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GS 2: POLITY, GOVERNANCE, SOCIAL JUSTICE, INTERNATIONAL RELATIONS/INSTITUTIONS

1. On the appointment of ad-hoc judges to High Courts

Context: The Supreme Court has eased its previous condition for appointing ad hoc judges in High Courts to clear pending criminal cases. It ruled that ad hoc appointments can be made even if vacancies do not exceed 20% of the sanctioned strength. A Bench of Chief Justice of India (CJI) Sanjiv Khanna and Justices B.R. Gavai and Surya Kant relaxed a rule set in Lok Prahari Through Its General Secretary S.N. Shukla IAS (Retd.) vs Union of India (2021), which had limited such appointments to High Courts where judicial vacancies exceeded 20% of the sanctioned strength.

Key points

- **Overview:** The Supreme Court (SC) suggested temporarily appointing retired judges on an ad hoc (as required) basis to address the growing backlog of pending criminal cases before several HCs.

- **Ad hoc Judges in HC:** *About* - Ad hoc judges are temporary judges appointed to a court, typically to address specific needs such as reducing case backlogs or filling gaps when permanent judges are unavailable.

Constitutional Basis - Article 224A of the Indian Constitution allows the Chief Justice of a High Court, with the President's approval (along with the consent of the retired judge), to appoint retired High Court judges to serve temporarily.

Role and Duties - Ad-hoc judges may hear cases over five years old and are prohibited from other legal work, such as advisory, arbitration, or client representation.

- **Lok Prahari versus Union of India:** In *Lok Prahari v. Union of India* (2021), the Supreme Court invoked Article 224-A of the Constitution to allow the appointment of ad hoc judges in High Courts to address the backlog of cases. It set guidelines ensuring such appointments occur only after efforts to fill regular vacancies.
- **Status of Pendency of Cases in India:** *Pending Cases* - As of 2024, there are over 51 million (5.1 crore) pending cases across various courts in India, including both district and high courts.
Rate of Disposal - A 2018 NITI Aayog report projected it would take over 324 years to clear the pending cases, which then stood at 29 million.
Impacts - Delays in the judicial system deny timely justice and erode public confidence in the judicial system.
- **Initiatives to reduce Pendency of Cases:** *e-Courts Mission Mode Project* - It leverages Information and Communication Technology (ICT) to enable court processes and enhance transparency.
ADR Mechanisms - The Government has strengthened Alternate Dispute Resolution (ADR) mechanisms such as Arbitration, Mediation, and Lok Adalats.
Fast Track Courts - They were established to speed up trials for specific cases, including heinous crimes, crimes against women and children, and offenses involving MPs/MLAs.
- **Way ahead:** *National Court of Appeal for SLPs* - In the case of *Bihar Legal Support Society v. Chief Justice of India* (1986), the Supreme Court suggested the establishment of a National Court of Appeal to hear Special Leave Petitions (SLPs).
Constitutional and Legal Divisions - The Tenth Law Commission 1981 of India proposed dividing the SC into two divisions: a Constitutional Division for constitutional matters and a Legal Division for other legal issues.

Q. With reference to the Indian judiciary, consider the following statements:

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (c)

2. Engaging with US to ensure deportees are not ill-treated

Context: With some of the 104 illegal Indian immigrants who were deported from the United States on Wednesday complained of mistreatment. The US Border Patrol released a video clip showing the deportees walking with handcuffs, with respect to that External Minister Jaishankar made a statement underlining that “use of restraints” was as per the US SOP. The deportation of illegal Indian immigrants from the U.S. under stricter immigration policies, highlights the use of military flights, diplomatic concerns, and India’s responsibility to prevent illegal migration by addressing economic issues and raising awareness.

Key points

- **Overview:** The US has intensified its immigration crackdown, with military planes deporting undocumented Indian migrants under President Donald Trump’s administration. With an estimated 7,25,000 undocumented Indians in the US, the move impacts thousands of Indian nationals.
- **Mass Deportations under the Trump Administration:** The Trump administration is targeting undocumented migrants, leading to mass deportations.
Latest Deportation Flights - A C-17 US military aircraft carried 205 Indian nationals from San Antonio, Texas, back to India. Most of these individuals are from Gujarat and Punjab. India has insisted on verifying nationality before accepting deported individuals.
- **Trump’s Immigration Crackdown and Policy Changes:** President Trump has declared illegal immigration a national emergency, implementing strict measures-
 - *Enhanced Deportation Strategies* - ICE is coordinating with the FBI, DEA, and Border Patrol to locate and arrest undocumented migrants.
 - *New Immigration Measures* - ICE has removed legal protections granted under Biden’s administration.
 - *Expansion of Detention Centres* - Guantanamo Bay detention facility is being repurposed to house 30,000 migrants.
- **India’s Diplomatic Response and Concerns:** India has engaged in diplomatic efforts to manage the immigration issue without affecting bilateral ties-
 - *India’s Position on Deportation* - India has agreed to accept undocumented Indians if nationality verification is confirmed.
 - *Ensuring Legal Pathways for Migration* - Over 1 million visas were issued to Indian nationals in 2024, including record numbers of student and business visas.
- **Impact on the Indian Community in the US:** *Fear and Uncertainty Among Migrants* - Many Indian undocumented workers are avoiding public spaces due to increased arrests.
Legal Migrants Also Affected - The H-1B visa program remains uncertain, with possible changes to sponsorship requirements. Many Indian students fear tougher visa renewal policies.
India’s Response - India is monitoring the situation closely, ensuring that legal migrants’ rights are protected. Diplomatic engagements with US policymakers are focused on preserving employment-based immigration programs.
- **Economic Leverage and impact on India:** While India has cooperated with the US, it remains cautious of future trade restrictions. India’s focus is on protecting its skilled workforce migration and avoiding economic retaliation.

