



# IAS PARLIAMENT

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A Shankar IAS Academy Initiative

## MAINSTORMING 2020

### SOCIAL ISSUES II



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## MAINSTORMING 2020

### SOCIAL ISSUES II

(SEPTEMBER 2020 TO NOVEMBER 2020)

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## MAINSTORMING 2020

### SOCIAL ISSUES II

#### 1. GENDER ISSUES

##### 1.1 Female Leadership

###### What is the issue?

- Germany, Taiwan and New Zealand have women heading their governments.
- The three countries, located in different continents, have managed the pandemic much better than their neighbours.

###### What does the US study reveal?

- A recent study in the United States reports that States which have female governors had fewer COVID-19 related deaths.
- They say this is partly because female governors acted more decisively by issuing earlier stay-at-home orders.
- The authors of the study conclude that women leaders are more effective than their male counterparts in times of crises.

###### What does the study about India's gram panchayats reveal?

- Female leaders perform significantly better than men in implementing policies that promote the interests of women.
- This was demonstrated in another study conducted by Nobel Laureate Esther Duflo and co-author Raghavendra Chattopadhyay.
- They used the system of mandated reservations of one-third seats of pradhans for women in gram panchayats to test the effectiveness of female leadership.
- Villages chosen for the mandated reservations were randomly selected.
- The differences in investment decisions made by gram panchayats could be attributed to the differences in gender of the pradhans.
- In addition to the importance of promoting more space for women in public policy, this is an important goal from the perspective of gender equality.

###### What is the importance of these studies?

- Some critics will question the reliability of these conclusions by pointing out deficiencies in the data or the econometric rigour of the analysis.
- Many will also point out that it is dangerous to make sweeping generalisations based on one study.
- The important take away from such studies is the necessity of getting rid of biases and perceptions about female effectiveness in leadership roles.

###### What about women's suffrage?

- The right to vote is arguably the most important dimension of participation in public life.
- Independent India can be proud of its achievement in so far as women's suffrage is concerned.
- Women were allowed to vote from 1950 onwards.



- They could participate on an equal footing with men from the first general election of 1951-52.
- This is in striking contrast to the experience in the so-called “mature democracies” of Western Europe and the United States.

### **What is the proportion of female representation in India?**

- India had and has charismatic female leaders like Indira Gandhi, Jayalalitha, Sushma Swaraj and Mamata Banerjee among several others.
- Apart from these stalwarts, the overall figures are depressing.
- In the current Central government, the female members make up only about 10% of the total ministerial strength.
- The underrepresentation of female Ministers in India is also reflected in the fact that Ms. Banerjee is currently the only female Chief Minister.
- The underrepresentation of women in Indian legislatures is even more striking.
- The 2019 election sent the largest number of women to the Lok Sabha.
- Despite this, women constitute just over 14% of the total strength of the Lok Sabha.
- This gives India a dismal rank of 143 out of 192 countries for which data are reported by the Inter-Parliamentary Union.

### **Why does the women's Bill languish?**

- The establishment of quotas for women would create a level-playing field.
- Mandated reservation for women in gram panchayats was established in all major States since the mid-1990s.
- Attempts have also been made to extend quotas for women in the Lok Sabha and State Assemblies through a Women's Reservation Bill.
- Unfortunately, the fate of this Bill represents a blot on the functioning of the Indian Parliament.
- The Bill was first presented to the Lok Sabha in 1996.
- Male members from several parties opposed the Bill on various pretexts.
- Both the NDA and UPA governments have reintroduced the Bill in successive Parliaments, but without any success.

### **What steps could be taken to reduce prejudice?**

- The major party constituents of India can sidestep the logjam in Parliament by reserving say a third of party nominations for women.
- This will result in increasing numbers of women in legislatures and subsequently in cabinets.
- Increased female representation in policy making will improve perceptions about female effectiveness in leadership roles.
- This decreases the bias among voters against women candidates.
- This also results in a subsequent increase in the percentage of female politicians contesting and winning elections.
- So, such quotas have both a short-term and long-term impact.

## **1.2 Women as PC Officers**

### **What is the issue?**

- This year shall be remembered as a landmark in Indian military history.



- Women officers were allowed to serve as permanently commissioned (PC) officers.

### **What is the story behind?**

- The Supreme Court of India has allowed women to serve as PC officers in 10 combat support arms and services of the Indian Army.
- It directed the central Government to rescind the embargo on command appointments for women officers.
- The government issued a formal sanction offering PC to women officers of the Indian Army.
- This is the culmination of a struggle for equal opportunity that began almost 27 years ago.

### **What does a grant of PC mean?**

- A grant of PC will accrue many other employee benefits, as,
  1. In service career courses (such as the National Defence College, College of Defence Management, the Army War College, etc),
  2. The Defence Services Staff College,
  3. Options in higher studies (such as a Master of Business Administration or a Master of Technology),
  4. Ex-servicemen status and consequent benefits,
  5. Pension, etc.
- Allowing a motivated set of experienced women officers in permanent cadre would be a small way to mitigate the shortage of officers in the Indian Army.

### **What is the significance of this judgment?**

- The judgment is iconic because it,
  1. Allowed women officers equal opportunities to serve in the Army,
  2. Addressed the issue of regressive mindsets.
- The onus of implementing this change rests with the leadership, but the direction has been shown.

### **How did the struggle culminate?**

- The Indian armed forces began inducting women in the non-medical branches in the year 1992, as Short Service Commission (SSC) officers.
- The scheme initially allowed for a five-year service period, which was revised to 14 years.
- In the armed forces, both men and women opt for the SSC.
- However, upon completion of 14 years of service, male officers could get a permanent commission.
- But, women officers were denied this privilege.
- In a quest for equality, many officers of Indian Army and Indian Air Force (IAF) filed cases in the Delhi High Court seeking to remove discrimination between genders.

### **How did the Indian Army and the IAF respond?**

- In Jasmine Kaur vs. Union of India case (2010), the SC adjudicated in favour of granting PC to women IAF officers.
- The IAF was first among the three services to grant PC to SSC women officers.
- The Indian Army chose to appeal in the Supreme Court, citing reasons of peculiar service conditions and operational requirements.



### **What was the 2019 notification?**

- A notification by the Government of India in 2019, suggested PC to women officers with less than 14 years of service.
- This practically left a sizeable set of senior women officers out of the gambit.
- Now with this SC judgment, army women have finally obtained parity with their male counterparts.
- Approximately 30% of women officers in the Indian Army are deployed in combat zones performing similar duties like other officers.
- The policy issued by the government of India in 2019, was discriminatory to exclude them from command positions.

### **What are the implications of the judgment?**

- With the grant of PC, women officers would serve till the age of retirement.
- They will not be forced to look for alternative careers after 14 years.
- This will place women officers on an equal footing with men for promotions, professional growth, and provide job security.
- Selection for command appointments in the Indian Army eluded women officers earlier.
- Now, women officers can be considered for command roles and many other opportunities to distinguish themselves professionally.

### **Does the question of gender ability matter?**

- The nature of warfare is evolving with the support of technology.
- So, the question of gender ability doesn't matter but performance, opportunity, and a fighting chance matters.
- Countries such as the United Kingdom and the United States have been conservative about women in their respective combat arms.
- But others like the Israeli Defense Forces have integrated women.
- India is on the correct path to further integration in future.

