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Note -

- The Newspaper clippings pasted in PDF are important from Mains point of view as it contains the fodder material for Mains Answer Writing.
- Also watch DND video lectures everyday @ 4 PM on Sleepy's YouTube channel in order to understand how to get the most out of everyday's Newspaper .

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1. Polity and Governance

1.1. The Upcoming Crisis In Indian Federalism

Context- Coexistence of Democracy and Federalism

- Apprehension post 2026
- Since 1976, seats in the Lok Sabha have reflected the 1971 census and have not taken into account changes in the population.
- The primary reason for this has been unequal population growth among States
- India's most highly developed and prosperous States have been successful at family planning, while the poorer States continue to expand their population
- Post 2026, when the composition of Lok Sabha would be on the basis of 2021 census there will be a dynamic shift in national power towards India's poorest and most Populated States.
- This will serve as a disincentive to the developed states who have been successful in controlling their population growth, as their constituencies in Lok sabha would be lesser.

Why will this be a disincentive towards the developed states?

- They would loose out on considerable political, economic clout they hold at the moment.

What is the Principle of Federalism in context of India?

- Article 1 of the Indian Constitution says, India is a Union of State (Indestructible Union of Destructible states)
- Unlike in other federations, there is no separate State citizenship or State Constitutions
- States are distinct associative communities, within the federal structure of the Indian Union
- But there is Contradiction between the principles of democracy and federalism, when federal units are unequal in size, population and economics

What is the Contradiction between Democracy and Federalism?

- Surely, in a democratic setup, all citizens are equal and are thus entitled to equal representation in governance
- However bigger States are likely to dominate the national conversation over smaller States

What do Smaller states fear?

- Small States fear that they would get a smaller share of the pie economically, a much reduced say in national issues, and be irrelevant in the political governance of the country.

The Indian Structure

- India's quasi-federal structure has always been unique in it's own way.

- Fearing separatist tendencies amongst states, founding fathers of the constitution had intentionally created a strong centre

But has this fear been proven true in the last 75 years?

- The 1956 reorganisation of States on linguistic lines was a popular recognition of federal principles and yet did not result in separatist tendencies
- States within the Union have been created in response to the demands of people for greater autonomy. (Uttarakhand, Jharkhand, Chattisgarh, Telangana)
- However, any clash between federal principles and democracy will inevitably also have linguistic, religious and cultural implications and may result in new forms of sub-regional chauvinism
- Therefore, it is essential that now the smaller yet not so developed states be given a chance for wider representation in Lok Sabha by NOT revisiting to the 1971 census.

How to balance Democracy and Federalism?

- Powers of States vis-à-vis the Centre contained in the Lists and in the provisions dealing with altering boundaries of States must be increased.
- More localised decision-making is bound to increase national prosperity.
- The role and composition of the Rajya Sabha, our House of States, must be expanded.
- Constitutional change and the change in financial redistribution between the States must require the consent of all or nearly all States.
- Breaking up the biggest States into smaller units.

Conclusion

- If India is a joint venture between majority and minority share holders, the minority must be protected by a comprehensive list of “consensus items” that require unanimity or at least, a super-majority and not simple majority

Delimitation

- Delimitation is the act of redrawing boundaries of Lok Sabha and Assembly seats to represent changes in population. In this process, the number of seats allocated to a state may also change.
- The objective is to provide equal representation for equal population segments, and a fair division of geographical areas, so that no political party has an advantage.
- The first such exercise in 1950-51 was carried out by the President, with the help of the Election Commission
- Following the Delimitation Commission Act in 1952, all such exercises have been conducted by Delimitation Commissions – set up in 1952, 1963, 1973 and 2002
- The present delimitation of parliamentary constituencies within states, has been done on the basis of the 2001 census, under the provisions of Delimitation Act, 2002.
- Constitution of India was specifically amended (84th amendment) in 2002, not to have interstate delimitation of constituencies till 2026

- Present constituencies carved out on the basis of the 2001 census shall continue to be in operation till 2026 and it will be done on the basis of population 2021

1.2. For UAPA, States Must Pay

What is UAPA?

