framework
- Electronic Human Resource Management System (e-HRMS)
- Monitoring and Evaluation Framework
- Idea behind Mission Karmayogi

Institutional Framework of Mission Karmayogi

There has been a proper institutional framework for implementing the mission karmayogi as –

- Prime Minister's Public Human Resources (HR) Council
- Capacity Building Commission
- Special Purpose Vehicle for owning and operating the digital assets and the technological platform for online training
- Coordination Unit headed by the Cabinet Secretary

This mission will be implemented by the Public Human Resource Council.

- This council be chaired by the Prime Minister of India and other members are –
 - Union Ministers
 - Chief Ministers
 - Eminent public HR practitioners
 - Thinkers
 - Global thought leaders and
 - Public Service functionaries

Salient Features of Mission Karmayogi –

With aim of improving the Human resources management practices , this mission has following features -

- **Focus on Role based Human Resource** - With The transition from Rules Based to Roles Based Human Resource (HR) Management , The focus is to allocate jobs to the civil servants based on their competencies.

- **On-Site Learning to complement Off-Site Learning** – It is a training given to the civil servants on-site.
- **A shared training infrastructure ecosystem** – Civil servants to adapt to an ecosystem of shared learning materials, institutions and personnel.
- **Approach of Framework of Roles, Activities and Competencies** – All civil services positions to be calibrated under this approach. Also based on this approach, all learning content will be created and delivered to every single government entity.
- **Behavioural, Functional and Domain Competencies** – Civil Servants to build their competencies in their self-driven and mandated learning paths.
- **Co-creation of the common ecosystem by all the Central Ministries, Departments and their organizations** – This is a way to create an ecosystem of learning through an annual financial subscription for every employee.
- **Partnership with learning content creators** – Public training institutions, universities, start-ups and individual experts will be enabled to be a part of this capacity-building measure.

Need of The Mission

- **For developing the domain knowledge** - There is a need to develop domain knowledge besides administrative capacity in the bureaucracy.
- **Improve the Competencies** - There is a need to formalize the recruitment process and match the public service to a bureaucrat's competence, so as to find the right person for the right job.
- **Capacity building since beginning** - The plan is to begin right at the recruitment level and then invest in building more capacity through the rest of their career.
- **Improve in Governance practices** - As the Indian economy grows, it will get more complex to govern; the governance capacities will have to be enhanced proportionately which this reform undertakes.
- **Reforms** - The reforms in the Indian bureaucracy is the need of the hour and It is a major reform undertaken in recent years to transform it.

Challenges

- **Bureaucracy against change** - There has been a repetitive tendency in the Bureaucracy to resist the change which challenges their status quo.
- **Need to understand the importance** - The bureaucracy too must understand the need of domain knowledge and the importance of moving away from generalist to specialist approach.
- **Need temporal but spatial skills** - In today's world the governance is getting technical with each passing day and hence it's important that the person in authority too should have the requisite skill and experience in that particular area.
- **Needs of behavioural Changes** - there should be a behavioural change in the bureaucracy too and they must embrace the change as a need of the hour and not an attack on their status quo.
- **Participation related challenges** – As this may become the another tool for taking leaves. It must be ensured that they are actually attending the courses and participating in it so that the purpose doesn't get defeated.

Objectives of Mission Karmayogi -

- It will assist the Public Human Resource Council
 - It will supervise all central training institutions which are enabled for **civil services capacity building**
 - It will put **forth recommendations on the standardization** of the training and capacity building, pedagogy and methodology
 - It will **suggest policy interventions related to the HR** practises in the government.
 - It will **create external faculty and resource centres**.
 - It will **assist stakeholder departments** in the implementation of the capacity building programmes.
-

UPSC GS2 SYLLABUS : ISSUES RELATING TO POVERTY AND HUNGER

BASICS OF POVERTY

- Poverty is a state of Individual, a family or a society where **people are unable to fulfill even their basic necessities** of life.
- When a substantial segment of society is **deprived of the minimum level of living** and continues at a bare subsistence level, that society is said to be plagued with mass poverty.
- The definition of poverty varies from subject to subject. The **economist defines poverty in terms of a person living below the poverty line** based on the income-consumption approach is a relative explanation and varies from place to place and nation to nation.
- **Psychologists have defined poverty in terms of deprivation and helplessness.** The poor do not have any control over their circumstances which are controlled by others. Thus, Poverty dimensions are important in deciding the deprivation and helplessness among the poor.
- **The United Nations**, perhaps the most prominent international institution dealing with hunger and poverty, divides poverty into two general classifications: **income poverty and human poverty**.

Income Poverty

- It is used by both the World Bank and the UN.
- **According to the World Bank**, people living on less than US\$1 per day are living in extreme poverty, and people who earn less than US\$2 a day are in moderate poverty.

- **South Asia is the region with the greatest concentration of extreme poverty.** In India, the world's second most populous nation, 34% live on less than US\$1 a day and 80% live on less than US\$2 a day.
- **Income poverty is also used to determine a poverty threshold or poverty line.** This is the boundary between poverty and non-poverty as determined by governments. It is **based on the cost of subsistence needs** in a given country so, while US\$1 a day is the international poverty line, for countries where the cost of living is higher, the poverty line is higher.

Human Poverty

- Whereas income poverty is based on only one indicator, **human poverty encompasses the multiplicity of dimensions associated with poverty.**
- It includes deprivation on a material level, e.g. **lack of proper diet, clothing, shelter, and work.** It also includes social deprivation, such as denial of employment, participation in social institutions, and education.
- **The UN's Economic and Social Council has described human poverty as:** "... a denial of choices and opportunities, a violation of human dignity. It means lack of basic capacity to participate effectively in society. It means not having enough to feed and clothe a family, not having a school or clinic to go to, not having the land on which to grow one's food or a job to earn one's living, not having access to credit. It means insecurity, powerlessness and exclusion of individuals, households and communities. It means susceptibility to violence, and it often implies living in marginal or fragile environments, without access to clean water or sanitation.

CAUSES OF POVERTY IN INDIA

- **Heavy pressure of population**
- Unemployment and underemployment
- Capital Deficiency
- Underutilised Resources
- Price Rise
- Net National Income
- Rural Economy
- Deficiency of efficient Entrepreneurs
- Social Factors like laws of inheritance, caste system, certain traditions, etc.
- Improper use of Natural Resources
- Lack of Infrastructure

URBAN POVERTY IN INDIA

- Initially poverty was only supposed to be limited in rural areas. Although in India **people from both rural and urban areas are suffering from the problem of poverty.**

- This was one of the major reasons because of which the Rangarajan **committee considered rural and urban poverty in separate baskets** rather than in the same one as done earlier by the Tendulkar committee.
- Urban poverty in India is unique, particularly in the way that it follows certain patterns of growth. Though the proportion of urban poor has reportedly declined over the past decades, **the numbers keep adding up, fueling the persistent nature of slums.**

Some Important Reasons For Urban Poverty Are:

- **Migration from rural areas to urban mega-city metropolis:** Because of lack of income, the people who have migrated, live in slums or small houses by the streets where no one is held accountable for their living conditions.
- **Lack of Opportunities and Skills Training:** One of the major causes for urban poverty is lack of adequate job opportunities for the poor. As many low-skilled people look for such jobs, it creates lack of opportunities and inadequate supply of opportunities.
- **Lack of Affordability –** Lack of affordability can range from affordable housing to affordable groceries and food or travel costs. All these activities are more expensive in cities compared to rural areas.
- **High Birth Rate –** A high birth rate remains one of the closely linked factors contributing to urban poverty. An uncontrolled and very high birth rate makes it difficult for families to meet all their requirements.
- **Lack of quality education –** Education plays a major role in everyone's lives. A well educated person is expected to be better paid and have a fixed or more secured source of income through job or business.

How To Tackle The Causes Of Urban Poverty

- **Improving life in rural areas:** In order to control large-scale migrations from rural to urban areas, the current state of rural infrastructure (or lack thereof) must be addressed. What's also important is giving slum-dwellers access to some form of credit and resources, if not the causes of urban poverty will continually wear down on generations to come.
- **For example,** the situation could be helped by instilling research and proper training into agriculture so that it could work effectively alongside rural area development.
- **Better urban planning & slum rehabilitation:** Successful urbanisation takes time, but life in the slums will only improve when its residents' living situations are upgraded or bettered on a basic level.
 - That's why one of our key programmes in India consists in rehabilitating and upgrading slums: building safe and decent homes for the millions of socially excluded families in India's big cities.
 - Through rehabilitation, we ensure that these families have access to clean water, electricity, better jobs (via skills training), and the right to live in their homes.

Problems Faced By Poor In India

- **Social discrimination and social condemnation:** The employers, the rich, the officials and even the government look down upon the poor. They are considered lethargic, inefficient and a burden on society.
 - They have to face the **challenges of illiteracy and social prejudice.** They lack collective power and whenever they make an effort to unite at the local or micro level against the politically, economically and socially stronger sections of the society they are crushed.
 - They have to **pay a higher interest rate for credit.** They are accused and labeled as undisciplined, immature, having very little foresight.
 - The **hostile attitude of the society at every stage** thus lowers their self-image, creates in them a feeling of inferiority and curbs their efforts of gaining means to help themselves.
- **Housing:** Houselessness, overcrowding, slums and rental laws are serious problems in urban areas. The houses of the poor are not only over-crowded but lack privacy. In urban slums, **a considerable portion of family life is conducted outside the dwelling unit.**
 - The darkness of the houses drives the children out into the streets creating problems for the parents in controlling their children.
 - The existing space does not permit proper sleeping arrangements and **forces an invasion of privacy.** Family tensions also affect their personality as well as their behaviour.
- **Subculture of Poverty:** According to Oscar Lewis, **when poverty is transmitted over generations, it becomes a culture.**
 - The children of the poor **inherit a subculture of violence** in which physically aggressive responses are either expected or required by all members.
 - The use of violence in such a subculture is **not viewed as illicit conduct** and the users do not have to deal with feelings of guilt about their aggression.
 - **Violence becomes a part of the lifestyle,** the medium for solving difficult problems and is used primarily between persons and groups who themselves rely upon the same supportive values and norms.