3. Managing wetlands

Context: In a welcome development, the Rowmari-Donduwa complex of Laokhowa Wildlife Sanctuary, which recorded over 47,000 birds during this year's estimation, has emerged as a potential Ramsar Site. During the 6th Kaziranga Waterbird Count, around 20,653 waterbirds of 75 species were spotted at the Rowmari Beel, while 26,480 birds of 88 species were counted in the Donduwa Beel. As of now, Assam has only one Ramsar Site in Deepor Beel, which, unfortunately, is locked in a grim battle for survival in the face of growing anthropogenic and industrial pressures.

Key points

- **Overview:** There are several criteria for identifying a 'Wetland of International Importance' (Ramsar Site), which primarily focuses on the type of wetland and biological diversity, particularly waterbirds, fish, etc.
- **Laokhowa and Burhachapori Wildlife Sanctuaries:** The Laokhowa and Burhachapori Wildlife Sanctuaries are two centrally located Protected Areas (PAs) of Assam. They are located on the southern bank of the river Brahmaputra. In fact, though these two wildlife sanctuaries have two different names, they are ecologically and geographically a singular entity.
Landscape - It comprises of a mosaic of wet alluvial grassland, riparian, and semi-evergreen forests dotted by wetland and river systems.
Flora - A unique vegetation of this sanctuary is the abundance of freshwater mangrove trees. There are many species of trees and medicinal plants in the sanctuary. Trees like simul, korai, ajar, hijal, etc. are found in the area.
Fauna - It is home to the Great Indian one-horned rhinoceros, tiger, leopard, wild buffalo, hog deer, wild pig, and elephants. The highly endangered Gangetic River Dolphins are still seen in the waters of the Brahmaputra River adjacent to these Pas.
- **Importance of Wetlands:** *Highly Productive Ecosystems* - Wetlands are highly productive ecosystems that provide the world with nearly two-third of fish harvest.
Carbon Sequestration - Wetlands' microbes, plants and wildlife are part of global cycles for water, nitrogen and sulphur. Wetlands store carbon within their plant communities and soil instead of releasing it to the atmosphere as carbon dioxide.
- **Threats to Wetlands:** *Urbanisation* - Wetlands near urban centres are under increasing developmental pressure for residential, industrial and commercial facilities. Urban wetlands are essential for preserving public water supplies.
Pollution - Wetlands act as natural water filters. However, they can only clean up the fertilizers and pesticides from agricultural runoff but not mercury from industrial sources and other types of pollution.
- **Efforts towards Wetlands Conservation:** The United Nations declared 2021-2030 the Decade on Ecosystem Restoration with the aim to conserve and restore the terrestrial, aquatic and marine ecosystems. Some national level initiatives include Wetlands (Conservation and Management) Rules, 2017 and Action Plan of MoEFCC.
- **Way Forward:** To counter unplanned urbanization and a growing population, management of wetlands must be an integrated approach in terms of planning, execution and monitoring. Effective collaborations among academicians and professionals, including ecologists, watershed management specialists, planners and decision makers for overall management of wetlands.

4. The saga of regulating India's thermal power emissions

Context: On December 30, 2024, India's Ministry of Environment, Forest and Climate Change (MoEFCC) issued a notification amending the Environment Protection Rules by pushing back the deadline for thermal plants to comply with sulphur dioxide (SO₂) emission norms by three years without any reasons being given. As it happens, the existing deadline for about 20 gigawatts (GW) of thermal plants, all located near densely populated areas, was December 31, 2024. This is the latest instance in a nearly decade-long saga that fans of Franz Kafka would find appealing.