- UAPA is a law that prevents unlawful activities that may cause harm to the integrity and sovereignty of India.
- The object of this bill was to make powers available for dealing with activities directed against the integrity and sovereignty of India
- The evolution of **Unlawful Activities (Prevention) Act (UAPA)** has to be seen in the background of this gradual but steady constriction of Article 19, which guarantees the fundamental freedoms of expression, assembly and association.
- In 1967 This amendment occurred in the immediate wake of the Indian army's defeat in the Sino-Indian War, as well as the threat posed by the DMK contesting elections in Tamil Nadu with secession from India being part of their manifesto.
- For prosecution under section 13 of the UAPA, the permission of the Ministry of Home Affairs (MHA) is required.
- Prosecution under sections 16, 17 and 18, the permission of the respective State government is required
- **Criticism - The Act introduces a vague definition of terrorism to encompass a wide range of non-violent political activity, including political protest. Not only organizations, but Individuals can also be termed as Terrorists under the new amendments to UAPA.**

Context- Sovereign Immunity Vs Sovereign Accountability

Does UAPA uphold the ethos of a Liberal Democracy?

- It is quite well known that is invoked disproportionately, indeed overwhelmingly, against minorities, indigenous peoples, tribals and, increasingly, those who stand up for them.
- Bail is notoriously hard to get once arrested under UAPA.
- Judgments granting bail to student activists Asif Iqbal Tanha, Devangana Kalita and Natasha Narwal, Gogoi's discharge orders, and, of course, the senseless arrest and inevitable custodial death of Father Stan, have led to strident calls for reform.
- Time has come for direct action, using the very Constitution that birthed UAPA, and the judiciary that enforces its senseless provisions

Bail an exception?

- Bail is a rule, jail is an exception' is a legal doctrine that was laid down by the Supreme Court of India in a landmark judgement of State of Rajasthan vs. Balchand alias Baliya (AIR 1977 2447)
- Legal doctrine, in this case, was laid down by Justice V. Krishna Aiyer, who based it on fundamental Rights guaranteed by the constitution of India.

Are we under a Colonial Hangover?

- Malicious prosecution was for long recognised in England as a tort, or civil wrong, which might result in an award of damages to the wrongly incarcerated victim.
- However, when a citizen wronged by tortious acts of government servants, could be thwarted by claims of sovereign immunity.
- In 1965 (Kasturilal Ralia Ram Jain) the SC observed Indian lawmakers had not followed Britain's lead in doing away with immunity under the Crown Proceedings Act, 1948. Colonial legacy of crown immunity continued to apply in India.

What did Supreme Court stated about doing away with Sovereign Immunity?

- The court held in Bhim Singh (1985) that when a person's fundamental rights are infringed by a malicious imprisonment, "the mischief or malice and the invasion may not be washed away or wished away by his being set free"
- In Nilabati Behera (1993), the SC clarified that the doctrine of sovereign immunity has no application in the constitutional scheme
- Supreme Court under Article 32 or a High Court under Article 226 can decide to compensate a citizen for malicious loss of liberty

Recent example of Courts directing the executive to compensate the Accused-

- Bilkis Yakub Rasool (2020), the Supreme Court directed the Gujarat government to pay Rs 50 lakh to compensate for the systematic cover-up by state police of a terrible mass-murder and gang rape perpetrated against Bilkis's family during the 2002 riots

Why is the Compensation to the Accused legitimate?

- Investigating agencies knowingly load on frivolous charges of UAPA or sedition which further permits prosecutors to misuse UAPA without applying mind.
- Top law officers end up supporting the use of this draconian law playing into the political vendeta.
- Therefore, it is High Time that victims start suing for reparations, for restitution, for damages, or for compensation in whatever form or name. There should be no "Immunity" enjoyed by the Sovereign for it's IRRATIONAL abuse of Power.

1.3.Reshuffle and Digital Reset

- Context- Digital Governance challenges to be addressed by the new IT minister
- The ongoing pandemic has made the lives of millions of Indians, as well as government policy, shift focus towards a digital environment.
- But this has also been reflected in bad light amidst the ongoing conflict between social media companies and the government.

What should be the immediate priorities for the New IT Minister?

- **Internet Access** - According to the latest Telecom Regulatory Authority's report the rural penetration rate is 34.69 per cent, with 308.17 million rural internet subscribers. This is less than 1/3 of Urban penetration rate.