Suggestions for Removal of Poverty from India

- **Population Control:** Population in India has been increasing rapidly. Growth rate of the population is 1.8%. For removal of poverty the growth rate of the population should be lowered.
- **Increase in Employment:** Special measures should be taken to solve the problems of unemployment and disguised unemployment. Agriculture should be developed. Small scale and cottage industries should be developed in rural areas to generate employment.

- **Equal distribution of Income:** Mere increase in production and control on population growth will not remove poverty in India. It is necessary that inequality in the distribution of income should be reduced.
- **Regional poverty:** In States like Orissa, Nagaland, U.P and Bihar etc. the percentage of the poor to the total population is high. Govt. should give special concessions for investment in these regions. More PSU's should be established in these states.
- **Problem of Distribution:** The public distribution system (PDS) should be strengthened to remove poverty. Poor section should get food grains at subsidized rates and in ample quantities.
- **Fulfillment of minimum needs of the Poor:** Govt. should take suitable steps to meet minimum needs of the poor e.g., supply of drinking water and provision of primary health centres and primary education.
- **Increase in the productivity of the Poor:** To remove poverty, it is necessary to increase productivity of the poor. The poor should be given more employment. More investment should be made in public and private sectors to generate employment.
- **Changes in techniques of Production:** India should adopt labour intensive techniques of production. We should have technical development in our economy in such a way that labour resources could be fully employed.
- **Stability in Price Level:** Stability in prices helps to remove poverty. If prices continue to rise, the poor will become poorer. So the Govt. should do its best to keep the prices under control.
- **Development of Agriculture:** Agriculture should be developed to remove poverty. Rapid rate of growth of agriculture production will help to remove urban as well as rural poverty. Agriculture should be mechanised and modernized. Marginal farmers should be given financial assistance.
- **Increase in the rate of growth:** Slow rate of growth is the main cause of poverty. So the growth rate must be accelerated. In 2003-04 the growth rate was 6.5% despite the fact that 26% of the population remains below the poverty line.

POVERTY MEASUREMENT

- Conventionally, **poverty is measured as the proportion of the population living below a threshold level of expenditure** (or income) called the poverty line.
- Poverty line in turn is set at a level that enables an individual to **purchase goods and services in quantities adequate to satisfy basic needs** as per prevailing social norms.
- **Poverty line and the poverty ratio have three potential uses:** identification of poor; allocation of expenditure on anti-poverty programs across states or regions; and tracking poverty over time and across regions.

Absolute Poverty and Relative Poverty

Two basic approaches to the concept of poverty were found in economic literature, namely, absolute poverty and relative poverty.

Absolute Poverty:

- The concept of absolute poverty is **based on absolute norms for living** (measured in terms of consumption expenditure) laid down according to **specified minimum standard and all such individuals or groups** whose consumption expenditure is found to be below this standard are classified as poor.
- This concept is **directly related to the minimum level of consumption**. Absolute measurement of poverty overlooks deprivation within countries or the higher cost of living in developed countries

Relative Poverty:

- Under the relative concept of poverty, a family (or an individual) is deemed to be poor if its **level of income or consumption expenditure falls below a predetermined level**.
- Then the income distribution of the population in different fractile groups is estimated and a **comparison is made between the level of living** of people in the bottom layer and the top layers of the population to assess the relative standard of poverty.
- The **concept of relative poverty has received little attention**. The concept of relative poverty is more suitable for developed countries while the absolute concept is relevant for the developing countries.
- **A relative measure is more flexible than an absolute measure** because it can be adjusted for changes in living standards. The reliance on income as the standard for absolute and relative measures of poverty is often criticized. Poverty can be reliant, social-exclusion and consumption measures. Self reliance measures focus on the importance of earning capacities and family's ability to support a livelihood through their own means.
- **Consumption poverty or material hardship** considers a family's level of consumption relative to a threshold. **Measures that capture the essence of material hardship include** basic needs and food insecurity, housing insecurity, in access to medical and health insurance in ability to pay utility bills, bad housing quality and lack of ownership of durable goods.
- These are also **suggestions to measure poverty using local perception** and to evaluate the social poverty gap magnitude of the difference between family resources and poverty threshold.

Poverty Estimation In India

- **The percentage of the population living below the poverty line in India decreased** to 22% in 2011-12 from 37% in 2004-05, according to data released by the Planning Commission in July 2013.

- **NITI Aayog** (earlier by The Planning Commission) **estimates levels of poverty in the country** on the basis of consumer expenditure surveys conducted by the National Sample Survey Office (NSSO) of the Ministry of Statistics and Programme Implementation.
- The current methodology for poverty estimation is based on the recommendations of an **Expert Group to Review the Methodology for Estimation of Poverty** (Tendulkar Committee) established in 2005.

SUGGESTION TO IMPROVE POVERTY ESTIMATION IN INDIA

- **Poverty lines have to be recalibrated** depending on changes in income, consumption patterns and prices. India is now a middle-income country, with an estimated per capita income of around \$9,000 in purchasing power parity.
- The **Indian political, policy and administrative systems have to adjust to the new realities** of the transition to a middle-income country. The focus of government spending should be on the provision of public goods rather than subsidies. That is easier said than done given the political economy equilibrium.
- The **hybrid approach** which would measure poverty from the perspective of a common global standard of living and relative poverty within countries.
- The poverty line in case of hybrid model would be **equivalent to the income required to achieve a certain welfare status**, which includes basic nutrition and social inclusion.
- It makes sense to set the poverty line at a level that **allows households to get two square meals a day** and other basic necessities of life.

HUNGER

- India is **home to the largest number of hungry people** in the world. India has **slipped to 101st position in the Global Hunger Index 2021** slipped from 94th position.
- Similarly, **malnutrition in India, especially among children and women, is widespread**, acute and even alarming. The country is among 105 countries that are 'on course' to meet the target for 'childhood overweight'.
- As per the State of Food Insecurity in the World (FAO, IFAD and WFP), **India remains home to the largest number of undernourished people** in the world: 14.5% of its population.
- As per the Global nutrition Report, **17% children in India are suffering from child wasting and 34% children are stunted** by years of age.
- **Hunger and malnutrition** are, to a large extent, two sides of the same coin. Moreover, hunger and malnutrition have a distinct gender dimension and are widespread among the women/mothers. Every second woman in India is reported anaemic.
- **Hunger and poverty are powerful but familiar terms.** Everyone knows what they mean, yet, they evoke different images for everyone. Even major international organizations mandated to alleviate hunger and poverty use a variety of interpretations.

The Relationship Between Hunger and Poverty

- **Not every poor person is hungry, but almost all hungry people are poor.** Millions live with hunger and malnourishment because they simply cannot afford to buy enough food, cannot afford nutritious foods, or cannot afford the farming supplies they need to grow enough good food of their own.
- **Hunger can be viewed as a dimension of extreme poverty.** It is often called the most severe and critical manifestation of poverty.
- The United Nations Millennium Development Goals conflate hunger and poverty in its first goal to “**eradicate extreme poverty and hunger.**”
- The indicators used for this goal measure **income poverty, undernourishment, and malnutrition**, but also the employment-to-population ratio and other employment indicators, the growth rate of the economy, and the poverty gap ratio (measure of the depth of poverty below the poverty line).
- Historical trends suggest that **poverty declines more quickly than undernourishment.** This suggests that poverty reduction usually first benefits those who are not so poor as to be hungry.

Key Facts About Hunger in India

- India is home to the largest undernourished population in the world
- 194.4 million people i.e. 14.5% of our population is undernourished
- 34% of children under 5 years of age are stunted
- 53% women in the reproductive age (15-49 years) are anaemic (this roused from previous estimations)

Causes of Hunger in India

- **Productive asset lessness, remunerative joblessness and social and gender injustice and inequalities** are the major causes of this malady, besides destitution, illness, disability, old age, widowhood, etc.
- Another equally important cause is **inefficient and ineffective implementation** of, and huge leakage in, government's schemes meant to overcome hunger and malnutrition.
- **Centralisation** of governance, resources, decision-making, and development action as well as concentration of productive assets, resources and wealth in a few hands further aggravates the problem.
- **Lack of adequate political and social will** is yet another cause.
- Although India is far better placed as regards availability and accessibility of data, **lack of disaggregated data of district level and below up to Gram Panchayat** (Village Council) level comes in the way of focused measures and efficient and effective monitoring, mapping and surveillance system.