Key points

- **Overview:** Electricity consumers are likely to pay for installed but unused equipment, even as citizens living around thermal plants do not get the benefit of cleaner air.
- **Indian coal and SO₂ emission norms:** Indian coal generally has a lower sulphur content than other coal, which should have made it easier for Indian thermal plants to meet the SO₂ emission norms. Despite the norms never mandating FGDs, the discussion became one about issues such as the scheduling of FGD installations given their long gestation periods and the likely costs of installing them.
- **Discourse questioning SO₂ emission norms:** The Central Electricity Authority (CEA) published papers in 2020 and 2021, questioning the need for uniform norms across the country and proposing that its country-wide implementation be phased out till 2035. A study from IIT Delhi in 2022, which concluded that the installation of FGDs does provide air quality benefits.
- **CSIR-National Environmental Engineering Research Institute study (2024):** In 2024, NITI Aayog commissioned the CSIR-National Environmental Engineering Research Institute to conduct a study on this. The study concluded that SO₂ emission norms are not important to achieve good ambient air quality in India, and instead the focus should be on particulate emissions.
- **Consumer pays:** *Contracts for FGDs and the latest notification* - Many thermal plants have already tendered contracts to install FGDs, although not at the required pace to meet the earlier deadlines before the latest notification.

Regulations to pass on costs - Electricity regulators introduced regulations to pass on the costs of installing FGDs and other pollution control equipment to electricity consumers, irrespective of whether the emission norms are met, to prevent the burden from falling on thermal plants.

Installed and in-progress capacity - Despite the latest deadline of December 31, 2027 for meeting SO₂ emission norms, 22 GW of thermal plants have already installed FGDs, and 102 GW (almost 50% of installed thermal capacity) is in advanced stages of setting up FGDs.

Risk of underutilized FGDs - Given the new compliance timelines, plants with installed FGDs may not operate them, as this would increase the cost of generation, making them less preferred.

Impact on consumers and the environment - Electricity consumers are likely to be paying for installed but unused equipment, while citizens living near thermal plants will not see the benefits of cleaner air for at least another three years, if not longer.

- **Conclusion:** Perhaps this modern variant of Birbal's khichdi will get cooked one day, but the institutional, environmental, health and financial costs of doing so are likely to end up being high. And, unlike the original fable, it is not even clear whether the right lessons would be learnt from this saga.

5. Security at its Core

Context: UPI is one of India's defining contributions to the 21st century. It is ubiquitous, costless to the user, reliable and used by millions. As payments architecture, it has allowed India to bypass the dominance of card networks and moved digital payments ahead by decades. The current policy discourse focuses on the duopoly-like structure of third-party app providers (TPAPs) like GooglePay and PhonePe, and the proposed market-share cap of 30%.

Key points

- **Market Concentration and Network Externalities:** *Market Dynamics* - Markets with positive network externalities tend to become concentrated.
Counterproductive Measures - Imposing arbitrary market-share caps to mimic competition is counterproductive.
Focus Shift - The discourse should shift from market-share caps to addressing other critical issues like personal data protection.
- **Data Collection and Privacy Concerns:** *Data Sharing* - UPI shares more consumer spending data compared to traditional transaction methods like credit cards.
Lack of Standards - UPI lacks data storage standards, unlike traditional payment systems with strict standards like PCI DSS.
Data Leaks - The involvement of multiple parties in UPI transactions increases the risk of data leaks.
Privacy Implications - The UPI ecosystem sustains without fees by relying on data collection and sharing, raising privacy concerns.
- **Data Leveraging and Market Impact:** *Data Rich TPAPs* - The extracted data entrenches the market position of data-rich TPAPs.
Adjacent Markets - Data leveraging by TPAPs into adjacent markets (e.g., insurance, micro loans) may limit contestability.
Business Models - Data extraction-based business models are concerning, but artificial market-share caps are not the solution.
- **Digital Personal Data Protection (DPDP) Rules 2025:** *Significant Data Fiduciaries* - TPAPs could fall under the ambit of significant data fiduciaries as defined in the draft DPDP Rules.
Data Minimisation - The principle of data minimisation specifies collecting only necessary data for which consent has been obtained.
Pro-Competitive Principles - Data minimisation and purpose limitation can mitigate harms of data accumulation by large firms.
State Exemptions - Rule 5(1) permits the state to process personal data for subsidies, benefits, etc., but exemptions should be limited to NPCI-operated core infrastructure.
- **G20 Troika and Data Governance:** *Joint Communiqué* - The G20 Troika (India, Brazil, South Africa) emphasizes reducing digital economy asymmetries and establishing equitable data governance principles.
Financial DPI - India should lead in financial Digital Public Infrastructure (DPI) by implementing robust data governance principles to ensure privacy and security.
- **Conclusion:** Enacting and applying DPDP Rules 2025 thoughtfully can enhance transparency and personal data protection in the UPI ecosystem. India can consolidate its position at the forefront of financial inclusion innovation by adopting and implementing advanced data governance principles.