- **Internet Shutdowns** - Data shows that between 2012 and 2019, state governments have shut down the internet in various parts of the country approximately 374 times causing \$2.4 billion in losses
- Despite the SC judgement in Anuradha Bhasin v Union of India that required publication of internet shutdown orders, there has been no compliance by state governments
- **Social Media Regulation**

What is the ambiguity with regards to the IT Rules, 2021?

- Close to 14 individual constitutional challenges are pending before different high courts. These IT Rules are expected to regulate not only Twitter, but substantial parts of the Indian internet.
- Undoubtedly. Social media has its own imperfections but there is absence clear legislative power , which will end up hurting the rights of users.
- Need to recognize the utility of Social Media and at the same time reform amicably.

What should be the alternative then?

- Till a broader and more comprehensive digital governance framework is implemented, intermediary liability can be regulated by the pre-existing legislative frameworks refined by the Supreme Court in the case of Shreya Singhal v Union of India.
- The task of updating the Information Technology Act, 2000 must be made public which must involve large scale consultations with various stakeholders.
- Participative vision for legislative action with Twitter, will resolve the ongoing issues.

Issue with the Data Protection Law (In JPC)

- Increasing number of data breaches from Air India to Domino's.
- The average data breach in India costs Rs 14 crore and the average time to both detect and contain a breach went up to 221 days and 83 days respectively.
- What is Personal Data?
 - ✓ Personal data pertains to characteristics, traits or attributes of identity, which can be used to identify an individual.
- What is Non Personal data?
 - ✓ Non-personal data includes aggregated data through which individuals cannot be identified.
- What is Data Protection?
 - ✓ Data protection refers to policies and procedures seeking to minimise intrusion into the privacy of an individual caused by collection and usage of their personal data.
- Why was a Bill brought for personal data protection?
 - ✓ In August 2017, the Supreme Court held that privacy is a fundamental right, flowing from the right to life and personal liberty under Article 21 of the Constitution. The Court also observed that privacy of personal data and facts is an essential aspect of the right to privacy

What will the Personal Data Protection Bill provide?

- The Bill regulates personal data related to individuals, and the processing, collection and storage of such data. Under the Bill, a data principal is an individual whose personal data is being processed.
- The entity or individual who decides the means and purposes of data processing is known as data fiduciary. The Bill governs the processing of personal data by both government and companies incorporated in India.

Conclusion

- Recent G-7 Open Societies Declaration to which India is a party states within its first point,
- Vital to ensure the growth of the Indian internet into a healthy forum that enshrines our constitutional values **“Human rights for all, both online and offline”**.

1.4.The Return of a Bogey

Context- Population control and Politics

What is the History of Population Control in India?

- India was the first country in the world to have a National Family Planning programme in 1952
- We have had a National Population Policy for over half a century which has been updated from time to time.
- The latest Population Policy in 2000 paid great dividends with 24 out of 29 states having achieved total fertility rate (TFR) of 2.1 which is considered the replacement level (no further population growth)
- BIMARU states, though lagging, are also on the right course (Bihar, Madhya Pradesh, Rajasthan & Uttar Pradesh)

What are the Flaws in the suggested population control proposals?

- Global experience shows that any coercion in population control is counterproductive
- Sterilisation programme of the Emergency era (1975-77), which caused a backlash from which the country hasn't still recovered.

How has the 2 child norm been discriminated against the women?

- 2 child norm has earlier shown in other states disastrous consequences for women, with many facing divorce to prevent disqualification of their husbands from contesting election.
- This also lead to large-scale female foeticide which skewed the gender ratio
The CSR of India has been in steady decline, dropping from 945 in 1991 to 918 in 2011.

Is there an element of Community targeting in this policy?

- Fixating on one particular minority community to bear the sole onus for population control is an atrocious idea
- India's voluntary population policy is doing very well, having achieved the total fertility rate (TFR) of 2.1, which translates to a couple being “replaced” by two children.

Why is the “Population explosion” theory a bogey?