### **What is the other concern with the existing policy?**

- The terms of employment of SSC are subject to change and conversions into PC officers are based on force requirements.
- It is possible that based on cadre forecast, an SSC officer may not ever get a chance of converting to PC if there are no vacancies.
- This policy fairly applies to all SSC officers irrespective of gender.
- However, it must be noted that for women, the SSC is the only inroad into the armed forces (except the Medical Corps).
- There is no provision for women to choose defence as a long-term career right at the outset as a PC officer.

### **What is next?**

- The parity of allowing entry of women as permanent cadre needs to be attained soon.
- Only after attaining this, it would truly be a level-playing field in terms of equal opportunity and career advancement.



### 1.3 Guidelines on Alimony

#### Why in news?

The Supreme Court set down comprehensive guidelines on alimony.

#### What is the reality?

- In India, for many girls, the inevitable reality seems marriage before completion of higher education.
- Girls are married off early and bear children long before they should.

#### What are the impacts?

- This reality triggers a state of poor maternal health.
- It is one of the root causes of high levels of child stunting and wasting in India.
- There is the possibility of a marriage not working out for varied reasons.
- This leaves behind the girl or young woman in extreme distress because often she is not financially independent.

#### What are the constitutional safeguards?

- Parliament and the courts have persistently enacted legislation to give women better rights.
- Article 15(3) and Article 39 are two key constitutional safeguards.
- **Article 15(3)** Nothing in this article shall prevent the State from making any special provision for women and children.
- **Article 39** directs state policy towards equal pay and opportunities for both men and women, and protecting the health of women and children.

#### What did the SC rule?

- The Supreme Court leaned on Article 15(3) and Article 39, and a host of other laws while setting down these guidelines.
- It ruled that an abandoned wife and children will be entitled to 'maintenance' from the date she applies for it in a court of law.

#### What are the specifics?

- In the judgment, the SC outlined specifics, including "reasonable needs" of a wife and dependent children.
- It also looks into her educational qualification, whether she has an independent source of income, and if she does, if it is sufficient, to follow for courts on alimony cases.

#### How can the alimony be claimed?

- The SC lay down that women can make a claim for alimony under different laws, including,
  1. The Protection of Women from Domestic Violence Act, 2005
  2. The Section 125 of the CrPC, or
  3. The Hindu Marriage Act, 1955.
- It would be inequitable to direct the husband to pay maintenance under each of the proceedings.

#### What is the significance of this ruling?

- Keeping in mind the vastness of India and its inequities, the Court added how an order or decree of maintenance may be enforced under various laws and Section 128 of the CrPC.
- It said that the maintenance laws will mean little if they do not prevent dependent wives and children from falling into destitution and vagrancy.

- For women in India, these words offer a glimmer of hope.

## 1.4 Gender Equity in Science

### Why in news?

The draft **Science, Technology and Innovation Policy** aims to increase the participation of women in science.

### What is current status of women representation in science?

- In the 2018 **Global Gender Gap report**, India is ranked 108 out of 149 countries.
- According to DST figures, the share of women involved in scientific R&D increased from 13% to 29% from 2000-2001 to 2014-15 & it decreased to 14.71% in 2015-16.
- It is found that women are either not promoted or often dropped out during their mid-career to attend to their families.
- Hence pilot programme-**Gender Advancement through Transforming Institutions**- similar to Athena SWAN will be launched in India to address the issue.

### What is Athena SWAN(Scientific Women's Academic Network)?

- It is an evaluation and accreditation programme in started by UK in 2005 to enhance gender equity in science, technology, engineering, mathematics and medicine (STEMM).
- Participating Institutes are graded depending on the enrolment of women and the advancement of the careers of women faculty and scientists.
- Institutions develop action plans to improve gender equity & are recognised by accrediting them with bronze, silver or gold medal.
- In 2019, Ortus Economic Research in partnership with Loughborough University reveals that 93% of participants believed the programme had a positive impact on gender issues, 78% said it had impacted equality and diversity issues positively, and 78% noted a positive impact on the career progression of women.

### How it can be implemented in India?

- Since most of the universities, barring IITs and NITs, are runned and funded by the government, DST has to negotiate with them to bring changes in institutional policies, recruitment & promotions.
- The DST has tied up with NAAC to push gender equity through it.
- It is planning for an intensive gender sensitisation programmes among the top leaders of institutions.
- It aims to increase women members in selection committees during recruitment processes.
- In the future, the DST is likely to consider policy changes such as providing financial incentives through grants to institutes based on their performance which is similar to UK.

### What will the pilot programme be launched?

- Firstly 25 institutes will be shortlisted to carry out self-assessment on gender equity in their departments.
- Then British Council will assist DST and facilitate collaboration between selected institutions under GATI with Athena SWAN-accredited institutions in the UK, with each institute here having a partner institute in the UK for guidance.

## 1.5 Gender Budgeting

### What is the issue?

- Gender Budgeting is needed to incorporate gender commitments into fiscal commitments.
- There are multiple challenges for doing gender budgeting in India, which needs to be addressed soon.



### What is gender budgeting?

- It is an approach that uses fiscal policy to promote gender equality by trying to translate gender commitments into fiscal commitments.
- This is done through different processes, resources and institutional mechanisms.
- In a multi-level governance structure, the political economy of gender budgeting encompasses both the fiscal and legal frameworks.
- The interface between intergovernmental fiscal transfers and the institutions of multi-level governance also matters.

### What is the legal framework in India?

- In India, gender budgeting is not mandatory by law at any level of the federation.
- The legal frameworks for gender budgeting can differ in unitary or federal states with multi-level governance.
- The frameworks for gender budgeting in India are confined only to fiscal fiat, inclusive of taxation and public expenditure policies.
- To a limited extent, it is regarding the intergovernmental fiscal transfers.
- There is heterogeneity of stakeholders, from various stages of budget formulation to implementation at multiple levels of governance.

### What is the importance?

- One important aspect of gender budgeting is that it can **eliminate the statistical invisibility** of the 'unpaid' care economy.
- The invisibility of unpaid care is a significant issue.
- This was recognised as an issue by the United Nations Statistical Division (UNSD) through Systems of National Accounts (SNA) 1993.
- Properly measuring the care economy requires investment in improving measurement through, for instance, 'time-use surveys'.
- Time-use surveys are conducted in India only in six states, though it is likely to be extended to all states.

### When was gender budgeting introduced in India?

- Gender budgeting was pioneered in India in the research of NIPFP in 2000-2001 with UN Women and the Ministry of Women And Child Development.
- Starting in 2005-06, a "Statement of Gender Budgeting" was introduced in the budget documents by the Union government.
- Today, the process of gender budgeting within the Union Finance Ministry starts with the 'budget circular'.
- This circular states that each ministry and department is required to undertake gender-based analysis of demand for grants within the analytical matrices.
- These matrices have been prepared by NIPFP for gender budgeting.
- Now, urgent policy reform is required to revive the gender budgeting secretariat.

### What is the deviation?

- Underestimation or overestimation of the budget is important in driving home the accountability of the government.
- Higher Budget Estimates do not ensure higher spending.
- There is significant deviation between Budget Estimates and Revised Estimates and Actuals in India.

- The errors are high for different expenditure components of gender budgeting.
- Linking gender budgeting to outcomes involves 'public expenditure benefit incidence' analysis across income quintiles.
- It also involves the integration of gender budgets in outcome budgets.
- In India, the mechanism of intergovernmental fiscal transfers plays a major role in providing states sufficient financial resources to carry out their expenditure assignments.