- **Poverty:** Poverty alone does not lead to malnutrition, but **it seriously affects the availability of adequate amounts of nutritious food** for the most vulnerable populations. Over 90 percent of malnourished people live in developing countries.
- **Lack of Access to Food:** Most major food and nutrition crises do not occur because of a lack of food, but rather because people are too poor to obtain enough food. People are increasingly dependent on international markets for all or part of their food supply, particularly between harvest periods.
- **Climate Change:** In 30 years, the number of natural disasters — droughts, cyclones, floods, etc. — linked to climate change has increased substantially. The effects of climate change are often dramatic, devastating areas which are already vulnerable. Infrastructure is damaged or destroyed; diseases spread quickly; people can no longer grow crops or raise livestock.
- **Conflicts:** Conflicts have a direct impact on food security, drastically compromising access to food. Often forced to flee as violence escalates, people uprooted by conflict lose access to their farms and businesses, or other means of local food production and markets.
- **Disease:** Certain illnesses and infections, such as tuberculosis, measles, and diarrhoea are directly linked to acute malnutrition. A combination of disease and malnutrition weakens the metabolism creating a vicious cycle of infection and undernourishment, leading to vulnerability to illness.
- **Lack of Safe Drinking Water:** Water is synonymous with life. Lack of potable water, poor sanitation, and dangerous hygiene practices increase vulnerability to infectious and water-borne diseases, which are direct causes of acute malnutrition.

Suggestions for Eliminating Hunger In India

- There is a growing need for the **design and development of more efficient integrated systems** of food production, processing, preservation and distribution that will feed the changing tastes of the nation.
- **The farmer**, the first participant of the economy, **has to be supported** to achieve the highest production and productivity and must ensure a larger share of profit along the value chain.
- **Cold chains** do not just reduce post-harvest losses but also allow farmers to earn more by tapping into well-functioning remunerative markets, while maintaining the quality of their produce.
- With growing climate variability and extremes, **resilient transportation infrastructure** will allow food to be transported from surplus to climate stressed areas, thus contributing to achieving zero hunger, goal 2 under the 2030 agenda for sustainable development.
- While this is an enormous challenge, **it is an opportunity that compels action, especially for companies that are involved at various stages of the food value chain**. Private companies have the competencies, insights as well as the resources to invest in potential solutions.

- The problem of food waste is also intensified because of the lack of regulation around industry standards and policies. **Companies can be advocates for industry standards that regulate food wastage** and help increase general public awareness around the issue.
- The government, on its part, can have **laws that penalize companies for wasting food** within their supply chain and encourage repurposing and recycling of food items. **For example**, since 2016, France has been fining grocery stores for throwing away edible food.
- Currently, we have a one-way movement of raw materials and a one-way movement of finished goods. **This flow must be transformed into a two-way movement of commerce and healthy, nutritious food** between the farmers and the consumers to overcome the zero hunger challenge and address poverty in all its forms.
- Developing and upgrading rural infrastructure; training farmers in post-harvest practises that minimize losses; integrating small scale enterprises into value chains; organizing smallholder farmers into farmer producer organisations; customised financial services; investment in agricultural research; and last-mile marketing channels are **extremely important to overcome the zero hunger challenge**.

UPSC GS2 SYLLABUS : IMPORTANT ASPECTS OF GOVERNANCE, TRANSPARENCY AND ACCOUNTABILITY, E-GOVERNANCE-APPLICATIONS, MODELS, SUCCESSES, LIMITATIONS, AND POTENTIAL; CITIZENS CHARTERS, TRANSPARENCY & ACCOUNTABILITY AND INSTITUTIONAL AND OTHER MEASURES.

BASICS OF GOVERNANCE

- The concept of "governance" has been in use since the medieval period. Simply put "governance" means: "The process of decision-making and the process by which decisions are being implemented". Governance can be used in several contexts such as:-
 - Corporate Governance
 - International Governance
 - National Governance
 - Local Governance, etc.
- In 1993, the World Bank defined governance as the method through which power is exercised in the management of a country's political, economic and social resources for development.
- The Organization for Economic Cooperation and Development (OECD) lays down the key components of governance as follows:
 - Legitimacy of government

- Accountability of political and official elements of government
- Competence of governments to make policy and deliver services
- Respect for human rights and the rule of law.
- Thus, governance focuses on the formal and informal actors and institutions involved in decision-making and implementing those decisions.

GOOD GOVERNANCE

- 'Governance' by itself is a neutral term while 'Good Governance' implies positive attributes and values associated with the quality of governance. Good governance is a dynamic concept and there is much subjectivity involved in defining the aspects of good governance.
- Principles of Effective Governance and strategies used to implement them are:

CHALLENGES WITH GOOD GOVERNANCE:

Administrative Issues:-

- Delays in Bureaucratic processes
- Corruption
- Lack of sensitivity, transparency and accountability in the working of State machinery
- Changes towards promoting transparency and accountability face a lot of resistance

Political Issues:-

- Governments at lower levels can only function efficiently if they are empowered to do so. This is particularly relevant for the Panchayati Raj Institutions (PRIs), which currently suffer from inadequate devolution of funds as well as functionaries to carry out the functions constitutionally assigned to them.
- Misuse of Political Powers
- The criminalization of the political process and the unholy nexus between politicians, civil servants, and business houses are having a baneful influence on public policy formulation and governance

Judicial Issues:-

- A citizen has the right to avail timely justice, but delayed justice is major problem
- Lack of accountability in Judiciary
- Threat to life and personal security of important elements in society like whistleblowers, etc.
- Indian Penal Code and other laws which deal with corruption cases are outmoded and provide insufficient penalties.

Economic Issues:-

- Persisting fiscal imbalances
- Regional disparities
- Inadequate remuneration of salary scales and rising cost of living is probably one of the important causes of corruption.

Social and Environmental issues:-

- The socially and economically backward sections of the society have always been marginalized in the process of development. Although there are constitutional provisions for their upliftment but in practice, they are lagging behind in so many areas like education, economic well-being etc.
- Poor people exist in large numbers who are mostly voiceless with little opportunity for participation in governance.
- Deterioration of physical environment, particularly in urban areas. Eg. Air pollution in capital city of New Delhi

SUGGESTIONS FOR GOOD GOVERNANCE:

- Infusion of ethics into politics so that the political elite can demonstrate integrity and instill faith among subordinates about their fairness and impartiality:
 - The 2nd ARC in its report on Citizen Centric Administration has advocated for the cordial and hassle-free relations between Citizens and Personnel so as to create favorable opinion towards Public Services and public servants.
 - 2nd ARC in its report on Refurbishing Personnel Administration has suggested that Character Building is the most essential part of the Training of civil servants both at induction level and in-service training.
 - In this regard the superior subordinate relation can play a vital role in the character building of a civil servant. Healthy relation between the politicians and bureaucrats is also required.
- Simplifying the government machinery.
- Ensuring High Standards of Conduct among the top Personnel
- Bringing in Stability of tenure and guarantee against arbitrary punishment. This is essential if you want to get the best out of public servants.
- The institutional arrangements like “whistle blowing”, etc. should also be put in place to curb corrupt practices.
- To enhance accountability effective Implementation of Citizens Charters' for monitoring service delivery and also effective enforcement of Right to Information Act is to be done.
- **Civil Services Board -**
 - Arbitrary and questionable methods of appointments, promotions and transfers of officers by political superiors also led to corrosion of the moral basis of its independence.
 - The question of appointments, transfers and placements is not to be left to the discretion of the politicians or administrative bosses but to be entrusted to

- independent and autonomous boards constituted (under the Constitution) on the lines of UPSC.
- Clear and predictable guidelines and revised rules of service may also be worked out.
- **Technical and Managerial Competence -**
 - Technical and managerial competence of civil servants is a factor of good governance.
 - This may be less of a constraint than it used to be, as access to education has improved, but rapid changes require ongoing development of skills.

BASICS OF E-GOVERNANCE:

- The 'e' in e-Governance stands for 'electronic'. **According to the 2nd Administrative Reform Commission (ARC) Report** e-Governance is basically associated with carrying out the functions and achieving the results of governance through the utilization of what has today come to be known as ICT (Information and Communication Technology).
- **World Bank** - "E-Governance refers to the use by government agencies of information technologies (such as Wide Area Networks, the Internet, and mobile computing) that have the ability to transform relations with citizens, businesses, and other arms of government.
- These technologies can serve a variety of different ends:
 - **better delivery** of government services to citizens
 - **improved interactions** with business and industry
 - **citizen empowerment** through access to information
 - or more **efficient government management**.
- The broad goals of the e-Governance are:
 - **Better service delivery** to the citizens
 - Ushering in **transparency and accountability**
 - Empowering people through information
 - Improved efficiency within Government
 - Improved interference with business and industry

INTERACTIONS IN E-GOVERNANCE:

1. Government to Citizen (G2C):-

- It allows citizens to access government information and services promptly, conveniently, from everywhere, by use of multiple channels.
- Expands the accessibility and availability of government services and also improves the quality of services.
- Some of government to citizen services are-
 - **Government services like direct benefit transfer** for Kerosene and PDS, information regarding APMC, e-NAM, information regarding soil health,

- meteorological information during monsoon period, etc. can be provided to all farmers.
- **Health care services** like e-Mamta (mother and child tracking system) by the Government of Gujarat, e-Aushadhi by the Rajasthan Government, etc.
- **Educational services** like Swayam, Swayam Prabha, National Academic Depository, National Digital Library, Mooc Online courses, etc.
- **Transport aspects that can be easily e-governed** include: Registration of motor vehicles, Issue of driving licences, Issue of plying permissions (Permits), Tax and fee collection through Cash and Bank Challans and Control of Pollution.