- In Assam, in particular, the TFR has, in fact, dropped from 2.2 in 2015 to 1.9 in 2020-21. Thus, the population “explosion” is a bogey.
- Use of modern contraceptive methods by women is highest amongst Assam’s Muslim women, at 49 per cent. Unmet need for contraception is also the highest among them, at 12.2 per cent
- The real problem is not uncontrolled population increase amongst the community as the government is projecting, but poor service delivery.
- An internationally recognised principle is that **development is the best contraceptive**. It should precede fertility control and not the other way round.
- **Concerns raised by Population Foundation of India- Strict limit on the number of children, like the two-child norm, will unleash a rapid increase in divorce and of sex-specific abortions.**

What are the Findings from the National Family Health Survey- 4 (NFHS) ?

- According to NFHS-4, in 22 states, the fertility rate of Muslims was lower than that of Hindus in Bihar
- Socio economic conditions, rather than religion, influence fertility behaviour.
- Clearly, the apprehension about Muslims being responsible for population explosion is misguided.

Conclusion

- The government must address the 3 important root causes of high fertility which are Illiteracy (especially of girls), poverty and poor reach of health services.
- Global context shows that China is now burdened with nearly a 70 per cent elderly population with less than 30 per cent young people to support them, a consequence which was not foreseen due to their strict One Child policy.
- Minority community must be wise not to play as a victim here which further aids in communalisation.

1.5. Making welfare conditional is a stamp of coercion

- Context- Coercive Population control infringes Liberty of Individuals
- Uttar Pradesh Population (Control, Stabilisation and Welfare) Bill, 2021, seeks to provide
 - ✓ series of incentives to families that adhere to a two-child norm
 - ✓ also intends on disintitling families that breach the norm from benefits and subsidies
 - ✓ burden imposed disparately on the most vulnerable groups in society

What is the rationale behind such a Policy?

- The draft Bill echoes the U.P. government’s new policy in claiming that the State’s ecological and economic resources are limited.
- The state government believes that Sustainable development can not be achieved without government imposed birth control.

What are the incentives offered?

- It promises public servants who undergo sterilisation and adopt a two-child norm several benefits
- Two increments during their service, subsidy towards the purchase of a house, maternity, or paternity leave, with full salary and allowances, as the case may be, for up to 12 months.
- Free health care and insurance coverage for the spouse.

What are the punishments offered?

- A person who breaches the two-child norm will be debarred from securing the benefit of any government-sponsored welfare scheme.
- Will be disqualified from applying to any State government job
- Individuals will be prohibited from contesting elections to local authorities and bodies.
- Observation- international experience shows that any coercion to have a certain number of children is counter-productive and leads to demographic distortion

International Conference on Population and Development Programme of Action, 1994

- Pledge from nations that they would look beyond demographic targets and focus instead on guaranteeing a right to reproductive freedom
- Supreme Court of India has recognised this right as an inalienable promise
- Woman's freedom to make reproductive decisions is an integral facet of the right to personal liberty guaranteed by Article 21. (Suchita Srivastava & Anr vs Chandigarh Administration (2009))
- Reproductive choices can be exercised to procreate as well as to abstain from procreating.
- K.S. Puttaswamy vs Union of India (2017- Constitution sees a person's autonomy over her body as an extension of the right to privacy.
- **Justice D.Y Chandrachud stated- This include decisional autonomy, which comprehends, among other things, liberty over "intimate personal choices such as those governing reproduction"**

Conclusion

- Making welfare conditional is a hallmark of coercion. If we want the idea of India as a welfare state to mean something, the right to access basic goods cannot be made provisional
- The law could also lead to a proliferation in sterilisation camps, a practice that the Supreme Court has previously deprecated.
- An already skewed sex ratio may be compounded by families aborting a daughter in the hope of having a son with a view to conforming to the two- child norm.
- Focus more on behavioral changes by increasing awareness by involving public figures and corporate organizations to mobilise opinion in favour of shorter families.
- Persuasion must be the way forward and not Coercion.

Cooperate Governance

1.6. Letting the Board Down

Context – SEBI needs to safeguard interests of the minority shareholders.

What was the Wadia-Tata Dispute?