#### What is the formula?

- A 2016 Levy Economics Institute paper devised a formula for tax devolution into which gender sensitivity could be incorporated for India.
- It has suggested incorporating the child sex ratio (0-6 years) as a gender criterion in the fiscal transfers.
- The results revealed that 'engendering' intergovernmental fiscal transfers improve progressivity.

#### What does the Finance Commission's report reveal?

- The 15th Finance Commission of India has submitted its **interim report** in November 2019.
- The report has integrated the criteria '**Total Fertility Rate**' (reciprocal) with 12.5% as a proxy for demographic performance of states.
- It also states that better performance in reduction of TFR serves as an indicator for better outcomes in health as well as education.
- Hence, this criterion also rewards States with better outcomes in those important sectors of human capital.
- The 15th Financial Commission's **final report** is due in October 2020.
- One has to wait and see whether they design a conditional grant for strengthening gender budgeting at the state level.
- Designing a conditional transfer (specific purpose grant) to strengthen gender budgeting can be directly linked to gender equality outcomes.

#### What is needed?

- Incorporating a gender criterion in the tax-transfer formula is an ideal solution for 'engendering' intergovernmental fiscal transfers.
- However, the effectiveness of such unconditional fiscal transfers on gender equality outcome depends on how a State prioritises and designs gender budgeting programmes for gender equality.

## 2. RESERVATION

### 2.1 OBC Sub-categorisation

#### Why in news?

A Commission has been examining the sub-categorisation of Other Backward Classes (OBC) for almost three years.

#### What is sub-categorisation of OBCs?

- Sub-categorisation of the OBCs means creation of categories within OBCs for reservation.
- OBCs are granted 27% reservation in jobs and education under the central government.
- The Central List of OBCs consists of over 2,600 communities in it.
- The question of sub-categorisation arises out of the perception that only a few affluent communities among the listed ones have secured a major part of 27% reservation.

- The argument for sub-categorisation is that it would ensure equitable distribution of representation among all OBC communities.

### **Who is examining sub-categorisation?**

- The Commission to examine Sub-categorisation of OBCs took charge on October 11, 2017.
- It is headed by retired Delhi High Court Chief Justice G Rohini.
- Initially constituted with tenure of 12 weeks ending January 3, 2018, it was granted an extension recently.
- The current tenure of the Commission ends on January 31, 2021.
- Its budget is being drawn from the National Commission for Backward Classes (NCBC).

### **What are its terms of references?**

- It was originally set up with three terms of reference:
  - a) To examine the extent of inequitable distribution of benefits of reservation among the castes or communities included in the OBC category with reference to such classes in the Central List;
  - b) To work out the mechanism, criteria, norms and parameters in a scientific approach for sub-categorisation within such OBCs;
  - c) To identify the castes or communities or sub-castes in the Central OBC List and classify them into respective sub-categories.
- In January 2020, a fourth term of reference was added, when the Cabinet granted it an extension.
- This term of reference was about studying the various entries in the Central List of OBCs and recommending any correction.
- It was added following a letter to the government from the Commission.

### **What progress has it made so far?**

- The Commission says that it is ready with the draft report.
- This could have huge political consequences.
- This is likely to face a judicial review.

### **What did the Commission analyse?**

- In 2018, the Commission analysed the data of 1.3 lakh central jobs given under OBC quota over the preceding five years.
- It also analysed the data of OBC admissions to central higher education institutions, including universities, IITs, NITs, IIMs and AIIMS, over the preceding three years.

### **What have its findings been so far?**

- Based on the above analysis, the Commission found the following.
- 97% of all jobs and educational seats have gone to just 25% of all sub-castes classified as OBCs.
- 24.95% of these jobs and seats have gone to just 10 OBC communities.
- 983 OBC communities (37% of the total) have zero representation in jobs and educational institutions.
- 994 OBC sub-castes have a total representation of only 2.68% in recruitment and admissions.

### **What is the hurdle for the Commission?**

- The data for the population of various communities to compare with their representation in jobs and admissions is absent.
- This has been a major hurdle for the Commission.



- The Socio-Economic Caste Census data weren't considered reliable.
- In 2018, the Commission requested the Central government for a Budget provision for a proposed all-India survey for an estimate of the caste-wise population of OBCs.
- On August 31, 2018, then Home Minister had announced that in Census 2021, data of OBCs will also be collected.

### 3. GOVERNMENT INTERVENTIONS

#### 3.1 PM SVANidhi

##### Why in news?

The Pradhan Mantri Street Vendors Atmanirbhar Nidhi (PM SVANidhi) scheme was launched by the Ministry of Housing and Urban Affairs.

##### What is the scheme about?

- Through the PM SVANidhi scheme, the central government would extend Rs 10,000 loan as working capital to street vendors.
- This amount will help the street vendors to restart their businesses which have been hit by the Covid-19 pandemic.
- The Small Industries Development Bank of India (SIDBI) is the scheme's implementation agency.

##### What is the significance of the scheme?

- This scheme will help in mainstreaming and legitimising genuine street vendors who have not got valid identity cards.
- The scheme brings in financial mainstreaming of street vendors through loans and digital payments.

##### What is the next step?

- The government wants to formalise its understanding of the street vending sector.
- Making a first-of-its-kind **database** of the beneficiaries of this scheme will help in understanding the sector.
- Based on that understanding, this sector would be brought under various schemes.

##### Why is such a study needed?

- The scheme plans to extend the microcredit to over 50 lakh street vendors across India.
- But, going beyond the mandate of this scheme, the government wants to use the data for comprehensive poverty alleviation.

##### How will the study be done?

- Banks and municipal bodies are already **collecting data** about street vendors who are beneficiaries of the project.
- Such data will be leveraged to create a profiling of the vendors.
- Then, committees will be formed at the level of district administration to **reach out** to street vendors in their respective areas.
- The government departments that are running welfare schemes should nominate their nodal officers in each city to complete the exercise.
- Based on the profiling, a street vendor and anyone in his or her family will be gauged in terms of eligibility for various government schemes.

- Based on eligibility, they will be given access to such welfare schemes.

### Will this actually work towards poverty alleviation?

- Becoming formal beneficiaries of various government schemes works as a big step towards entering the policy intervention network.
- It also helps in financial mainstreaming in the long run.
- The PMSVANidhi will be incentivising digital transactions by giving QR codes to the street vendors.
- This QR code will be used to receive payments through the government's BHIM UPI app.
- They are given cash-back for digital transactions too.
- The idea is that with a trail of digital transactions, the street vendors will create a formal transaction history in banks and will slowly build their creditworthiness for the future.

## 3.2 Nursing and Midwifery Commission Bill

### Why in news?

The Union Government has finalised National Nursing and Midwifery Commission Bill 2020 to replace the Indian Nursing Council Act 1947.

### What is the current situation?

- At present, there are different undergraduate nursing examinations conducted by different medical institutes.
- This requires an aspirant to keep track of these throughout the year.

### What would be the purpose of the Commission?

- The draft Bill replaces the Indian Nursing Council with a new body called National Nursing and Midwifery Commission.
- This body would have representatives of the Centre and the states.
- It would frame policies and regulate standards for the governance of nursing and midwifery education and institutions.
- It would provide standards for nursing and midwifery faculty and clinical facility in teaching institutions.
- It would provide basic standards of education, physical and instructional facilities, training, research, maximum tuition fee payable in respect of various categories.
- It would frame policies and codes to ensure observance of professional ethics in nursing and midwifery profession.
- Similar to the National Medical Commission, the proposed commission would have different boards to regulate UG and PG education.
- It will assess and rate different institutions offering courses.