2. Government to Government (G2G):-

- This model refers to the services which are shared between the governments.
- In this interaction, Information and Communications Technology is used to reorganise the governmental processes involved in the functioning of government entities as well as to increase the flow of information and services within and between different entities.
- Main intent of this interaction is to increase efficiency, performance, and output.
- Some of government to government services are-
 - Government is trying to **create a Secretariat by equipping officials with IT enabled systems** which aid their day to day activities. Example: E-Secretariat in Rajasthan.
 - In an e-democracy the Government informs the citizen, represents the citizen, encourages the citizen to vote, consults the citizen and engages the citizen in the Governance.
 - Under E-Police various state police departments are trying to leverage the usage of ICT in order to reduce the crime rates. **Example:** The Delhi Police have come out with a slew of mobile and web-based apps to make the force more people-friendly like Himmat, an app that a woman can use in case of distress to send SOS alerts and even audio-video feeds if caught in a situation where there is threat to their safety.

3. Government to Businessmen (G2B):-

- In this type of interaction, e-Governance tools are used to help the business organisations that provide goods and services to seamlessly interact with the government.
- They share information through this model like:
 - Collection of taxes
 - Rejection and approval of patent
 - Payment of all kind of bills and penalty
 - Sharing of all kind of information, rules and data
 - Complaints or any kind of dissatisfaction can be expressed
 - Some government to businessmen services are - Defence E-Procurement Portal, Government e- Marketplace (GeM), etc.

4. Government to Employees (G2E):-

- The aim of this relationship is to serve employees and offer some online services such as applying online for an annual leave, checking the balance of leave, and reviewing salary payment records, among other things.
- This model increases the transparency between government and its employees and thus strengthens their relationship.

IMPORTANCE OF E-GOVERNANCE

- Governance of a highly populated country like India through traditional methods and techniques has become very difficult and hampers efficiency. **E-governance brings in simplicity, efficiency and accountability in government** and also extends reach of effective governance to a larger population
- The emergence of Information and Communications Technology (ICT) has **provided means for faster and better communication, efficient storage, retrieval and processing data and exchange and utilization of information** to its users, be they individuals, groups, businesses, organizations or governments.
- **Increases efficiency and effectiveness of government processes** and aids the emergence of the digital citizen.
- Industrial development in India has been hampered in the past with complex procedures and bureaucratic delays. **E-governance aims to expedite the various processes important for industrial development.**
- An **increased use of computers and web based services improves the awareness levels** of citizens about their rights and powers. It helps to reduce the discretionary powers of government officials and curtail corruption.
- Most of the Government expenditure is appropriated towards the cost of stationary. **Paper-based communication needs lots of stationary, printers, computers, etc.** which calls for continuous heavy expenditure. The Internet and Phones make communication cheaper, saving valuable money for the Government.

CHALLENGES WITH E-GOVERNANCE

- Lack of information on the Human resource requirements to support the central and state e-Governance mission.
- Non-availability of specific standards, policy guidelines for e-Governance.
- **Inaccessibility:** An e-government site that provides web based access and support often does not offer the potential to reach many users including those who live in the remote areas, have low literacy levels and exist on poverty line incomes.
- **Cost:** In developing countries like India, cost is one of the most important obstacles in the path of implementation of e-governance projects. A huge amount of money is involved in implementation, operational and evolutionary maintenance tasks.

- **Privacy and Security:** A critical obstacle in implementing e-Governance is the privacy and security of an individual's personal data that he/she provides to obtain government services.
- Lack of thrust on institutional capacity building in the domain of e-Governance.
- Inadequate expertise and skills within the state training institutions to lead training programs at the policy maker level.
- **Interoperability:** Interoperability is the ability of systems and organizations of different qualities to work together. The e-Governance applications must have this characteristic so that the newly developed and existing applications can be implemented together.
- **Local language:** The e-governance applications must be written in the local language of the people so that they may be able to use and take advantage of these applications.
- **Maintenance Issue:** As Information Technology changes very fast and it is very difficult for us to update our existing systems very fast. Maintenance is a key factor for long living systems in a rapidly changing technical environment.

SUGGESTIONS FOR E-GOVERNANCE

- e-Governance through **regional languages is necessary** for nations like India where people from several linguistic backgrounds are the participants.
- Some of recommendations give by **2nd ARC** are:
 - **Governmental forms, processes and structures should be re- designed** to make them adaptable to e-Governance, backed by procedural, institutional and legal changes.
 - **Each government organization should prepare a time bound plan** for providing transactional information through their websites.
 - **Evaluation of success or failure of e-Governance projects may be done** by independent agencies on the basis of parameters fixed beforehand.
 - **Public-Private partnership should be promoted** in several components of e-Governance projects.
 - **Gram Panchayats should be involved** in monitoring the operation of the Common Service Centres in the first four years of their operation.
 - Union and State Governments should take proactive measures for **establishing Knowledge Management Systems as a pivotal step** for administrative reforms in general and e- Governance in particular.
 - **Develop a national e-Governance 'enterprise architecture' framework** as has been done in some countries.
- A **hybrid approach needs to be adopted** for enhancing interoperability among e-governance applications which will encompass a centralized approach for document management, knowledge management, file management, grievance management etc.

BASICS OF CITIZEN CHARTER

- The concept of Citizen Charter was first articulated and implemented in the United Kingdom by the Conservative Government of John Major in 1991 as a national programme.
- The basic objective of the Citizen's Charter is to empower the citizen in relation to public service delivery

Definition -

- Citizen's Charter is a document which represents a systematic effort to focus on the commitment of the Organisation towards its Citizens in respects of Standard of Services, Information, Choice and Consultation, Non-discrimination and Accessibility, Grievance Redress, Courtesy and Value for Money.
- This also includes expectations of the Organisation from the Citizen for fulfilling the commitment of the Organisation.

The six principles of the Citizen's Charter movement as originally framed were:

- **Quality:** Improving the quality of services;
- **Choice:** Wherever possible;
- **Standards:** Specifying what to expect and how to act if standards are not met;
- **Value:** For the taxpayers' money;
- **Accountability:** Individuals and Organisations; and
- **Transparency:** Rules/Procedures/Schemes/Grievances.

The 6 principles as laid out by the government in the UK, were later elaborated in 1998. The Labour government, then, brought out the following **nine principles of Service Delivery:**

1. Set standards of service
2. Be open and provide full information
3. Consult and involve
4. Encourage access and the promotion of choice
5. Treat all fairly
6. Put things right when they go wrong
7. Use resources effectively
8. Innovate and improve
9. Work with other providers

CITIZEN'S CHARTER IN INDIA

- In India, the concept of citizen's charter was first adopted at a '**Conference of Chief Ministers of various States and Union Territories**' held in May 1997 in the national capital.
- **The Department of Administrative Reforms and Public Grievances (DARPG)**, in the Ministry of Personnel, Public Grievances and Pensions, coordinates the efforts to

formulate and operationalize Citizens' Charters. It provides guidelines for formulation and implementation of the Charters as well as their evaluation.

- DARPG prescribes that a good Citizen's Charter should have the following components:-
 - Vision and Mission Statement of the Organisation
 - Details of Business transacted by the Organisation
 - Details of 'Citizens' or 'Clients'
 - Statement of services including standards, quality, time frame etc. provided to each Citizen/
 - Client group separately and how/ where to get the services
 - Details of Grievance Redress Mechanism and how to access it
 - Expectations from the 'Citizens' or 'Clients'
 - Additional commitments such as compensation in the event of failure of service delivery.

ISSUES WITH CITIZEN'S CHARTER IN INDIA

- **Lack of Public awareness** - Awareness campaigns to educate clients about the Charter were not conducted systematically.
- **Lack of Consultation** - The general perception of organisations which formulated Citizen's Charters was that the exercise was to be carried out because there was a direction from above. The consultation process was minimal or largely absent.
- **Lack of standards/time norms** - In some cases, the standards/time norms of services mentioned in Citizen's Charter were either too lax or too tight and were, therefore, unrealistic, thereby creating an unfavourable impression on the clients of the Charter.
- **Resistance to change:** Vested interests work for stalling the Citizens' Charter altogether or in making it toothless.
- **Lack of Stability** - Sometimes, transfers and reshuffles of concerned officers at the crucial stages of formulation/implementation of the Citizen's Charter in an organisation severely undermined and also destabilized the strategic processes which were put in place and hampered the progress of the initiative.
- **Inadequate groundwork:** Non-familiarity of the service providers with the philosophy, goals and main features of charters.
- **Poor design:** Critical information that end users need to hold agencies accountable are missing in charters.
- **Lack of infrastructure and initiative.**
- **Lack of Training** - The employees responsible for implementing the charter lack in training and orientation.

SUGGESTIONS

- The elements of a good charter can be said to be:
 - Focus on Customer Requirements;
 - Simple Language;

- Service standards;
 - Effective Remedies;
 - Training;
 - Delegation;
 - Feedback Mechanism;
 - Close Monitoring;
 - Periodic Review.
- **Recommendations given by 2nd ARC report to make Charter more effective are:**
 - **One size does not fit all:-** Formulation of CC should be a decentralized activity with the head office providing only broad guidelines.
 - Citizen's Charter should be prepared for each independent unit under the overall umbrella of the organization's charter
 - Wider consultation which should include civil society in the process
 - Firm commitments to be made
 - Internal process and structure should be reformed to meet the commitments given in the Charter
 - Redress mechanism in case of default
 - Periodic evaluation of Citizen's Charters
 - Benchmark using end-user feedback
 - Hold officers accountable for the results.
 - The Charters will remain merely a paper exercise of limited value if there is **no consultation with the users**. Departments should ensure user involvement at all stages of preparation and implementation of the Charter.
 - **Implementing the Charters without the staff owning them** will defeat the purpose of the Charter. Motivating the staff and involving them in the preparation of the Charter are extremely important.
 - Independent audit of results is important after a period of implementation of the Charter.
 - A **critical review of the current systems** and processes in the department should be undertaken to examine whether they are likely to have an adverse impact on the Charter.