- In 2016 Tata Sons had called on the shareholders to vote out independent director Nusli Wadia from the board on the ground that he was acting in concert with ousted Tata Sons chairman Cyrus Mistry.
- Wadia's so-called transgression was that he spoke out in favour of the minority shareholders of the Tata group. Nusli wadi was an Independent Director of Tata Steel.
- Total vote in favour of the resolution was 56.79 crore, i.e. i.e. 90.80 per cent, and total vote against the motion was 5.75 crore i.e. 9.20 %.
- The voting process involved Institutional and Retail shareholders both.

How are the Independent Director appointed?

- Even though concentration of shareholding is the norm in Indian companies, independent directors are appointed just like other directors through shareholder voting by a simple majority.
- In case of family-owned companies, it is not uncommon to appoint “friendly” independent directors

Are the Independent directors really Independent?

- Unless Independent directors owe their allegiance to the shareholder body as a whole, and not merely to the promoters, Independence is likely to remain largely in form and not function.
- They must serve at the pleasure of all shareholders to retain Independence in their functionality.

What proposals SEBI have made in this context?

- SEBI proposed a “dual approval” system whereby the appointment of an independent director required the satisfaction of two conditions
 - ✓ Approval by a majority of all shareholders
 - ✓ Approval of a “majority of the minority”, namely the approval of shareholders other than the promoters.

What if the above mentioned conditions are not followed?

- The company would be free to propose the same candidate after a 90-day cooling off period for approval by a special resolution (75 per cent majority) of all shareholders voting.
- SEBI recommended the same “dual approval” system for the **removal of independent directors as well.**

Despite these guidelines why did SEBI backtrack?

- In June 2021, SEBI announced that the appointment and removal of independent directors would be by way of a special resolution rather than a simple majority and made no mention of the dual voting system.
- By this SEBI has deprived the minority shareholders of the level of say it had extended earlier.

- It is entirely reasonable to assume there was a significant resistance from the industry and, in particular, the promoter groups.

Tyranny Of Minority?

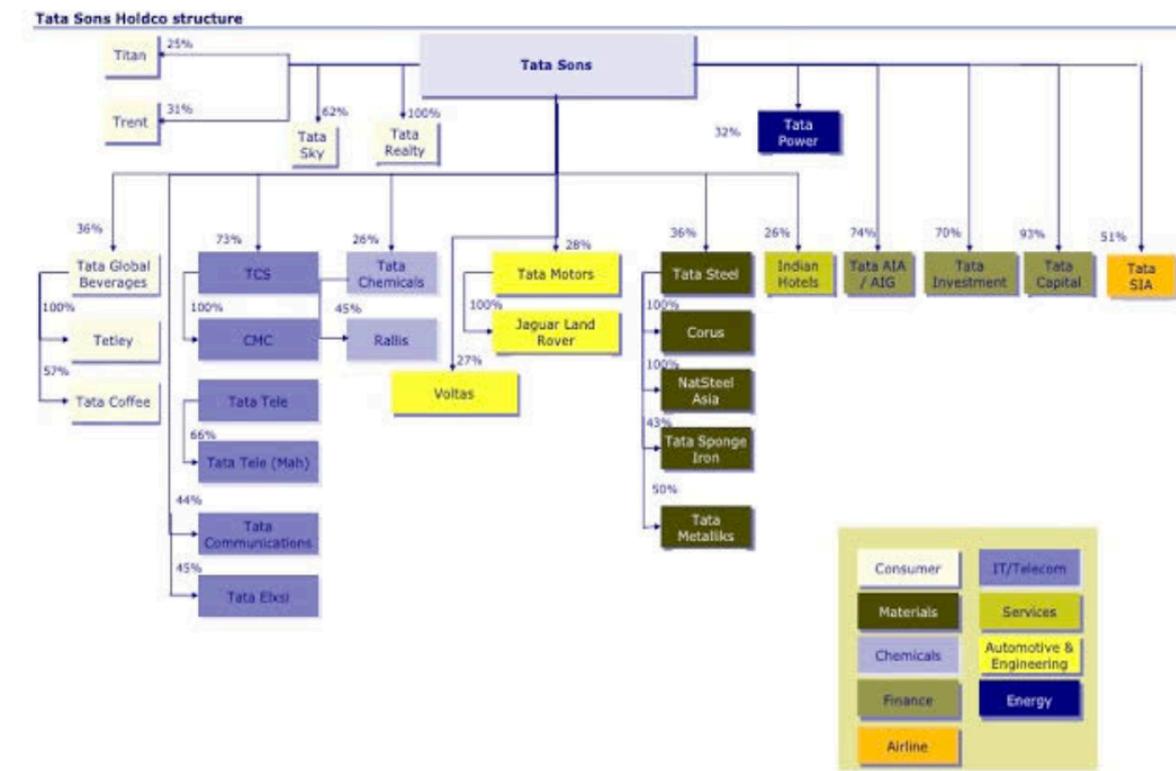
- Opponents say that this is against the majority rule principle that is intrinsic in a corporate democracy.
- Opponents of this rule also believe that placing too much power in the hands of minority shareholders would be counter productive, as it could result in a tyranny of the minority.