### What are the other proposals?

- It proposes a **common entrance test** for undergraduate nursing courses that would integrate the system.
- It also proposes a **National Exit test** for the final year of the nursing or midwifery course, to ensure uniform quality.
- Every nurse and midwife would have to register with the **state boards**.
- The Bill will likely vest in the board the power to decide course structure, fee, etc.,
- A **national register** would be maintained to track all qualified and practising nursing professionals.

- It proposes a **temporary licence** for foreign nationals who are qualified nurses and midwives to practice in India.

### 3.3 Laws for Checking Online Abuse

#### Why in news?

- Following criticism, the Kerala government has decided to withdraw an Ordinance.
  - The ordinance gives unrestrained powers to the police to arrest anyone expressing or disseminating any matter that it deems defamatory.
- The move necessitates an assessment of existing laws to deal with social media abuse and online content in general.

#### Why did Kerala government bring such a law?

- The Supreme Court, in 2015, struck down Section 66A of the Information Technology (IT) Act.
- The principal argument by Kerala was that the Central government had not brought in any legislation yet to replace the revoked Section 66A.
- This places limits in police effectively dealing with social media abuse and cybercrime.
- Many state governments feel that the existing laws are inadequate.
  - Chhattisgarh too recently brought in an amendment to criminalise sexual harassment online.
- [But the fact is that the existing laws are adequate.]

#### What are the existing laws in this regard?

- The **Indian Penal Code** (IPC) criminalises speech that is obscene, defamatory, that insults the modesty of women and intrudes upon her privacy.
  - It punishes anonymous criminal intimidation, voyeurism, digitally enabled stalking, hate speech, and even non-consensual sharing of sexual images online.
- In addition to that is the **Information Technology Act** of 2000 that punishes speech that is obscene.
  - It also places obligations on intermediaries, where intermediaries have a duty of due diligence.
  - Intermediaries have to take down content based on a request by the government or a court order.
  - This obligation is actually very broadly worded.
  - It covers any information that is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, hateful, or racially or ethnically objectionable, libellous, invasive of another's privacy, disparaging, etc.
- Hate speech** - Undoubtedly, there is a problem with hate speech in the online space.
- Discussions at various levels of government have been in place for a while in this regard.
- In 2017, the Law Commission of India recommended that two new provisions be introduced to the IPC to specifically deal with online hate speech.
- The Central government has also initiated consultations on amendments to the IT Act.
  - One of the issues being taken up in this context is likely to be the scope of offences under the Act.
  - In particular, there is discussion on whether Section 66A needs to be replaced with a better drafted provision.

#### What should the states focus on?

- A key problem is that enforcement and implementation of existing laws is not very good.





- In the Kerala example, rather than rush into making a new law, it could have actually outlined the specific problem.
- The government should have conducted more transparent consultations with the stakeholders involved, to try and figure out solutions.
- State governments, in general, must also be focused on improving the criminal justice system.
- This is to make it easier for victims to access the system to make complaints, and for the police to be able to prosecute the complaints properly.
- As widely known, it is generally not very easy for victims or individuals to file and proceed with complaints.
  - Given the massive usage of the Internet in India and the huge amounts of hate speech online, there is really a low number of cybercrimes as per the NCRB data.
  - E.g. In 2017, there were only about 21,000 cases in India, which is a huge jump from the 12,000 odd cases in 2016. But that still appears to be a fairly low number in the Indian context.

#### **How is content regulation done currently?**

- Clearly, there is absence of any changes in the legislative structure after the striking down of Sec 66A.
- So, courts and governments have largely resorted to blocking content or forcing intermediaries to take steps to limit the spread of illegal content.
- The government from time to time issues directions.
- Most recently, in the context of WhatsApp, they have been asked to take certain steps pertaining to illegal content on their platform.
- There are also independent regulators, like the Election Commission, which has taken some steps in the context of electorally sensitive content.
- While legislative efforts are on, the priority now is enforcement and implementation of existing laws.

## **4. VULNERABLE SECTIONS**

### **4.1 Laws to Curb 'Love Jihad'**

#### **Why in news?**

Uttar Pradesh and Haryana have proposed to enact a law to curb 'love jihad'.

#### **What is the proposal?**

- This proposal is a vicious mix of patriarchy and communalism.
- The idea was propounded by Uttar Pradesh Chief Minister.
- It legitimises a term that constitutes an obvious insult against inter-faith marriages and relationships in which one of the parties is a Muslim man.
- The reason for bringing in such a law is that the Hindu women are under the threat from Muslim youth seeking to win over girls for religious conversion in the name of marriage.

#### **What are the flaws in the concept?**

- There is no legal sanction to political terms such as 'love jihad'.
- There can be no legislation based on an extra-legal concept.
- In any case, legislative intervention in marriages involving consenting adults will be clearly unconstitutional.



### **What are the governing laws?**

- The domain of matrimony is occupied by separate laws governing weddings that take place under religious traditions, and the Special Marriage Act that enables a secular marriage.
- Under the Special Marriage Act, secular marriage includes inter-faith marriages.

### **What is the reason behind such a proposal?**

- Uttar Pradesh and Haryana Chief Ministers spoke about marriages as if they were not a matter of personal choice.
- Investigation into marriages that purportedly raised such a suspicion also failed to find any substance in the allegations.
- The immediate context for these leaders to curb inter-faith marriages is a recent Allahabad High Court judgment.

### **What is the judgment?**

- The Allahabad High Court's judgment frowned upon religious conversion solely for the purpose of marriage.
- It declined to intervene on a writ petition seeking police protection for a couple, noting that the bride had converted from Islam to Hinduism solely for the purpose of marriage.
- It had found such an expedient conversion unacceptable, citing a similar 2014 verdict.
- The 2014 verdict questioned the bonafides of conversions without change of heart or any conviction in the tenets of the new religion.

### **What does the court's ruling mean?**

- Although the court strayed from the issue at hand, its objective was to underscore that conversion should not become a device.
- It is useful as a principle that inter-faith couples retain their religious beliefs separately and opt for marriage under the Special Marriage Act.
- But this principle cannot be used to derogate from personal choice.
- Also, it should not be used to interfere in the individual freedom to forge matrimonial alliances.

## **4.2 Hathras Rape Case**

### **Why in news?**

The Hathras gang rape marks a new phase in the history of rape-as-caste-atrocity in the 21st century.

### **What is the realisation?**

- The new republic realised that nothing has changed by granting passive legal rights to people who are actively treated as unequal.
- This is especially true when the responsibility for the enforcement of these new rights rests upon those who believe that the old inequalities are part of their legitimate caste-inheritance.
- An answer to this dilemma emerges through the notion of the caste atrocity, and the SC and the ST (Prevention of Atrocities) Act, 1989.

### **What does the Act say?**

- The Act highlights that an extraordinary law is needed to criminalise practices that were considered ordinary and legitimate not so long ago.
- The term "atrocity", like its predecessor "untouchability", is not defined in the law.

- The law only refers to a list of practices ranging from **extremes** such as being forced to eat excreta, to varied forms of **routinised humiliation** and **discrimination**.
- This includes economic boycott, social exclusion, sexual violence and political disenfranchisement.