Sevottam Model -

- A certification scheme called Sevottam was launched to address some of the shortcomings of the citizen's charter.
- It provides for the award of the Sevottam symbol of excellence to public service organizations that implements and complies a set of management system requirements.
- It offers a systematic way to identify weaknesses in specific areas and correct them through systemic changes and process re-engineering.
- Obtaining a Sevottam symbol of excellence requires the following:
 - Successful implementation of Citizen's Charters
 - Service Delivery Preparedness and achievement of Results
 - Sound Public Grievance Redress Mechanism.
- The model prescribes seven steps:

- **Define** services and identify clients.
 - **Set** standards and norms for each service.
 - **Develop** capability to meet the set standards.
 - **Perform** to achieve the standards.
 - **Monitor** performance against the set standards.
 - **Evaluate** impact through an independent mechanism.
 - **Continuous** improvement based on monitoring and evaluation.
 - Citizen's charter is a major compliance criterion for being considered for Sevottam.
 - The other standards include customer focus; internal and external communication requirements; documentation requirements; mechanism to implement, monitor, measure and improve delivery etc.
-

UPSC GS2 SYLLABUS : ROLE OF CIVIL SERVICES IN A DEMOCRACY.

BASICS OF CIVIL SERVICES

- The Indian civil service system is **one of the oldest administrative systems** in the world. It had its origin in the Mauryan period during ancient India.
- **Kautilya's Arthashastra** lays down the principles of selection and promotion of the civil servants, the conditions of loyalty for appointment to the civil service, the methods of their performance evaluation and the code of conduct to be followed by them.
- In medieval India, the **Mughals set up their own civil service systems** which centred on the management of land revenue, administration of government factories and establishment of the patrimonial state.
- In the **Mauryan period Kautilya laid down the qualifications of the civil servants** for appointment to the court. He described the views ·Of various experts on this issue. In his view, loyalty and sincerity were to be the two main qualifications in a person to be appointed as a civil servant.
- **During the medieval period** (1000-1600 AD), Akbar the Great founded and nurtured the civil service. His civil service had welfare and a regulatory orientation.
- **The British civil service** came on the Indian scene after the takeover of the East India Company in the 1860s.
- **Initially the British civil service was a part of a police state**, with the major task being that of carrying out law and order functions. It was separated as the different provinces had different civil services.
- There was **no code of conduct developed** by any of the British-India provinces.

- The East India Company, which ruled India for about 150 years, **did not set up any civil service** as its mandate was limited to commerce. The British rule came to India in the 1850s.
- Since Britishers **required the strong civil service**. Hence **they enacted a Civil Service Act** and included the civil servants on the Council of Administrators, which resulted in the accrual of both political and administrative powers to the civil servants in India.
- The **British government set up the Indian Civil Service in 1911**, primarily with the objective of strengthening the British administration in the UK. It was not successful; however it was very useful to retain the idea for strengthening the administration of its colonial base in India.
- **In 1935 the British government decided to establish interim rule** in the various provinces of India, which resulted in an exodus of the British subjects as civil servants and as a result, **the number of Indian subjects in the Indian civil service increased tremendously**.
- Though initially the British government set up only the Indian civil service, **later on they added a statutory civil service and central civil services**.
- In the course of time the **statutory civil service was weeded out** and there remained on the scene only the remaining two services, namely, the Indian Civil Service and the central civil services.
- The Indian civil service was set apart from other imperial services for manning top civil posts under a rigid hierarchy of a bureaucratic system which **Lloyd George termed as the "Steel Frame" of the British Raj**.
- In 1947, **free-India inherited the Indian Civil Service (ICS)**. After prolonged consideration, its Constituent Assembly decided to continue to run the Indian Administration with the help of the Indian Civil Service.
- **After independence** the Indian Civil Service was reorganised as a **two-tier system**. The central government controlled the **All-India Services (AIS)**, namely, the Indian Administrative Service (IAS), the Indian Foreign Service (IFS) and the Indian Police Service (IPS) and **the central services** which were classified as Group A, B, C, and D services. The selections to the All India Services and Group A and B services are conducted by the Union Public Service Commission (UPSC).
- All India services (AIS) are a 'will' from British India. Since India is administered by these services and **there is a fear that the politicisation of recruitment to bureaucracy**, neither advantageous nor desirable, there is a **reluctance to change the system of recruitment or renewal**.
- The **All-India Services (AIS) are a unique feature of federal polity**. It is the view of any constitutional experts that the Constitution though federal form is unitary in substance.
- The AIS scheme is a **part of this general plan of making the Centre strong** in the overall constitutional arrangements.

Constitutional Provisions Related to Civil Services

- As per **Articles 53 and 154**, the executive power of the Union and the States vests in the President or Governor directly or through officers' subordinate to him. These officers constitute **the permanent civil service and are governed by Part XIV of the Constitution** (Services under the Union and States (Article 308-323)).
- **Government of India (Transaction of Business) Rules:** The manner in which the officers are required to help the President or Governor to exercise his/her executive functions is governed by these Rules.
- **Article 311 – Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.**
- **Article 312 – All India Services.**

THE ROLE OF INDIAN CIVIL SERVICE

Role of Civil Service In Present Day Context

- Civil Service is the name of **an important government institution** comprising the staff of the Central administration of the State.
- It is more for it stands for **a spirit essential to the success of modern democracy** and ideal of vacation in Public officials who devote their lives to the Services of the Community. The civil service carries on the important branch of the governmental system "**the administration**".
- It has been well observed that "however adequately organised the 'political' side of the government, however wise our political philosophy and high leadership and command, these would be of **no effect without a body of officials expert in applying the accumulated supply of power and the general wisdom** to particular cases, and permanently and specially employed to do so."
- The civil service constitutes the **permanent executive in the modern state**. While the Parliament, the Cabinet and the President may resign it is the Civil Service, which really governs.
- A civil servant belongs to a body of persons who are **directly employed in the administration of the integral affairs of the State** and whose role and status are nonpolitical, ministerial or constabulary.
- The civil service in its official capacity is a **permanent brain trust of administration** having both a tradition and a technique in its national setting.
- If an expanding system of welfare legislation, befitting the new powerful role assumed by the state is to be **effectively developed an efficient civil service is a necessity**.
- These relative advantages tend to make the civil service an efficient civil service is a necessity. These relative advantages tend to make the civil service the **repository of the flow of all the substance and power**.
- To put it in a nutshell the **primary task of the civil service is to act legally within the limits of powers conceded** to it by organising the means of administration with a view to achieving the objectives laid down by the executive.

Civil Servant's Accountability for Good Governance

- The civil servants have **always played a pivotal role in ensuring continuity and change** in administration. However, they are dictated by the rules and procedures which are formulated taking their advice into account.
- It is the '**rule of law**' rather than the '**rule of man**' that is often blamed for widespread abuse of power and corruption among government officials.
- The **explosion of media in the recent past** has opened civil servants to external scrutiny and called for transparent accountability mechanisms in terms of outcomes and results not processes.
- The **issues of accountability of civil servants in service delivery** have come to the forefront in all dialogues regarding civil service reforms. The **credibility of civil service lies in the conspicuous improvement of tangible services** to the people, especially at the cutting edge.
- Conceptually, the civil servants are accountable to the minister in charge of the department, but **in practice, the accountability is vague and of a generalized nature**.
- Since there is **no system of ex ante specification of accountability** the relationship between the minister and the civil servants is only issue-sensitive.
- The civil servants deal with the minister as the issues present themselves. The **accountability relationship can be anything from all-pervasive to minimalistic** and it is left to the incumbent minister to interpret it in a manner that is most convenient to him.

ISSUES/CHALLENGES

- **Shortfall in personnel:** Overall shortage of personnel, especially in mid-level and higher level services as highlighted by the **Baswan Committee Report** (2016) leads to delay in service, burden on existing staff, etc.
- **Rule-Book Bureaucracy:** Due to rule book bureaucracy, some civil servants have developed the attitude '**bureaucratic behaviour**', which evokes issues like **red-tapism, the complication of procedures, and the maladapted responses of 'bureaucratic' organisations to the needs of the people**.
- **Undue political interference:** This interference sometimes leads to issues like **corruption, arbitrary transfers of honest civil servants**. Also this led to substantial inefficiency where the vital positions are not held by the best officers and ultimately this can lead to institutional decline.
- **Lack of specialized skills among bureaucrats:** In decisions regarding promotion and staffing, general competency is valued. However, lack of specialised skills can make them **redundant in a fast changing world**.
- **Detachment from the public:** This leads to a **gap in policy formulation and implementation**, especially regarding welfare activities, if bureaucrats are unaware of the ground reality.

- **Increased corruption:** High level of corruption in bureaucracy is associated with **low levels of investment and growth.**
- **Lack of transparency and accountability:** This can result in **discretionary decisions** by officers for their personal benefits.
- **Resistance to change:** Bureaucracy has often been criticized for its resistance to change **towards adopting technology and decentralization** of governance.

SUGGESTIONS

- The civil services must **brace up with the tempers of the changing times** and meet the requirements of the citizens.
- The challenges of public service delivery **necessitate new delivery models, delivering value for money and making policies better designed** for implementation.
- A governance system which espouses the **idea of maximum governance and minimum government** has to have a bureaucracy which is ready to embrace skill, scale and speed.

