

CURRENT ISSUES WRITING PRACTICE

PRE-TEST MATERIAL FOR CIWP – U

Judicial Activism versus Judicial Overreach

Why in News?

The NITI Aayog has commissioned a study that will examine the economic impact of Supreme Court and National Green Tribunal judgments, including those that have a negative impact. According to sources in the NITI Aayog, the study was commissioned to CUTS (Consumer Unity and Trust Society) International a year and a half ago, and is meant to ascertain whether a framework can be created to gauge the impact of Supreme Court judgments. However, CUTS began groundwork on this study only in November 2020, as a result of delays caused due to the Covid-19 pandemic.

Connectedness to the Syllabus:

Essay: UPSC may ask candidates to write an essay on the issue of Judicial Overreach. How it can be distinguished from Judicial Activism? Judicial Reforms, Pendency of the cases in courts in India and the issues related to it.

General Studies I:

- Salient features of Indian Society, Diversity of India.
- Role of women and women's organization, population and associated issues, poverty and developmental issues, urbanization, their problems and their remedies.
- Effects of globalization on Indian society.
- Social empowerment, communalism, regionalism & secularism.

General Studies II:

- Indian Constitution—historical underpinnings, evolution, features, amendments, significant provisions and basic structure.
- 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.
- Separation of powers between various organs dispute redressal mechanisms and institutions.
- Government strives to have a workforce which reflects gender balance and women candidates are encouraged to apply.
- Comparison of the Indian constitutional scheme with that of other countries.
- Parliament and State legislatures—structure, functioning, conduct of business, powers & privileges and issues arising out of these.
- Structure, organization 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.
- Salient features of the Representation of People's Act.
- Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies.
- Statutory, regulatory and various quasi-judicial bodies.
- Government policies and interventions for development in various sectors and issues arising out of their design and implementation.
- Development processes and the development industry —the role of NGOs, SHGs, various groups and associations, donors, charities, institutional and other stakeholders.
- 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.

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- Issues relating to development and management of Social Sector/Services relating to Health, Education, Human Resources.
- Important aspects of governance, transparency and accountability, e-governance applications, models, successes, limitations, and potential; citizens charters, transparency & accountability and institutional and other measures.

General Studies III:

- Inclusive growth and issues arising from it.
- Effects of liberalization on the economy, changes in industrial policy and their effects on industrial growth.

Article Links:

[https://www.worldwidejournals.com/global-journal-for-research-analysis-GJRA/recent issues pdf/2018/January/January 2018 1516451857 139.pdf](https://www.worldwidejournals.com/global-journal-for-research-analysis-GJRA/recent%20issues%20pdf/2018/January/January%202018%201516451857%20139.pdf)

<https://theprint.in/judiciary/how-do-sc-nct-judgments-impact-the-economy-niti-aayog-commissions-study-to-find-out/601351/>

<https://www.theweek.in/news/india/2021/01/11/opinion-can-supreme-court-stay-implementation-of-a-law.html>

<https://www.newindianexpress.com/opinions/2020/dec/14/judicial-overreach-restraints-on-freedom-of-press-2235866.html>

Maps and Images:

Judicial Activism VS Judicial Restraint

- Judicial restraint let's judges look to the **original intent of the writers** of the constitution. Judicial activism lets judges look **beyond the original intent of the framers**.
- Judicial activism intends to focus on **orders by courts as the means to enforce policy**. Judicial restraint looks at **changing the laws by means of constitutional amendments**.

DEFINITION OF JUDICIAL ACTIVISM

- Black's Law Dictionary defines judicial activism as a "philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions."
- David Strauss has argued that judicial activism can be narrowly defined as one or more of three possible actions: overturning laws as unconstitutional, overturning judicial precedent, and ruling against a preferred interpretation of the constitution.