#### Where should one begin?

- The difficult process of redefining some **traditional practices as modern crimes** is where one must begin.
- This would help understand the place of rape within the larger spectrum of the caste atrocity.
- In rural society, the sexual availability of lower caste women to upper caste men is included in the intangible forms of caste capital that go with tangible forms such as land or wealth.
- Tensions arise when intangible caste entitlements begin to meet resistance rather than resignation.
- Upper caste adopts an oblique dog-whistle kind of language that must deny the relevance of caste and highlight the agency of the lower caste woman, albeit in biased ways.
- In response, lower caste rage against accumulated humiliations is compelled to insist on the perennial presence of caste and its pathology above all other co-morbidities.
- These reactions are neither equal nor symmetrical.

#### What are the patterns of denial observed?

- The classic instance of caste denial was the **Khairlanji case** of 2006.
- This establishes the undeniable centrality of caste in the ongoing enmity between Surekha, a Mahar woman, and her dominant Kunbi opponents.
- Surekha's assertiveness and the upward mobility of her family were unbearable for the Kunbis.
- They had sexually assaulted and murdered Surekha and her children.
- But, the Nagpur High Court judgment insisted that it was a revenge killing that had nothing to do with caste.

#### What was the 'Nirbhaya' impact?

- The next phase in the evolution of caste denial arrives with Delhi's 'Nirbhaya' gang rape in December 2012.
- Between 2012 and 2013, Haryana witnessed a relentless succession of rapes, gang rapes, sexual assaults and murders of Dalit women and girls.
- Public and media responses to the Haryana rapes were muted in the face of all the attention to the Delhi gang rape, but they were not silenced.
- Haryana did see local mobilisations by Dalit activist groups and support from some Delhi-based Dalit and women's organisations.
- Several cases were successfully filed despite opposition from the all-powerful Jat community, to which most of the accused belonged.

#### What is a common tactic?

- A common tactic of the accused was to try and turn every rape case into one of consensual sex, and every murder into suicide.
- This was accompanied by the denial of caste regardless of the identity of victim or perpetrator.
- When out of court settlements or compromises failed, caste details were invariably removed from the records.
- So, the Prevention of Atrocities Act was not allowed to be applied.
- The recent Hathra case seems to be breaking with earlier patterns.



### What was the State's response?

- The Uttar Pradesh police forcibly cremated the body of the victim and did not allow the family to conduct the last rites.
- This act triggered a wave of revulsion, and conversely, a surge of support for the dead victim and her family.
- The State Chief Minister claimed that protests against the incident are acts of sedition.
- He said that these protests are part of a foreign-funded conspiracy to increase caste riots.
- Cases are lodged against every political party that organised a protest, but public meetings in support of the accused are allowed.

### Is there any hope?

- The caste-rape itself is brushed aside without comment.
- It is the responses to it that are accused of instigating a caste war.
- However, there are some unprecedented positives.
- A dead woman has invited mass identification with a Dalit cause.
- Moreover, Dalit women's voices have a prominent place in the protests.

## 4.3 Global Hunger Index

### Why in news?

The Global Hunger Index (GHI) 2020 has placed India at rank 94 among 107 countries.

### What is the GHI?

- The GHI has been brought out every year by Welthungerhilfe (lately in partnerships with Concern Worldwide) since 2000.
- A low score gets a country a higher ranking which implies a better performance.
- The reason for mapping hunger is to ensure that the world achieves "Zero Hunger by 2030" - a Sustainable Development Goals of the UN.
- This is why GHI is not calculated for certain high-income countries.

### What are the four indicators of GHI?

- **Undernourishment** reflects the inadequate food availability.
- It is calculated by the share of the population that is undernourished (i.e., whose caloric intake is insufficient).
- **Child Wasting** reflects acute under nutrition.
- It is calculated by the share of children under the age of five who are wasted (i.e., those who have low weight for their height).
- **Child Stunting** reflects chronic under nutrition.
- It is calculated by the share of children under the age of five who are stunted (i.e., those who have low height for their age).
- **Child Mortality** reflects both inadequate nutrition and unhealthy environment.
- It is calculated by the mortality rate of children under the age of five (in part, a reflection of the fatal mix of inadequate nutrition).

### How is the score calculated?

- Each country's data are standardised on a 100-point scale.



- A final score is calculated after giving 33.33% weight each to components 1 and 4, and giving 16.66% weight each to components 2 and 3.
- As GHI tracks the performance of different countries on four key parameters, it provides a far more comprehensive measure of hunger.

#### **What is India's position?**

- The GHI 2020 places India at **rank 94** among 107 countries.
- The unedifying assessment of the national situation as “**serious**”.
- The country's **score of 27.2** is the worst among BRICS countries.
- It is inferior to Pakistan, Sri Lanka, Bangladesh and Nepal.

#### **What does this position mean?**

- India's poor progress on nutritional indices must dismiss the pride surrounding strong economic growth for years.
- It turns the national focus on persisting hunger, wasting and stunting among children.

#### **What is the evidence?**

- The evidence from the National Family Health Survey-4 (NFHS-4) of 2015-16 is not very different.
- The national policy has no appetite for a radical transformation in the delivery of adequate nutrition especially to women and children.
- It has paid inadequate attention to achieving diet diversity through the PDS.
- On the other hand, the country is widely seen as falsely equating energy calories with a diverse diet.
- The existing deprivation has been aggravated by the pandemic, with food inflation putting pressure on depleted or meagre incomes and savings.

#### **What did the NFHS-4 find?**

- It found that under-five stunting stood at 38%, and wasting at 21%.
- These data represent some progress, at a drop of about 10 percentage points in both categories compared to a decade earlier.
- But steady economic prosperity should have yielded a far bigger social dividend.
- The latest GHI measure reminds us that much work is needed to bring the true benefits of the National Food Security Act to the unreached.
- Efforts should be made to not merely mitigate hunger through cereals, but as nourishment through a diverse diet.

#### **What needs to be done?**

- Strengthening the PDS, with a focus on women's health, would lead to healthier pregnancies.
- Stronger supplemental nutrition under the ICDS scheme would give children a better chance at all-round development.
- International Food Policy Research Institute's recent findings say that three out of four rural Indians cannot afford a balanced, nutritious diet.
- This underscores the importance of immediate sustained intervention.
- The right to food would be meaningless if it leaves a large section of Indians hungry, stunted and wasted.

## 5. LABOUR ISSUES

### 5.1 Refining Trade Union Strategies

#### Why in news?

- Ten central trade unions (CTUs) had called for a nation-wide strike to condemn what they consider to be the anti-people and anti-labour economic policies of the government.
- This follows strikes in the coal and defence sectors protesting privatisation and the corporatisation policies of the government.

#### What is the rationale for changes in labour laws?

- With the 1991 economic reforms, employers and the global financial institutions have been demanding labour market and structural reforms.
- The reform processes gained momentum since 2015 and the central government has enacted four Labour Codes in the last 2 years.
- The Codes are based on the premise that labour laws and inspection system are obstacles in attracting investment.
- Hence, the government is inclined to promote a cheaper and flexible labour market.

#### What is the contention now?

- The Codes do extend some labour rights such as -
  - i. universal minimum wage
  - ii. statutory recognition of trade unions
  - iii. formalisation of employment contracts
  - iv. social security to gig and platform economy workers
- However, they also afford substantial flexibility to the employers.
  - This comes in terms of easy hire and fire, freedom to hire contract labour and unregulated fixed-term-employment, etc.
- The Codes have also considerably redefined the concept and practice of labour inspection system by diluting it.