To realize this **goal reforms have to be directed so that the Civil service becomes:** (a) skilled (b) open (c) converged and (d) connected.

I. Skilled Bureaucracy: There is a need for development of new skill:

- Civil Servants have to equip themselves with **domain/sector specific skills.**
- **Develop Project/Programme Management skills** to implement large projects in a timely and cost-effective manner. This should also include commercial, legal and financial negotiation and contract management skills.
- **Digital Skills to be used** for improved service delivery. There should be increased reliance on e-governance and mobile governance.
- **Capacity/Skill building is vital for lower bureaucracy** since they are in the front line of the public service delivery. There is a need to enhance both their professional and soft skills.

II. Converged Bureaucracy: There is a need to break down the silos within Government to unlock productivity and outcomes:

- **Need for Horizontal convergence in vertical administration** – Greater thrust should be accorded on cross departmental working, interdepartmental engagements, and lateral communication among and within departments.
- **Shared services model may be adopted** for services such as IT, Finance, procurement etc. so that there is no duplication in effort and cost.

III. Open Bureaucracy: A culture of openness needs to be cultivated towards new ideas, new challenges and innovation to bring about continued transformation for better service delivery.

- **Open Policy Formulation** – may be undertaken through openness to new thinking or in the gathering of evidence & insight from external experts. Collaborative approaches to policy making by taking views from members of civil society, think tanks, Universities, other countries and states.
- **Social Media for Participatory Governance** – Social media, crowdsourcing and open sourcing can be powerful tools to connect with people and promote participatory governance.
- **Constantly engaging with the private sector** – Culture of openness needs to be adopted for new forms of partnership with the private sector.

IV. Connected Bureaucracy – There is a need for the Bureaucracy to be connected within and globally to imbibe the best practice.

- **Need to be globally connected** with the counterpart organizations and have horizontal networks across the world. Understanding global best practices will help our bureaucracy to develop world class acumen.
- **Horizontal Connectivity between the State Departments**—There is a need for the State Government departments to share the learning and best practices with their counterparts in other states.
- **Improvement in Interdepartmental connectivity** through Government process re-engineering, simplification of rules.

Other issues –

SEDITION LAWS –

The sedition law is explained in Section 124A of IPC 1870 , to tackle dissent against colonial rule.

Section 124A - "Whoever, words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine."

- In the 19th and 20th centuries, the law was used primarily to suppress the writings and speeches of prominent Indian nationalists and freedom fighters.
 - The first known instance of the application of the law was the trial of newspaper editor Jogendra Chandra Bose in 1891.
 - In 1922, Gandhi was arrested on charges of sedition in Bombay for taking part in protests against the colonial government and was sentenced to six years in prison. However, he was released after two years because of medical reasons.
 - Tilak faced three trials in cases related to sedition and was imprisoned twice. In 1897, he was charged with sedition for writing an article in his weekly

- publication called Kesari and was sentenced to 12 months imprisonment. In 1908, he was tried again for his writings and was represented by Mohammad Ali Jinnah.
- Other major examples of the application of the law include the trials of Bal Gangadhar Tilak, Mahatma Gandhi, Jawaharlal Nehru, Abul Kalam Azad and Vinayak Damodar Savarkar.

Arguments in favour of the Section 124A

- It has its utility in **combating anti-national, secessionist and terrorist elements**.
- It protects the **elected government from attempts to overthrow the government** with violence and illegal means.
- The continued existence of the government established by law is an essential condition of the stability of the State.
- Many districts in different states face a Maoist insurgency and rebel groups virtually run a parallel administration.
 - These groups openly advocate the overthrow of the state government by revolution.

Therefore, there is a **need to retain the provision to effectively combat anti-national, secessionist and terrorist elements**.

Arguments Against Section 124A

- Mahatma Gandhi called Section 124A “the prince among the political sections of the IPC designed to suppress the liberty of the citizen”.
- Jawaharlal Nehru said that the provision was “obnoxious” and “highly objectionable”, and “the sooner we get rid of it the better”.
- **Against Art 19 & 21** - It is a constraint on the legitimate exercise of constitutionally guaranteed freedom of speech and expression.
- **Against public debate** - Dissent and criticism of the government are essential ingredients of robust public debate in a vibrant democracy.
- **Potential misuse** - The sedition law is being misused as a tool to persecute political dissent. A wide and concentrated executive discretion is inbuilt into it which permits the blatant abuse.

Supreme Court's Stand -

- **In Kedar Nath versus Union of India case (1962)** - the SC upheld the constitutional validity of the sedition law while trying to curtail its misuse.
 - The Court upheld the law on the basis that this power was required by the state to protect itself.
 - The SC laid down that every citizen has a right to say or write about the government, by way of criticism or comment, as long as it does not “incite people to violence” against the government established by law or with the intention of creating public disorder.
- **Recent judgement** - A Bench led by Justice D.Y. Chandrachud flagged indiscriminate use of the sedition law against critics, journalists, social media users, activists and citizens for airing their grievances about the government’s Covid-19 management.
 - The court acknowledged the argument that the media was well within its rights to air critical programmes about a prevailing regime without attracting sedition.

ACCIDENT INFORMATION REPORT –

India, the one of the top road crash & injuries country as - India only forms 1% of the world's vehicles it accounts for 11% of all road crash deaths, with nearly 53% road crashes every hour, killing 1 person in every 4 minutes.

- As per **Section 158(6) of the Motor Vehicles Act, 1988**, the police who are in charge of the station are responsible for forwarding a copy of any information that is recorded regarding any accident involving death or bodily injury to any person within 30 days from the date of recording of information.
- A report under this Section is completed by a police officer, or, as the case may be, on completion of such report it will be forwarded to the Claims Tribunal having jurisdiction and copy thereof to the concerned insurer.
- According to Section 3(6) of the Road Transport and Safety Bill, 2014, “detailed accident information report” is the report that is filed by the investigating officer under Section 242 of the same Bill.

The Accident Information Report serves a dual purpose as it not only acts as a detailed report for motor vehicles accident claims but also helps in determining the cause of the accidents to take preventive measures.

Brasilia Declaration, 2010

During the 2nd Global high-level conference on Road Safety (2015) the Brasilia Declaration on Road Safety was signed in Brazil.

- SDG 3.6 also lays importance on reducing the number of accidents to half the number of global deaths and injuries from road traffic accidents by 2030 and preparing the accident information report is a step towards achieving the sustainable development goal of ensuring road safety.

Need and importance of Accidental Information Report -

- **Improper First Information report** - The data is received from the First Information Reports prepared by the police under the Code of Criminal Procedure (CrPC), which do not contain a detailed account to address the need of determining how and why the accident occurred.
 - This fails to unravel the cause of the accident, and hence the accident information report is essential to thoroughly understand and interpret the cause and reasons for the accident and to also ensure that there are no discrepancies in the reporting.
- **For claiming the insurance** - An accident information report is also required while claiming insurance, life insurance in case of death, and vehicle insurance in case of damage to the vehicle.
- **In evaluating the potential problems** - By understanding the cause of the accidents by documenting them, the concerned authorities can monitor the potential problems and increase the likelihood that repeating failures will be noticed and resolved before they develop into serious incidents.
- **In analysing the trends & linkages** - The data from the report can be stored and analysed, to understand the trends and common linkages over a period of time and prove useful to map out targeted solutions.

- **In scientific Investigation** - Since the information and details in the present accident report system are derived from the FIR filed which hampers the scientific investigation, a detailed investigation report will help the road accidents to be investigated scientifically.

Detailed procedure for the investigation

- **Section 242** of the Road Transport and Safety Bill, 2014 gives the procedure for the investigation process of road accidents to make an accident information report.
- After being informed about the accident, the investigating officer appointed by the police shall
 - inspect the accident site
 - prepare a site plan
 - capture photographs of the accident site
 - conduct a spot inquiry by interrogating any eyewitnesses and bystanders as soon as possible after being notified of the accident under Section 241.
- Within twenty-four hours of the collision, the investigating officer must report the details of the incident to –
 - the Claims Tribunal
 - if insurance information is available, the offending vehicle's insurance company.
 - The details of the accident will be posted on the police department's website.
- The insurance company shall **appoint a Designated Officer for each case immediately upon receipt** of communication of the accident's details, who will be responsible for dealing with and processing that case, as well as making a decision .
- The **investigating officer is in charge of collecting the relevant evidence relating to the accident** and also compute the compensations.
- **Within 15days of the accident**, the investigating officer must file the detailed accident information report with the Claims Tribunal.
- Along with the accident information report, the following should be attached
 - certified copies of the first information report (FIR)
 - site plan
 - photographs
 - registration cover
 - driving licence
 - post-mortem report
 - Medico-Legal Certificate
 - permit
 - Insurance policy, challan and the documents relating to the proof of age, occupation, income and the number of legal representatives and their age in case of death; and
 - The expenditure that was incurred by the insured and the proof of the injuries that he had, in the situation of injury cases.
- In cases of - hit-and-run accidents , cases where the parties reside outside the judicature and in cases where the victim is the only victim and he or she is grievously injured in the accident - The **Claims Tribunal may accordingly extend the time in the facts of each case, by not more than thirty days at a time.**

IT RULES 2021 & OTT PLATFORMS –

About OTT -

- OTT stands for “Over The Top” and refers to any streaming service that delivers content over the internet. The service is delivered “over the top” of another platform, hence the moniker.