Was this Proposal worth Opposing?

- It does not negate the promoter’s involvement in the process of appointing or removing independent directors because of 2 reasons
 - ✓ Requires the approval of all shareholders, where promoters would have a significant influence
 - ✓ Minority shareholders have a say as well by the Principle of “Majority of Minority”
- Therefore, Only consensus candidates would end up becoming independent directors.

Conclusion

- Minority shareholders tend to be passive when they are unable to influence the outcome of shareholding voting.
- Rising shareholder activism in India must create an efficient support system for minority shareholders to act.
- Appointment and removal system continues to undermine the independence and efficacy of corporate boards



2. Economy

2.1. Growth matters, but Income levels Matter more

What does the Data tell us?

- Source- Survey of National Income Estimates by National Statistical Office released on 31 May 2021
- The contraction in trade (-18.2%), construction (-8.6%), mining (-8.5%) and manufacturing (- 7.2%) is a matter of concern as these sectors account for the bulk of low-skilled jobs
- Gross Domestic Product (GDP) at Constant (2011-12) Prices in Q4 of 2020-21 is showing a growth of 1.6% for a period when the restrictions on mobility and economic activity witnessed reduction, this performance looks below par.
- The unemployment rate shot up to 11.9 per cent in May from 8 per cent in April
- According to Centre for Monitoring Indian Economy(CMIE), over 15 million jobs were lost in May 2021, higher than the 12.3 million in November 2016, the month of demonetisation.
- More worrying fact is that the cumulative fall in employment since January 2021 is 25.3 million of which 22.7 million were in the 1st quarter of FY 2021-2022.
- Observation- Employment and aggregate demand in an economy are related via the channel of disposable incomes of workers.

How is the Business sentiment at present?

- With household income being severely impacted and past savings being already drawn on during the first wave of infections, demand conditions can be expected to remain weak for longer.
- Business Confidence index (BCI), from the survey by the industry body FICCI, plummeted to 51.5 from 74.2 in the previous round mostly due to weak demand in the economy.
- Manufacturing Purchasing Managers' Index (PMI) has slipped to a 10-month low indicating that the manufacturing sector is showing signs of strain with growth projections being revised lower.

How does the demand from External Sector look like?

- External demand looks robust as India's exports touched \$32 billion in May 2021, 67% higher than in May 2020 and 8% more than in May 2019.
- Indicates that global demand rebound is much faster than the domestic demand.

Internally, What needs to be addressed immediately is the crisis of low domestic demand.

What should be done by the Government to boost Demand?

- Since last year, the policy responses have been to rely on credit easing, focusing more on supply side measures to streamline the credit inflow to various sectors.
- This policy stance is unlikely to prop up growth for 3 reasons:
 - ✓ In times of Financial anxiety, what is needed is direct state spending for a quick demand boost. Government has been involved in only addressing the supply side measures.

- ✓ Large parts of all the stimulus packages announced till now would work only in the medium term. This involves policy related to External sector, Agriculture, Infrastructure etc.
- ✓ Use of credit backstops as the main plank of policy has limits. This could result in poor growth performance if private investments do not pick up. (Vicious cycle of NPAs)

Conclusion

- Focusing on short-term magnified growth rates resting on low bases might be erroneous, as income levels matter more than growth rates at this juncture.
- Achieving higher income levels require sustained growth for longer periods!