Historical Background

- The concept of judicial activism found its roots in the **English concepts** of equity and natural rights.
- On the **American** soil, these concepts found expression in the concept of judicial review. (*Marbury v. Madison 1803*)

Arthur Schlesinger Jr. introduced the term “Judicial Activism” in 1947 *Fortune* magazine article titled “The Supreme Court: 1947”

Craig Green-

“Schlesinger’s original introduction of judicial activism was doubly blurred: not only did he fail to explain what counts as activism, he also declined to say whether activism is good or bad.”

Judicial Activism-Definition

- Black's Law Dictionary- judicial activism is a *"philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions."*
- Judicial activism can also be defined as when a Court takes some legislative power away from legislators.
- To define broadly, is *the assumption of an active role on the part of the judiciary*

History of Judicial Activism in India

- A conservative executive and a progressive judiciary, or a progressive Parliament and a conservative judiciary coexisting at the same point of time, form the basis of judicial activism or judicial overreach.**



Article 21 and Judicial Activism

(PERSONAL LIBERTY)

Article 21 states: "No person shall be deprived of his life or personal liberty except according to procedure established by law

- ***In A.K. Gopalan v. State of Madras(1950)***, the Indian Supreme Court rejected the argument that to deprive a person of his life or liberty not only the procedure prescribed by law for doing so must be followed but also that such procedure must be fair, reasonable and just..
- ***Maneka Gandhi v. Union of India(1977)***: A *Watershed in Indian Judicial Activism*:

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History of Judicial Activism in India



- “*garibi hatao*”- *abolishing Privy Purse, and nationalizing the 14 major banks*
- *A conservative judiciary struck down the relevant legislation as unconstitutional*
- Considered by Mrs. Gandhi to be **judicial overreach**

Video Links:

https://www.youtube.com/watch?v=LJJM_sd0MUM

<https://www.youtube.com/watch?v=yrkZ8j0iuug>

<https://www.youtube.com/watch?v=G1uSp1lLAtE>

Role of Indian Diaspora in making India Self Reliant

Why in News?

Prime Minister of India urged the Indian diaspora to use made in India products to popularize Brand India in the countries they live in to, in turn, boost the government’s “Atmanirbhar Bharat” programme. Addressing the 16th Pravasi Bhartiya Diwas—celebrated on 9 January every year to mark the return of Mahatma Gandhi to India from South Africa in 1915—Modi also invited non-resident Indians (NRIs) and people of Indian origin settled abroad to invest in India through the new production-linked investment opportunities outlined by the government in recent months.

Connectedness to the Syllabus:

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Essay: UPSC may ask candidates to write an essay on the issue Role of Indian Diaspora in making India Self Reliant and the issues related to it.

General Studies I:

- Indian culture will cover the salient aspects of Art Forms, literature and Architecture from ancient to modern times.
- Modern Indian history from about the middle of the eighteenth century until the present- significant events, personalities, issues.
- The Freedom Struggle — its various stages and important contributors/contributions from different parts of the country.
- Post-independence consolidation and reorganization within the country.
- History of the world will include events from 18th century such as industrial revolution, world wars, redrawal of national boundaries, colonization, decolonization, political philosophies like communism, capitalism, socialism etc.— their forms and effect on the society.
- Salient features of Indian Society, Diversity of India.
- Role of women and women's organization, population and associated issues, poverty and developmental issues, urbanization, their problems and their remedies.
- Effects of globalization on Indian society.
- Social empowerment, communalism, regionalism & secularism.

General Studies II:

- Comparison of the Indian constitutional scheme with that of other countries.
- Parliament and State legislatures—structure, functioning, conduct of business, powers & privileges and issues arising out of these.
- Structure, organization 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.
- Salient features of the Representation of People's Act.
- Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies.
- Statutory, regulatory and various quasi-judicial bodies.
- Government policies and interventions for development in various sectors and issues arising out of their design and implementation.
- India and its neighbourhood- relations.
- Bilateral, regional and global groupings and agreements involving India and/or affecting India's interests.
- Effect of policies and politics of developed and developing countries on India's interests, Indian diaspora.
- Important International institutions, agencies and fora- their structure, mandate.