Regulations related to OTT in India –

- **For television** - The Cable Television Network (Regulation) Act, 1995 penalises television channels for any violation of the programming and advertising.
 - Cable Networks Regulation Act 2005 regulates both news and entertainment on television.
 - News Broadcasting Standards Authority (self-regulatory body) set up by the News Broadcasters Association (NBA) regulates television news.
 - Electronic Media Monitoring Centre monitors content on TV.
 - Broadcasting Content Complaints Council (independent and self-regulatory) for television entertainment.
- **Print Media** - Press Council of India (a statutory, quasi-judicial authority) regulates the print media.
- **Films** - Central Board of Film Certification (CBFC) under the Ministry of Information and Broadcasting regulates the films content.
- **Advertisement** - Advertising Standards Council of India , a self-regulatory body, regulates the advertisement.

Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021

- The govt has released New IT Rules 2021 with aim to regulate new platforms like Digital news media, OTT, Social media etc.
- These rules were made by the Minister for Information Technology and the Minister for Information and Broadcasting.

Need for the New IT Rules 2021

There is a surge in OTT content during Covid but there is no effective control which can stop the misuse of data over social media and digital platforms. The reasons are as follows -

- **Non-liability of Intermediary** – Under section 69 of IT act The Intermediaries are required to preserve and retain specified information. But they get the immunity on non-compliance under section 79 of same IT act.
- **Rapid expansion of social media** - The user base of big companies like WhatsApp , Facebook etc. has expanded rapidly. Currently there are over 53 crore WhatsApp users, over 44.8 Crore YouTube users and 41 Crore Facebook users.
- **Issues over self-regulation** - The Self-regulatory toolkit submitted by 17 OTT Platforms, which was rejected by The government for reasons like lack of independent third-party monitoring, the tool-kit did not have a well-defined Code of Ethics, etc.

Salient provisions of IT Rules 2021 –

The new IT rules have special provision related to social Media, Digital Media & OTT platforms as -

New Rules related to Social Media –

- **Classification of Social Media** – In the new IT rules the Social media platforms are classified into two categories as –
 - **Social media intermediaries** – They have a limited user base.
 - **Significant social media intermediaries** – These are the platforms with a large user base.
- **Prohibition from publishing** – The companies are prohibited from hosting or publishing any unlawful information in relation to the interest of the sovereignty and integrity of India, public order, friendly relations with foreign countries, etc.
- **Taking down the information** - If such information is hosted or published the government can take down such information within 24 hours. The user will be given a notice before his/her content is taken down.
- **Publish monthly compliance report** - The IT rules 2021 call for social media companies to publish a monthly compliance report.
- **Additional measures for significant social media** – These measures are as follows -
 - They should have a **physical contact address in India**.
 - Appointing a **Chief Compliance Officer, Nodal Contact Person, and a Resident Grievance Officer in India**. All of them should be Indian Residents.
 - Nodal Contact Person will do 24x7 coordination with law enforcement agencies.
 - The Resident Grievance Officer must acknowledge the complaint within 24 hours, and resolve it within 15 days of receipt.

New rules related to Digital media and OTT platforms –

Under new IT rules , the Code of Ethics for OTT & digital media entities has been prescribed as

- **Classification of Content** - The Netflix, Amazon prime like streaming platforms will have to self-classify content on five age-based categories: U (universal), 7+, 13+, 16+, and A (adult).
- **Parental Lock measures** – The streaming platforms are need to have suitable parental locks for 13+ content and a robust age verification system for accessing adult content.
- **Obey the norms** - Publishers of news on digital media will have to observe the norms of journalistic conduct of the Press Council of India and the Programme Code under the Cable Television Networks Regulation Act.
- **Grievance redressal system** – They have to establish a three-level grievance redressal mechanism as –
 - **Level-I** - Self-regulation by the publishers
 - **Level-II (Self-regulating body)** - This body shall be headed by a retired judge of the Supreme Court or a High Court or independent eminent person.
 - **Level-III (Oversight mechanism)**- I&B Ministry will formulate an oversight mechanism and establish an inter-departmental committee for hearing grievances. This body will also have censorship and blocking powers.

Advantages of new IT rules -

- **Equip with Checks & Balances** - There will be insurance of prevention from unlawful use of data & will ensure that social media platforms have to keep better checks and balances over their platforms. This will ensure adherence to the rule of law.
- **Enhances Accountability** - The new rules will allow the government regulation over social and digital media. This will enhance accountability and prevent arbitrary actions by digital platforms like the recent one by Twitter.
- **Empowerment of citizens** - The new IT rules will lead to the empowerment of citizens. Since there is a mechanism for redressal and timely resolution of their grievances.
- **Check on fake information** – the Fake and wrong information of data can be controlled. Since there is proper regulatory mechanism, disinformation can be removed easily. This will reduce instances of fake news, violence, the spread of defamatory content and disruption of public order.
- **No arbitrary removal of Content** - Giving due notice before removing content will prevent arbitrary removal of content.
- **Creating the level playing fields** - The imposition of print and electronic code of conduct on digital news media would ensure a level playing field for every media.
- **Catching the digital population** - It will strengthen India's position as a leader in digital policy and technological innovation.

Criticisms of the new IT Rules 2021

- **Arbitrary creation of rules** – Those rules which are related to regulations of online news portals and video streaming platforms were not put for public consultation.
- **Creates Surveillance state** - The rules allow the government to enforce a traceability mechanism. This simply means a threat to the user's privacy. It will hamper the end-to-end encryption of platforms like WhatsApp.
- **Against freedom of speech** - As the new rules curtail free speech on digital platforms, there will be a sense of fear among the users.
- **Enhances discretionary authority** - The IT rules covers the content authors and creators like news media. This provides discretionary powers to the government.
- **No legislative backing** - The proposed oversight mechanism doesn't have any legislative backing which is generally given to other regulators.

Way forward -

- With aim to **improve the inclusivity & acceptability**, the government should consult with appropriate stakeholders.
- The focus should be on **strengthening citizen's rights** by learning from successful global examples like OFCOM
- The government must have a **mind-set of flexibility and agility to support the rules** adequately.
- OTT platforms have to **strike a balance between the diverse Indian society and the beliefs of viewers** in India while regulating the content.

- A fine balance **between freedom of speech and the need to curb the misuse in digital platforms have to be maintained.** Both the government and the digital platforms will have to work together and fulfil this responsibility.

15th FINANCE COMMISSION REPORT

About 15th Finance Commission –

- This was Constituted by the President in November 2017 under the chairmanship of N K Singh.
- Its recommendations are applicable from period of 2021 to 2026.
- The recommendation were sought on the following –
 - The distribution of tax proceeds between the centre and states.
 - Principles governing grant in aid to the states.
 - Measures to be taken to augment the consolidated fund of states.
 - Review the impact of the 14th Finance Commission recommendations on the fiscal position of the centre.
 - Review the debt level of the centre and states, and recommend a roadmap.
 - Study the impact of GST on the economy.
 - Recommend performance-based incentives for states based on their efforts to control population, promote ease of doing business, and control expenditure on populist measures, among others.

The 15th Finance Commission report was tabled on 1st Feb. 2021 in parliament which includes the following provision -

- **Vertical devolution at 41 %** - During the Covid time , with aim to maintain the predictability & stabilising the resources , the vertical devolution should be maintained at 41%.
- **On GST** - The GST accounts for 35 % of the gross tax revenue of Union & 44 % of own tax revenue of the States.
- **Gross Tax Revenue Assessment 2021-26** – it is expected to be 135.2 lakh crore, out of which the divisible pool is estimated to be 103 lakh crore.
- **On Horizontal Devolution** - The criteria and the weights assigned for horizontal devolution are –
 - Income Distance – 45%
 - Area – 15%
 - Population – 15%
 - Demographic Performance – 12.5%
 - Forest & Ecology – 10%
 - Tax and Fiscal Efforts – 2.5% (Re-introduced)
- **On Revenue Deficit Grants** - It has recommended total revenue deficit grants of around Rs 2.94 crore over the award period for seventeen States.
- **On Local Governments** - Rs. 4,36,361 crore is the total grant given to the local governments for the period of 2021-26. Out of the total grant; Rs.450 crore is dedicated to the shared municipal services.

- **Grants to Rural Local Bodies** – Total sum of Rs. 2,36,805 crore is a grant for the rural local bodies.
- **Grants to Urban Local Bodies** – Rs.1,21,055 crore is the total grant for the urban local bodies.
- **Grants for Health** – It is to be Channelized through Local Governments – Rs. 70,051 crore stands for the Health grant to the local governments.
- **On Health** - The Finance commission has suggested increasing the state expenditure on health by 8 percent by 2022.
 - Also suggested **prioritising the creation of All India Health Services/All India Medical Services** on the pattern of the UPSC Civil Services.
 - National Medical Council is suggested to **develop small courses on wellness clinic, basic surgical procedures**, anaesthesia, obstetrics and gynaecology, eye, ENT etc. for MBBS doctors.
 - AYUSH to be **encouraged as an elective subject** for medicine undergraduates.
 - The **Allied and Healthcare Professions Bill** should be passed at the earliest.
- **On Higher Education** – The 15th Finance Commission has recommended 2 type of grants as -
 - **Promotion of online education** – Rs. 5,078 crore is a total sum of grant for the promotion of online education.
 - **Development of professional courses in regional languages** - The commission's recommendation is in line with the New Education Policy 2020. Rs. 1,065 crore has been allocated for the development of these courses from 2021-26.
 - **Two colleges in each state should convert their learning material and pedagogy** into the recognized regional language.
- **On Defence** – The finance commission has highlighted the creation of a non-lapsable pool for the defence and internal security sector under the Public Accounts of India.
- **On Disaster Risk Management** - The fifteenth finance commission recommended maintaining the contribution of states to the State Disaster Risk Fund (SDRF) to be 25 per cent except by the NE States (10 per cent.) It has seen no changes since the 13th Finance Commission recommended the same arrangement.