#### What is the post-COVID scenario?

- Many factors have created tremendous insecurity among workers including -
  - i. the labour Codes
  - ii. reduction of expenditure by the state in the industrial sector and fiscal conservatism, especially in the context of higher levels of unemployment
  - iii. stubborn inflation
- Migrant and informal workers underwent woeful experiences during the COVID-19 period.
- The central government and several State governments had seen this as an opportune time to enact labour law reforms.
- But these have far-reaching adverse consequences for labour rights and structural reforms.
- The Farm Bills and the three Labour Codes during the COVID-19 period were passed with Parliament not witnessing “healthy discussions”.



- Trade unions contend that many of their suggestions have not been incorporated in the Codes and the COVID-19 relief measures.

### What is the way forward for the trade unions?

- The Codes are set to rule the industrial relations system for long unless the government changes.
- In the present context, trade unions have six options to confront or soften the government measures that concern them.
  - These are social dialogue, political lobbying, political confrontation through Opposition parties, legal action by approaching the judiciary, seek the International Labour Organization's intervention, and direct industrial action.
- **Industrial action** - Trade unions are now left with the option of demonstrative "industrial action" followed by sustained protest actions.
- It is in this context that the central trade unions (except the BMS and its allies) have the following demands:
  1. direct cash transfer of Rs. 7,500 per month for all non-income tax-paying families
  2. 10 kg free ration per person per month to all the needy
  3. expansion of MGNREGA to provide 200 days of work in a year in rural areas at enhanced wages
  4. extension of employment guarantee to urban areas
  5. withdrawal of all anti-farmer laws and anti-worker labour codes
  6. a halt to privatisation
  7. protection of government employment
  8. restoration of old pension schemes, etc
- Beyond strikes, the Trade unions must explore other avenues such as seeking the ILO's intervention, judicial action and social dialogue.
- **Judiciary** - The judiciary could be a source of hope for addressing the issue.
- The Supreme Court of India did not respond quickly to provide relief to migrant workers.
- Nevertheless, it has struck down the Gujarat government's amendment of the Factories Act.
- Unions must shed their judicio-phobia and approach it provided they have strong legal grounds to challenge the reforms introduced.
- **ILO** - Trade unions, out of their patriotic mindset, do not use extensively the complaints mechanism created by the International Labour Organization.
- But they did seek ILO intervention recently.
- However, the ILO's intervention in May 2020 only provided a temporary respite to trade unions as the government did what it has been doing.
- **Social Dialogue** - All the parties in the industrial relations system must make effective use of social dialogue, which is a better alternative in a pluralistic democracy.
- Suitable amendments to the Codes should aid both ease of doing business and promote labour rights.

## 5.2 Code on Wages

### What is the issue?

- In the monsoon session of Parliament, three new labour codes were bulldozed into passing and now await the President's assent.

- Labour Minister told that four new labour codes, including the Code on Wages, will become operational before the year ends.

### What is the Code on Wages, 2019?

- The Code on Wages, 2019 seeks to consolidate and simplify four pieces of legislation into a single code. The legislations are,
  - a) Payment of Wages Act, 1936,
  - b) Minimum Wages Act, 1948,
  - c) Payment of Bonus Act, 1965 and
  - d) Equal Remuneration Act, 1976.
- Its object and reasons stated that the 2<sup>nd</sup> National Commission on Labour, 2002 suggested consolidating all labour laws into four codes.

### Why rules will be framed?

- While the previous four pieces of legislation had a total of 119 sections, the new Code has 69 sections.
- Considering that the repealed legislations each had a definition section, inspectors, penalties, etc, any consolidation will impact their length.
- All requirements for enforcing the Act have been relegated to the Rules.
- Section 67 had authorised the framing of rules relating to as many as 38 provisions of the Act.
- As a result, the delegated rules will be bigger than the Code.
- This is no way to condense prior pieces of legislation.

### What problems will arise?

- Combining the four repealed pieces of legislation into a single code will create new set of problems.
- Barring a few new concepts, the new Code retains almost all provisions.
- **Worker** - The Code will have the same definition of the term “worker”.
- But, a person employed in a supervisory capacity drawing up to ₹ 15,000 will also be considered a worker.
- **Wage fixing** - In the Minimum Wages Act, to fix minimum wage in an employment which has more than 1,000 workers to be first included in the Schedule, and then, minimum wages will be fixed as per law.
- The Code has dispensed with the necessity of having a minimum number of workers and the inclusion of such employment into the schedule.
- **Floor wage** - The central government will fix a “floor wage”.
- Once it is fixed, State governments cannot fix any minimum wage less than the “floor wage”.
- It is unwarranted since many States always fix minimum wages higher than the existing rates.
- The concept should be for a binding minimum wage and not have dual wage rates — a binding floor wage and a non-binding minimum wage.

### What is the conflict?

- There was a conflict between the minimum wages fixed by the State governments for agriculture workers.
- There were cases as to whether the Minimum Wages Act would have an over-riding effect over the provisions of the MGNREGA, 2005.
- [MGNREGA - Mahatma Gandhi National Rural Employment Guarantee Act]
- That has been set to rest by excluding MGNREGA from the purview of the Code on Wages.

### **Who is an inspector-cum-facilitator?**

- The Code has created an omnibus inspector-cum-facilitator who will act as per the inspection scheme framed by the government.
- He will advise employers and workers to comply with the provisions of the code.
- As per Section 51, he may carry out inspections as may be assigned by the government.

### **What are the provisions regarding claim mechanism?**

- Section 45 stipulates that the claims will be heard by an authority who is not below the rank of a “Gazetted Officer”.
- A government official without legal and administrative background can hear such claims.
- However, any dispute regarding bonus will continue to go before the Industrial Tribunal.
- One can appeal to an appellate authority who must be one rank higher than the competent authority (Section 49).
- Neither the Code nor the Rules prescribe the qualifications and experience required for appointment of competent authority.

### **What are the provisions on penalty?**

- The penal provisions found hitherto in any pieces of labour legislation never had an impact on employers.
- In Asiatic case, 1982, the Supreme Court observed that if violations of labour laws are going to be punished only by meagre fines, the labour laws would be reduced to nullity.
- But, Section 52 has been introduced where an officer (not below the rank of an undersecretary to the government) will impose a penalty in the place of a judicial magistrate.
- A similar provision of the Bonded Labour System (Abolition) Act, 1976 was struck down by the Division Bench of the Madras High Court (2014).
- The Bench had observed that the Executive Magistrate has no role to play in conducting judicial trial and recording judicial decisions.

### **What are the exemptions made?**

- The Code exempts employers from penal provisions if they prove that they had used due diligence in enforcing the execution of the code.
- They should also prove that it was the other person who had committed the offence without his knowledge, consent or connivance.

### **Will there be an impact?**

- There is nothing particular in this Code that will expand the coverage of workers in all industries in the unorganised sector.
- While there were 10,000 slabs of minimum wages that existed, they would now be reduced to 200 slabs.
- The 200-slab categorisation may not have much of an impact.
- The Code on Wages has not succeeded in a consolidation of laws.

## **5.3 New Labour Codes**

### **Why in news?**

The government has introduced new versions of labour codes in Lok Sabha.

### **What are the three labour codes?**

- Industrial Relations (IR) Code Bill, 2020 - Proposed to introduce more conditions restricting the workers' rights to strike.
- Code on Social Security Bill, 2020 - Proposed changes for expanding social security and
- Occupational Safety, Health and Working Conditions Code Bill, 2020 – Proposed to include inter-state migrant workers in the definition of workers.