General Studies III:

- Indian Economy and issues relating to planning, mobilization, of resources, growth, development and employment.
- Inclusive growth and issues arising from it.
- Effects of liberalization on the economy, changes in industrial policy and their effects on industrial growth.
- Infrastructure: Energy, Ports, Roads, Airports, Railways etc.
- Investment models.
- Science and Technology- developments and their applications and effects in everyday life.
- Achievements of Indians in science & technology; indigenization of technology and developing new technology.

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- Awareness in the fields of IT, Space, Computers, robotics, nano-technology, biotechnology and issues relating to intellectual property rights.

Article Links:

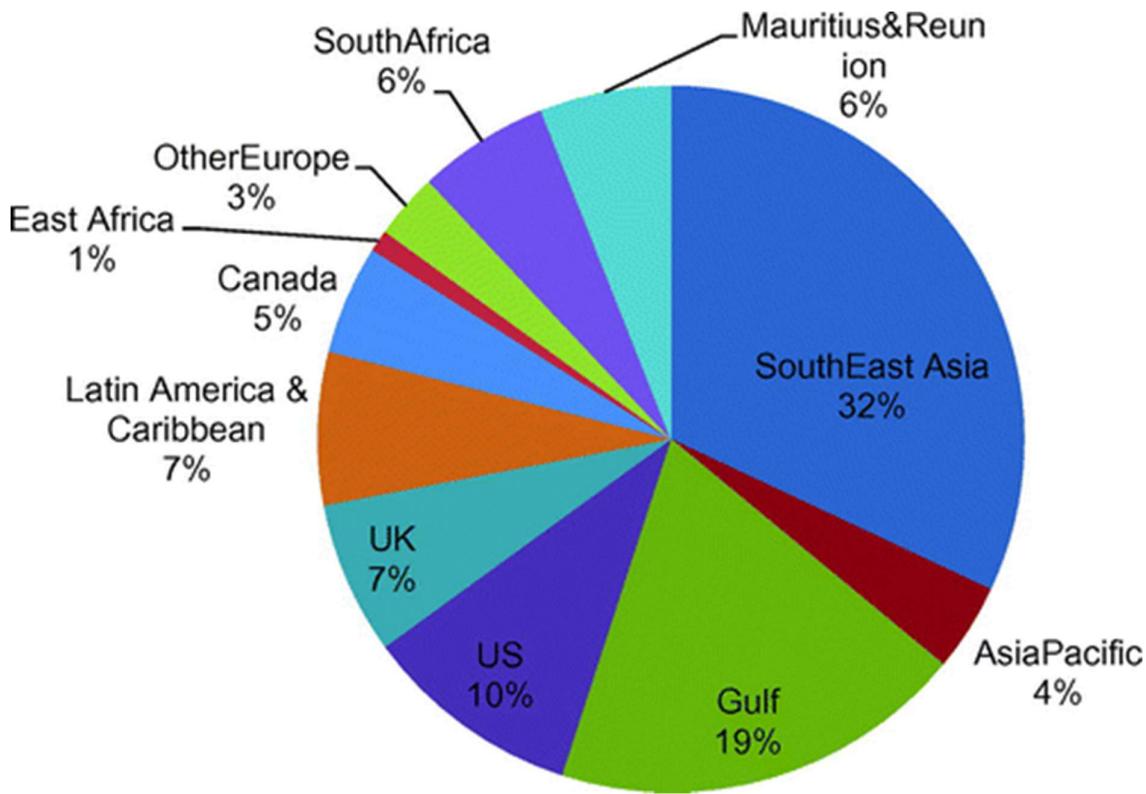
<https://www.livemint.com/politics/news/pm-modi-urges-indian-diaspora-to-showcase-brand-india-globally-11610176181040.html>

<https://www.livemint.com/news/india/we-are-taking-our-best-shot-at-boosting-local-production-rajiv-kumar-11615104681233.html>

https://idsa.in/strategicanalysis/42_4/indian-diaspora-in-reunion-island-a-strategic-asset