The Critical analysis of 15th Finance Commission –

In respect of Local Bodies -

Positives –

- **Higher grants to local Bodies** – The 15th FC has provided higher Grants to local bodies as compared to the previous Finance Commission. For example, Finance Commission has granted Rs 4,36,361 crore from the central divisible tax pool to local governments.
- **Strengthening Co-operative federalism** - Out of the total grants earmarked for Panchayati raj institutions, 60 % is earmarked for national priorities. (drinking water, rainwater harvesting, sanitation, etc.,) Hence this will strengthen the Co-operative federalism.

Negatives –

- **No performance based grants** – With only aim of incubation support to new cities the 15th FC has failed to provide Performance-based grants for the Panchayati raj. This will hamper the transformative potential.
- **No entry level criteria** – The 15th finance commission placed no entry-level criteria specified for Gram Panchayats to avail grants.
- **No reliable data/baseline** – Since finance commission has not placed any base line hence without reliable data on Financial performance, it will be difficult to ensure Good governance.
- **Missed the restructuring the public finances** – Since finance commission had the opportunity to ensure comparable minimum public services to every citizen irrespective of her choice of residential location but the 15th FC has missed the opportunity to ‘restructure the public finance’ for greater fiscal decentralization in providing basic services.
- **Ignores equity & efficiencies** - the 15th FC has used the criteria of the population (2011 Census) with 90% weightage and area 10% weightage for determining grant to local governments. However, it ignores equity and efficiency criteria.

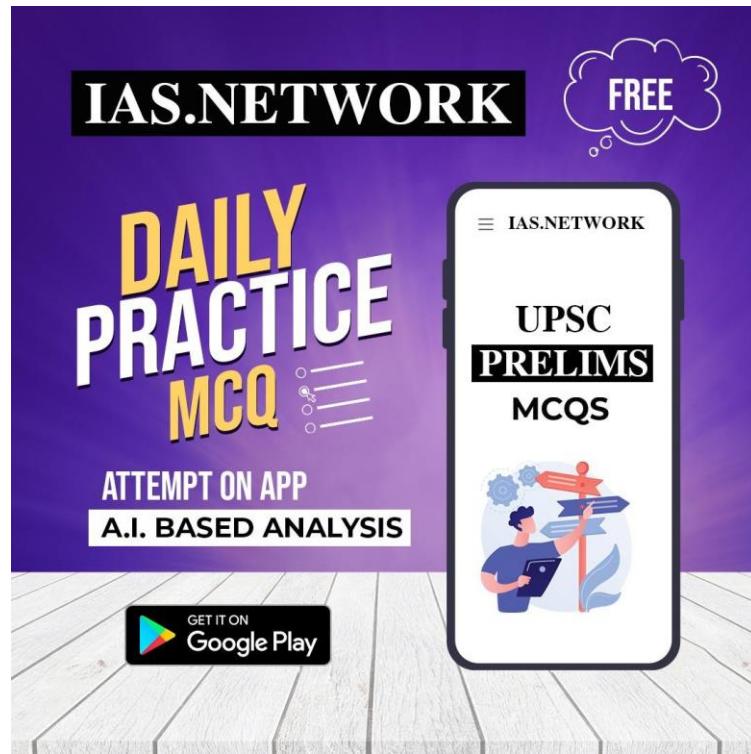
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986

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Need to improve content.keep writing.ATB
(no body)
ethical 3
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- S me, students 5** 1 Nov
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On 2020-11-01 07:42, budania gaurav wro...
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- Neha Bhamu** 31 Oct
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6240_Covid_Related_Initiatives_Session...
Compose
- MakeMyTrip** 31 Oct
LAST DAY to Grab Up to 15% Cashback...
..on Taj, SeleQtions, Vivan*
- Swiggy** 31 Oct
Mail
Meet
3:56 PM

November 29, 2020

Hey 9:54 AM ✓

January 20

Thank you sir to you and your team

7:06 PM

For answer writing

7:06 PM

We all the friends got benefited from
your team and their analysisnow
hoping for good results

7:07 PM



986
Back

Gaurav Budania GS ANTHRO...

last seen recently



YouTube channel link for our video series

9:44 PM ✓✓

<https://m.youtube.com/c/IASNETWORK>

9:44 PM ✓✓

Can use questions from any source though

9:44 PM ✓✓

Yes sir , rest i know all about procedure

9:45 PM

Ok sir 9:49 PM

September 24

Hey 8:32 PM ✓✓

Congratulations 9:27 PM ✓✓

If I am correct 9:27 PM ✓✓

Rank 13 9:27 PM ✓✓

Hearty congratulations 9:38 PM ✓✓

September 25

Thank you sir 4:40 AM

1853

Gaurav Singh Rank 1 BPSC

last seen recently



Sir.. 65th BPSC AIR-1 6:04 PM

You secured 1st rank ? 6:06 PM ✓

Whoa !!!! 6:06 PM ✓

Congratulations 🎉 6:07 PM ✓

IAS NETWORK

You secured 1st rank ?

Yes sir

6:22 PM

Congratulations, Enjoy your moments

6:22 PM ✓

IAS NETWORK

Atleast clearing exam

Also this

6:23 PM ✓

You should be happy now 😊 😊

6:23 PM ✓



6:23 PM

Yes sir

6:23 PM

Enjoy Bro, You deserve it 👍



 IPS Shahnaz AIR 217 U...



Yes 20:40

AIR 217 20:40

Congratulations 20:41 ✓

Thank you so much. Your network was an important part of my preparation

21:13

Thanks 21:18 ✓

29 September 2021

I wanted to thank your team. I have scored 140 in essay. I was very happy. Particularly Rachita Singh. Her criticism were the words in my head on the way to exam..

I kept in my mind all that her mails had conveyed.

12:56

And incorporated them while writing... i didnt make the mistakes i made while practising...

Your team's quick reply and elaborate response in essays were very helpful.

12:57



IPS Shahnaz AIR 217 U...



Thank you so much. Your network was an important part of my preparation

21:13

Thanks

21:18 ✓

29 September 2021

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12:56

And incorporated them while writing... i didnt make the mistakes i made while practusing...

Your team's quick reply and elaborate response in essays were very helpful.

12:57

I have referred you to couple of aspirants!

Keep up the good work! Kudos to u and ur team

12:58

Thanks

12:57 ✓



Swathika GS PSIR 10K



Can you please resend your queries 14:07 ✓

20 December 2020

?? 10:34 ✓

Today

Good evening Sir 00:12

I am Swathika. Got 593 rank 00:12

I am truly grateful for your timely evaluation
of my GS and PSIR answer papers 😊 00:13

I will need your continued support to improve
the rank further Sir 😊 00:13

Congratulations 00:36 ✓



00:36 ✓

Swathika GS PSIR 10k

I will need your continued support to improve the
rank further Sir 😊

Sure

00:47 ✓

997
Back

Vaibhav Bangar AIR 442

last seen recently

VB

Congratulations

7:07 PM ✓

Thank you friend

7:21 PM

442 rank

7:21 PM

Today

Getting good marks in mains is very vital for getting into the final list. For this, continuous practice is a must. But practice without unbiased assessment fails to explain to us our mistakes. This is where IAS NETWORK has helped me. It provided a precise, unbiased, and to the point evaluation of my answers. Which helped me to improve the content and structure of my answers. The essay and optional evaluation also helped me tremendously. Moreover, they provide the evaluation in less than 2 days, which helps in constantly modifying and improving our answers in accordance with the feedback. Thank you IAS NETWORK!

3:14 PM

Thanks

3:15 PM ✓

 Pranjal AIR 529

typing...



meaning.

So I took this attempt very lightly (being my first one). Didn't study even Vision Mains 365 or monthlies, didn't take a single test series for GS or PSIR. Only thing I did for GS was go through IAS Network's GS 1,2,3,4 notes, and SR Ma'am notes for PSIR. Along with it, I made my frameworks and short notes of 45 pages for all the papers of GS. So this was my Mains prep last time, don't want to commit the mistake again

16:19

Hmm, Thanks

16:20 ✓

BTW good to see that you got a rank from our notes only, don't know how many more toppers we have, whom we are not in touch with, are notes were freely shared

16:21 ✓

You

BTW good to see that you got a rank from our notes only, don't know how many more toppers we have, whom we are not in touch with, are not...

You are doing a great service. I also used to watch the daily answer writing videos of Nagesh Sir, and one more person, sometimes during the 3 months of Mains prep. That was helpful too.

16:23



Gurwinder PCS Punjab
online



Today

(Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.)

Congratulations For Your Success 11:24 ✓

Especially in the type of exam which was conducted this year 11:25 ✓

thanks to you for helping me in mains answer writing practice...
your reviews and evaluation of my answers were amazing and very insightful...
that helped me alot to maintain consistency and improve my answer writing skill...
i am indebted to u for my success in pcs exam and secured 4th rank
Without good marks in mains...it is nearly impossible to make your name in final list



thanks again to the whole team



i am grateful to you

11:31



11:32 ✓