### **What are the key proposals in IR Code?**

- In industrial establishments having 300 or more workers, the IR Code Bill has proposed to,
  - a) Introduce more conditions restricting the workers' rights to strike,
  - b) Increase the threshold relating to layoffs and retrenchment.
- This number is increased from 100 workers or more at present.
- These steps are likely to provide more flexibility to employers for hiring and firing workers without government permission.

### **What is the proposal regarding strike?**

- The IR Code proposes that no employee of a company shall go on strike without a 60-day notice.
- It also proposes that no employee during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and 60 days after the conclusion of such proceedings.

### **What is the proposal regarding standing order?**

- The Standing orders are the rules of conduct for workmen employed in industrial establishments.
- The IR Code has raised the threshold for requirement of a standing order to over 300 workers.
- This implies industrial establishments with up to 300 workers will not be required to furnish a standing order.
- This is a move which experts say would enable companies to introduce arbitrary service conditions for workers.

### **What did the Standing Committee on Labour suggest?**

- The Standing Committee on Labour, in its report submitted in April, had also suggested hiking the threshold to 300 workers.
- According to the Labour Ministry, this will result in an increase in employment and decrease in retrenchment.
- The Committee desires that the threshold be increased accordingly in the Code itself.
- It said that the words “as may be notified by the Appropriate Government” be removed because reform of labour laws through the executive route is undesirable and should be avoided.

### **What are the concerns raised over the new labour codes?**

- The increase in the threshold for standing orders will water down the labour rights for workers in companies having less than 300 workers.
- The IR Code introduces new conditions for carrying out a legal strike.
- Elongating the legally permissible time frame before the workers can go on a legal strike has made a legal strike well-nigh impossible.
- The IR code has expanded to cover all industrial establishments for the required notice period and other conditions for a legal strike.
- The Standing Committee had recommended against the expansion of the required notice period for strike beyond the public utility services like water, electricity, and other essential services.

### What are the other proposals?

- The IR Code Bill has also proposed a **worker re-skilling fund**.
- The contributions for the fund are only detailed from the employer of a company along with the contribution from such other sources.
- The employer contribution will amount to 15 days wages last drawn by the worker before the retrenchment.
- The mention of 'other sources' for funding the re-skilling fund is vague.

### What does the Social Security Code propose?

- It proposes a **National Social Security Board**.
- This Board shall recommend to the central government for formulating suitable schemes for different sections of unorganised workers, gig workers and platform workers.
- Aggregators employing gig workers will have to contribute 1-2% of their annual turnover for social security.
- The total contribution should not exceed 5% of the amount payable by the aggregator to gig and platform workers.

### What do the Occupational Safety, Health and Working Conditions Code propose?

- It has defined **inter-state migrant workers**.
- They are the workers who have come on his own from one state and obtained employment in another state, earning up to Rs 18,000 a month.
- The proposed definition makes a distinction from the present definition of only contractual employment.
- It has proposed a **journey allowance** to be paid by the employer for to and fro journey of the worker to his/her native from the place of his/her employment.
- However, the Code has dropped the earlier provision for temporary accommodation for workers near the worksites.

## 6. EDUCATION

### 6.1 Regulating Online Content

#### Why in news?

The government will bring video streaming services and online news under the Ministry of Information and Broadcasting.

#### What will be the impact of this decision?

- It clubs the only sector of the media which has pre-censorship, namely films, with the news media which wasn't subjected to pre-censorship.
- This decision may constrain the free press.

#### Why did the government take this decision?

- Recently, the Supreme Court asked the government for suggestions toward improving the existing self-regulatory mechanism for TV media.
- The government responded stating that regulating the digital media was more pressing.
- More regulation is usually a problematic idea, bringing with it the real risk of censorship.

### What is the merit?

- This decision may bring in a **level playing field** by bringing new digital players within the purview of regulation along with the non-digital ones.
- New movies, before theatrical release, have to get through the certification process of the Central Board of Film Certification.
- In contrast, video streaming services like Netflix, which have gathered several Indian subscribers, have not had to follow any such requirement.
- It cannot be denied that regulation, of the light-touch kind, which serves as an advisory for the content being presented to the viewers, is useful.

### What is the concern?

- There is a question of whether the intent is just to create a level playing field, and nothing more.
- There are concerns about the functioning of the regulatory mechanisms.
- The fear is that this will just end up facilitating more governmental interference and problematic censorship in regulating digital news.

### What is needed?

- Indian democracy's progress is dependent on free speech.
- So, it is important that regulation is not an excuse to stifle voices.
- The government should recognise that there is really no reason to have a different regulatory mechanism for digital news.
- For decades now, the print media and television media have managed themselves in self-regulation frameworks.
- In these frameworks, one of their main goals has been to maintain their independence.
- **Self-regulation** is a must, and censorship is not needed.

## 6.2 Digital Divide

### Why in news?

The report of the National Statistics Office's (NSO's) the survey of 'Household Social Consumption on Education in India' for July 2017-June 2018 was released.

### What does the report highlight?

- It highlights the poor state of computer and internet access in several States.
- The disparities are glaring among different economic strata as well.
- The digital gap that separates the privileged from the deprived remains unbridged years after the broadband policy of 2004.
- Its effects are painfully evident during the pandemic as students struggle to log on to online classes.
- Some poorly connected States have improved since the survey period.
- But, the gaps are so stark that any development could only be modest.

### What are the findings?

- Only Delhi, Himachal Pradesh and Kerala had internet access exceeding 50% for urban and rural households taken together.
- Punjab, Haryana and Uttarakhand exceeded 40%, unimpressive numbers still.



- Large States like Uttar Pradesh, Tamil Nadu, Andhra Pradesh and Karnataka had access below 20%.

#### **What is critical?**

- In today's environment, net access is critical.
- Even where mobile phones and laptops are available, they cannot be meaningfully used in the absence of net access.
- If net connectivity is 5% to 10% in rural Odisha, Madhya Pradesh, Telangana, Karnataka and West Bengal, only a slim minority can hope to do any academic work.
- Many remote locations have reliability problems and power deficits, making it a challenge to keep gadgets operational even offline.

#### **What is the target?**

- Prime Minister has announced in his Independence Day address that all villages would be connected with optical fibre cable in 1,000 days.
- This enhanced target follows the one set in 2011 to link panchayats through a national optical fibre network.
- - to raise administrative capacities through information infrastructure.
- Evidently, successive governments have dropped the ball.
- States have not shown the alacrity to make a big leap either, and the deficit has now dealt a blow to students.

#### **What could be done?**

- To make up for lost time, connectivity for education must be prioritised.
- Mapping the needs of each district based on the NSO data will help identify areas where children do need equipment and connectivity.
- Such efforts have been launched globally in the wake of COVID-19, some in partnership with the telecom sector to leverage its capacity for surveys and mapping.
- Some companies in India have made the valuable suggestion that their used desktop computers could be refurbished and donated.
- For this, the governments need to open a programme. The government needs to look at all possibilities and go into overdrive to bridge the digital divide.

## **7. HEALTH**

### **7.1 Regulating Medical Devices**

#### **What is the issue?**

- For a country with the fourth-largest medical devices foothold in Asia, India must aim to increase local investment and production.
- The success of India's aim to be self-reliant will be defined by the regulatory framework in medical devices.

#### **What is the transition?**

- Japan is paying its companies to shut their manufacturing plants in China.
- American companies are planning to shift their base from China.
- So, these are times of strategic transitions which India must use wisely.