<https://www.financialexpress.com/archive/the-indian-diaspora-as-a-strategic-asset/71201/>

Maps and Images:



<https://www.commonwealthroundtable.co.uk/commonwealth/eurasia/india/diaspora-development-indian-state/>

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WHAT IS ‘DIASPORA’

- The word ‘Diaspora’ derives from the greek word meaning “ To disperse”.
- Diaspora is simply the displacement of a community/culture into another geographical and culture.
- People who come from a particular nation, or whose ancestors came from it, but who now live in many different parts of the world are sometimes referred to as the diaspora.
- Diaspora is the movement, migration, Settlement or scattering of people away from their homeland



<https://www.newsviewsnetwork.com/indian-diaspora-and-their-implications-in-recent-times/>

Video Links:

<https://www.youtube.com/watch?v=ppM95Ne29sQ>

<https://www.youtube.com/watch?v=PD1BBw84yBk>

Interlinking of Rivers

Why in News?

The governments of Uttar Pradesh and Madhya Pradesh signed a memorandum of agreement with the Union Jal Shakti Ministry to implement the Ken-Betwa river interlinking project. The agreement was signed on the occasion of World Water Day and during the virtual launch of the 'Catch the Rain Campaign', according to an Uttar Pradesh government statement.

Connectedness to the Syllabus:

Essay: UPSC may ask candidates to write an essay on the issue of floods and the drought, probable solutions of this problem. Interlinking of the rivers and the interstate river water disputes in India and the issues related to it.

General Studies I:

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- Effects of globalization on Indian society.
- Salient features of world's physical geography.
- Distribution of key natural resources across the world (including South Asia and the Indian sub-continent); factors responsible for the location of primary, secondary, and tertiary sector industries in various parts of the world (including India).
- Important Geophysical phenomena such as earthquakes, Tsunami, Volcanic activity, cyclone etc., geographical features and their location-changes in critical geographical features (including water-bodies and ice-caps) and in flora and fauna and the effects of such changes.

General Studies II:

- Development processes and the development industry —the role of NGOs, SHGs, various groups and associations, donors, charities, institutional and other stakeholders.
- 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.
- Issues relating to development and management of Social Sector/Services relating to Health, Education, Human Resources.
- Issues relating to poverty and hunger.

General Studies III:

- Major crops-cropping patterns in various parts of the country, - different types of irrigation and irrigation systems storage, transport and marketing of agricultural produce and issues and related constraints; e-technology in the aid of farmers.
- Issues related to direct and indirect farm subsidies and minimum support prices; Public Distribution System- objectives, functioning, limitations, revamping; issues of buffer stocks and food security; Technology missions; economics of animal-rearing.
- Food processing and related industries in India- scope' and significance, location, upstream and downstream requirements, supply chain management.
- Land reforms in India.
- Effects of liberalization on the economy, changes in industrial policy and their effects on industrial growth.
- Infrastructure: Energy, Ports, Roads, Airports, Railways etc.
- Investment models.
- Science and Technology- developments and their applications and effects in everyday life.
- Conservation, environmental pollution and degradation, environmental impact assessment.
- Disaster and disaster management.

Article Links:

<http://mowr.gov.in/schemes-projects-programmes/schemes/interlinking-rivers>

<https://www.financialexpress.com/infrastructure/interlinking-of-rivers-rs-60000-cr-funding-sought-for-godavari-cauvery-47-intra-state-projects-on-the-cards/1886060/>

http://117.252.14.242/rbis/india_information/interlinking.htm

<https://www.livemint.com/news/india/first-river-interlinking-project-to-be-signed-today-11616379402412.html>

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<https://www.aninews.in/news/national/general-news/memorandum-of-association-of-first-river-interlinking-project-to-be-signed-on-world-water-day-says-pm-modi20210321212307/>

<https://indianexpress.com/article/explained/explained-what-is-the-ken-betwa-link-project-7239885/>