### What is the history?

- In 2017, voluntary certifications began in India with the Indian Certification for Medical Devices (ICMED) of Quality Council of India.
- The ICMED gave process certification to many medical devices using notified bodies.
- The industry couldn't understand the need for the voluntary certification scheme, and this was opposed by the CII and the FICCI.
- Medical device experts see it as a deviation from global practices.
- This indicates that the regulatory environment in India is complex.

### What kind of reform is needed?

- Industry representatives recommended that any new legislation should be aligned with international regulatory best practices.
- They also suggested that the industry should be involved and consulted throughout the process.
- India aims to transform into a global manufacturing hub.
- So, the regulatory mechanism should be harmonised with the global best practices recommended by the International Medical Device Regulators Forum (IMDRF).

### What are the global standards?

- Essential principles of **safety and performance** are important.
- To demonstrate compliance with essential principles, there are consensus standards developed by global standards bodies such as the ISO, and recognised by stringent regulatory authorities and the IMDRF.
- There are two kinds of standards:
  1. Horizontal (ones that describe the process or practice that is applied across a range of devices, like sterilisation, software, etc)
  2. Vertical (specific test methods or performance aspects of a specific grouping of devices).
- These standards have been segregated so that a manufacturer can develop a medical device in accordance with key elements of essential principles.

### What is the problem?

- Procurement agencies have been procuring commodities complying with a specific standard.
- In the case of medical devices, they were faced with the challenge in procurement as the same product with different specifications and varying complexities was before them.
- This led to complexities in procurement.
- Hence, the Bureau of Indian Standards (BIS) was requested to develop standards to procure medical devices.

### What could be done?

- The BIS must adopt international standards to encourage Indian manufacturers to conquer the global market.
- It should also help global players introduce new products and increase investments in India.
- The US, the EU, Japan and other IMDRF countries rely on these consensus standards to increase predictability, streamline premarket review and provide clearer regulatory expectations.

## 7.2 Vaccine Nationalism - Need for Vaccines as Public Good

### What is the issue?

- The COVID-19 pandemic is a human tragedy and needs global solidarity, especially when it comes to offering vaccines to all.
- In this regard, the WTO has a role in getting pharma firms and countries to treat vaccines and life-saving medicines as a public good.

### What all should an emergency response entail?

- There is (and should be) empathy and concern about human suffering.
- Such solidarity is a recognition of the need to:
  - i. prevent further damage and destruction
  - ii. rescue and evacuate affected people to safer zones, and salvage belongings
  - iii. meet their minimal survival needs
- Nobody is charged for this. Instead, it is considered as relief work which comes out profusely as charity; a humane gesture.
- On the contrary, it is illegal to hoard, for black marketing, essential goods in affected areas.
- Overcharging of commodities and services during any natural disaster is always a scandal.
- It is a crime against humanity to make a profit during any human tragedy.

### What is the case with the COVID-19 pandemic in this context?

- The COVID-19 pandemic is also a human tragedy.
- It needs global solidarity, and definitely not a time to be doing business and being conscious of making profit.
- But the international trade market is working otherwise.
- In a liberalised economy, there is a shocking silence in the global market trying to do business out of human suffering.
- When economies crumbled in many countries, e-commerce and gadget-based gaming business boomed.
- Also, there are numerous examples of companies having made enormous profits in the supply of personal protective equipment and kits and ventilators.
- Business lies in selling technologies around COVID-19, the diagnostics, drugs and vaccine candidates.

### What is the challenge with vaccine access?

- The entire global population, estimated to be nearly 8 billion people, is in need of a vaccine (still being tested and yet to be approved) for COVID-19.
- So the production at full capacity and supply to every country will take time.
- The world community cannot allow the rich and the strong to grab everything first.
  - The advance purchase agreements that some countries have negotiated with pharmaceutical companies exemplify such adverse trends.
  - Such **vaccine nationalism** undermines equitable access to vaccines.
- So, organisations of the United Nations and global networks for people should coordinate.
- The World Health Assembly, in May 2020, set up mechanisms to counter the obstacles to equitable access to COVID-19 technologies such as vaccines, diagnostics, medicines, PPE kits and machines.



- There has to be prioritisation for high-risk groups in all countries, especially in the least developed, low- and middle-income nations.
- That framework has to be accepted by the global community without dispute.
- The **COVAX partnership** is a mechanism for ensuring that.
- **GAVI**, or the Global Alliance for Vaccine Initiative, was in existence during the pre-COVID-19 period.
  - This was meant to ensure the pooled procurement and equitable supply of life-saving vaccines to low- and middle-income countries.
  - It has been roped in for the COVID-19 vaccine too.

#### What role should the governments play?

- The World Health Organization Director General Dr. Tedros exhorted member countries to treat COVID-19 technologies as a “**public good**”.
  - A public good is a common property of the nation and such goods are not excludable or there should not be any rivalries in dealing with it.
- But pharmaceutical companies were far from this ideal.
- If it is a public good, governments must step in to regulate its development, innovation, manufacture, sale, and supply ultimately to the public.
- If there is public financing for technology development, there is no scope for grant of patent protection.
- A public good cannot be submitted to the vagaries of market fluctuations of pricing dependent on demand-supply dynamics.
- Governments should be the custodian of public goods.
- It is a basic human right to avail accessible and affordable health care.
- If such an idealistic outcome does not materialise based on basic human rights, then some regulation mandated by the UN General Assembly must be thought of.

#### What are the WTO provisions in this regard?

- The WTO had raised concern over public health with regard to the non-availability of patented drugs in sufficient quantity, and at affordable prices.
- The WTO had made provisions for compulsory licensing through –
  - i. the Paris Convention for the Protection of Industrial Property,
  - ii. the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
  - iii. the Doha Ministerial Conference declaration 2001
- With these in place, the government intervenes when patent clauses regarding availability, reasonable pricing, local production and technology transfer are not met by the patent holder.

#### What are the options before India for vaccine availability?

- **Compulsory licensing** is an “involuntary contract” issued by the national government between a “willing buyer” or local manufacturer and an “unwilling seller” or patent holder foreign company.
  - India utilised this provision for the first time on March 9, 2012.
  - It was used to grant licence to Natco Pharma Hyderabad against the will of patent owner Bayer, Germany.
  - This was to manufacture Sorafenib tosylate, a life-saving anti-cancer drug for kidney and liver tumours, with 97% cost reduction.



- It is sold by Bayer under the brand name, Nexavar.
- This is an extreme step available with India 'if rich countries go for advance purchase and hoarding of a COVID-19 vaccine produced in India by multinational pharma companies and deny India's supply needs'.
- But COVID-19 vaccine candidates are still in trial phase; regulatory approval and patent are still awaited.
- So, failure to comply with patent regulations as a reason for the issue of compulsory licence cannot be applied.
- **Coercion** to issue "voluntary licensing" to subsidiary companies in many developing countries such as India, Egypt, Thailand and Brazil by the patent holder is another option.
- **Waiver** - India and South Africa jointly sent out a communication, on October 2, 2020 to the IPR Council of the WTO.
- It asked for a waiver of the protection of copyright, design, trademarks and patent on COVID-19 related technologies including vaccines.
- If this is decided favourably as a special case considering the unprecedented impact of the pandemic, it will set a precedent.

#### What is the way forward?

- A UN organisation such as the WTO can wield influence on member-nations to forgo trade profits for a humanitarian cause.
- Global campaigns through the media and civil society organisations can garner enough momentum to exert pressure on TRIPS.
- Despite these, vaccines and life-saving medicines being treated as a public good must definitely be the long-term goal.