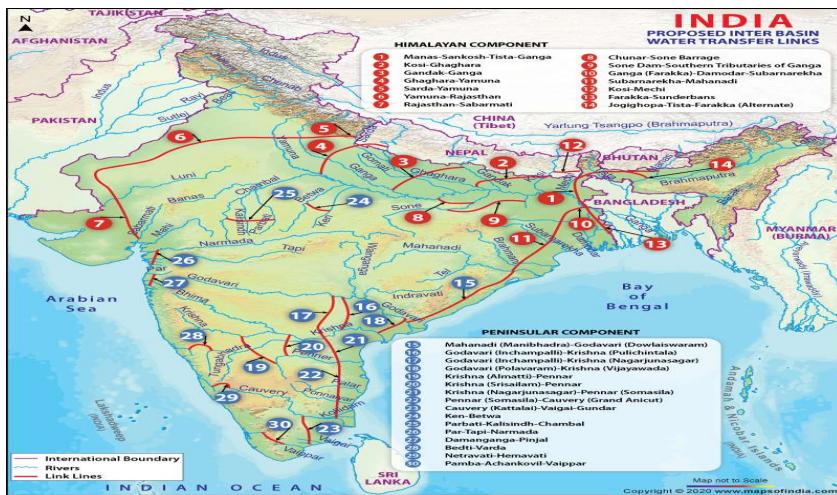
https://www.business-standard.com/article/current-affairs/up-mp-sign-agreement-with-centre-for-ken-betwa-river-interlinking-project-121032300003_1.html

<https://www.hindustantimes.com/india-news/world-water-day-pm-modi-to-launch-jal-shakti-abhiyan-agreement-for-1st-river-interlinking-project-to-be-signed-101616314688725.html>

Maps and Images:

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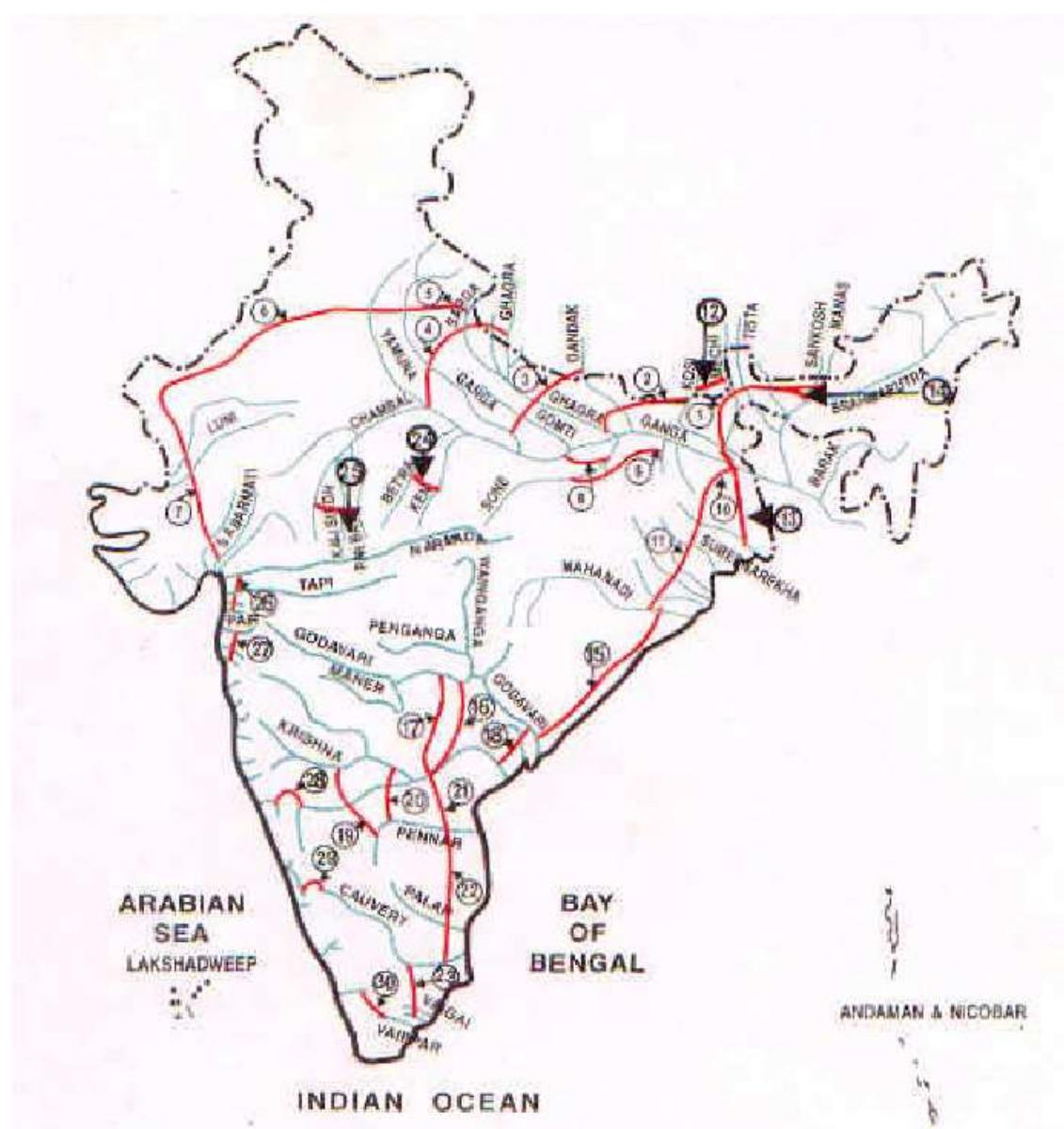
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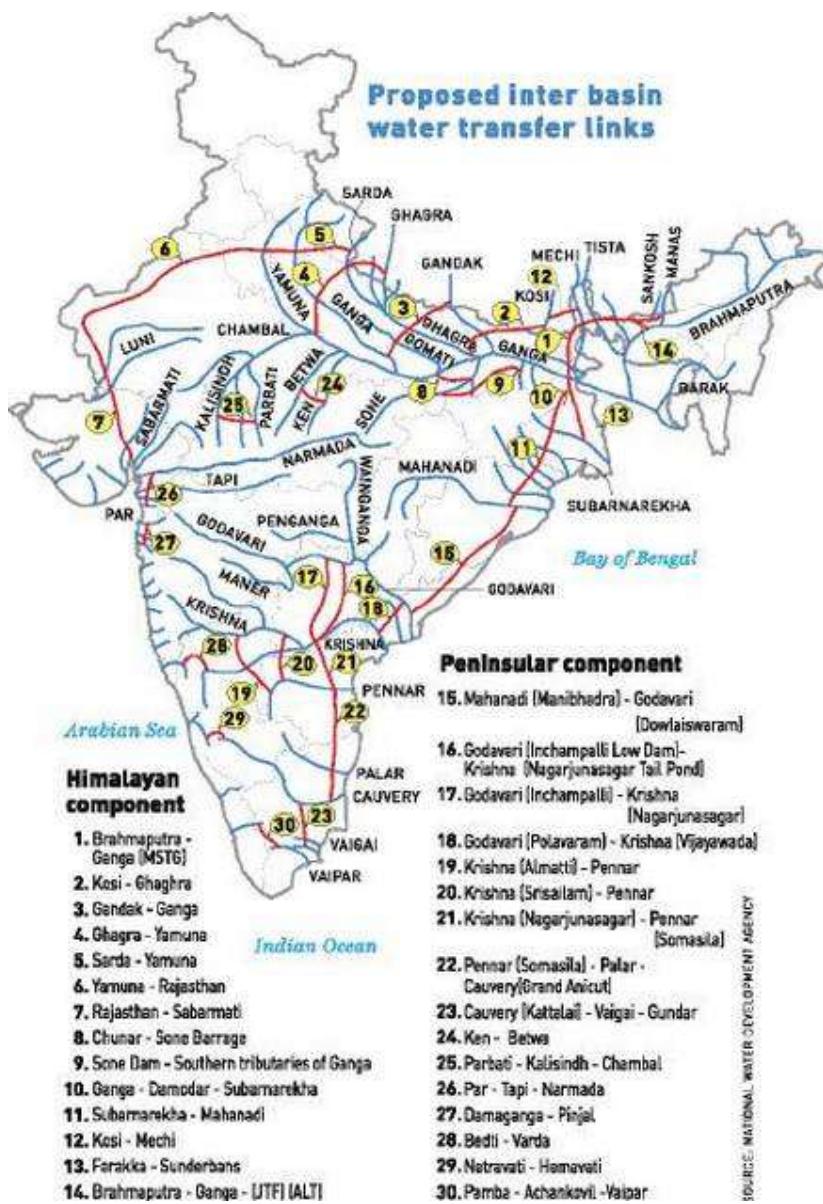
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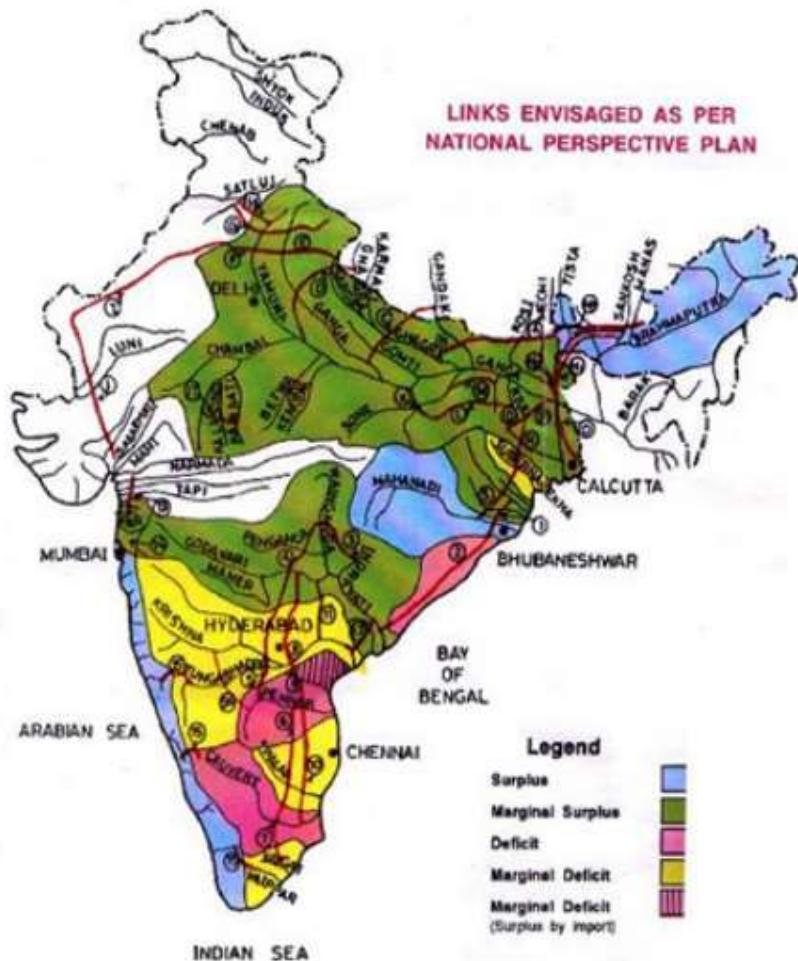
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Video Links:

<https://www.youtube.com/watch?v=8wV1qKN1oXc>

<https://www.youtube.com/watch?v=h2kAfeaD0sU&t=3s>

<https://www.youtube.com/watch?v=N8mhbpaUJz4&t=2s>

https://www.youtube.com/watch?v=tPBgLl_mKUI