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INDIA'S POLICY ON POK

CYBERSECURITY

GST DISPUTE RESOLUTION

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Transgender Bill

GS 2

- Government policies
- Welfare of vulnerable sections

Context

- The **Transgender Persons (Protection of Rights) Bill, 2016** flies in the face of recommendations made by a **government-appointed expert committee in 2014**, the **Supreme Court's judgment in 2015** and a **private member's bill unanimously passed in the Rajya Sabha in 2015**, all of which displayed greater understanding of the needs of the transgender community.
- The government has rejected recommendations of the Parliamentary Standing Committee on Social Justice and Empowerment.

Issues

1. Definition of Transgender

- The bill defines 'transgender person' means a person who is neither wholly female nor wholly male; or a combination of female or male; or neither female nor male; and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans men and trans women, persons with intersex variations and gender-queers."
- **That one's sexuality is central to human development and identity** and to forming a sense of self as principles have been clearly violated.
- Transgender people may or may not be intersex and vice versa.

2. Identification of transgender

- Supreme Court affirmed in the landmark **National Legal Services Authority (NALSA v Union of India, 2015) judgment** the **right of the community to self-identify without physical screenings**.
- In fact, at present transgender persons can, on the basis of an affidavit, declare the gender that they would like to be known as.
- The bill **does away with this right and leaves it to district screening committees comprising a chief medical officer, a psychiatrist or psychologist among others, to decide**.

3. Alternate family structures

- Bill says that no transgender shall be separated from parents or immediate family except on the order of a competent court in the interest of such a person and that **if the family is unable to care for the person, the transgender should be placed in a rehabilitation centre.**
- For long the **transgender community has demanded that the definition of family should be expanded to include the Hijra or Aravani community elders, who adopt young transgender children** and ensure that they are not put at risk, and that the Hijra family system is not criminalised.

4. Other aspects

- Similarly, the bill is **silent in areas of health, affirmative action, and decriminalising activities that marginalised trans communities** are compelled to undertake to eke out a living.
- There are also **no penal provisions** in the law to guard against the trans community being subjected to atrocities and to protect its members in prisons and juvenile homes.

Connecting the dots

- **Transgender community is a vulnerable section of our society which has special needs. Examine the issues relating to their welfare.**

Court Restricting Media to Cover Certain Cases

GS 2

- **Judiciary**

Context

- **Gag orders by the court on media reporting** of two high-profile cases, the **criminal trial of multiple police officers for the murder of Sohrabuddin Sheikh** and others, and the writ petition in the Allahabad High Court in the context of sanction for prosecution of **Uttar Pradesh(UP) Chief Minister, Yogi Adityanath, for hate speech.**

Open justice is critical

- **Open justice is the cornerstone of the judicial system** in India.
- **In theory, hearings in courts are open to all members of the public to witness and for members of the mass media to report from.**
- In practice, however, the **small and cramped courtrooms and the need to prevent any impediment to the proceedings, mean that entry is restricted and the general public relies on journalists to provide a fair and accurate summary of proceedings in the court.**
- The greater the stakes in a case, the higher the interest of the public and consequently, the more pressure on the court to ensure that its conduct of a case is beyond reproach.

Supreme Court judgement

- In both these instances, the courts disregard the Supreme Court's judgment in ***Sahara India Real Estate Corporation Limited v Securities Exchange Board of India (2012)*.**
- The constitution bench in this case had pointed out that **courts had to keep proportionality and necessity in mind while passing such orders postponing publication of proceedings by the media.**
- Before limiting reporting of the cases, **courts are required to satisfy themselves that no other measures were possible to protect the sanctity of the trial and that the postponement of reporting was only as long as was necessary to ensure that trial took place without interference.**
- Neither condition has been complied with by either of the courts before imposing the gag on media reporting in the above two instances.

Conclusion

- By shutting down reportage of proceedings in such high profile matters, courts are not only impinging on free speech, but also depleting the confidence of the public in the judiciary itself.

Connecting the dots

- **The idea of justice is hampered when the court themselves issue gag orders to media to not cover cases. Critically examine.**

GST Dispute Resolution Mechanism

GS 2

- **Indian Constitution – provisions**
- **Dispute Resolution mechanisms**
- **GST Council is a new body created under Article 279A of the amendment; members include the union finance minister, the union minister of state for finance/revenue, and the finance ministers of each state (including union territories).**
- **Articles 269A and 279A(4) confer the GST Council with the power to make recommendations on several issues like the apportionment of revenue from interstate trade, taxes to be subsumed, exempted goods and services, model GST laws, etc.**

Article 131 vs GST Council

- The GST Council has the power to adjudicate intergovernmental disputes *inter se* states, between states and the centre, or between the centre and a few states versus the remaining states. These powers of the GST Council are **worded similarly to Article 131—which deals with the original jurisdiction of the Supreme Court.**

1. Article 131

- **Article 131 is used only when there is an intergovernmental dispute in the context of the constitutional relationship that exists between governments and the legal**

rights flowing therefrom (*Government of National Capital Territory of Delhi and Ors v Union of India*, 2016).

- The original jurisdiction of the Supreme Court under Article 131 may be invoked only after satisfying **certain preconditions** incorporated into it—the first is that the disputants must be state(s) and the union, and second, the dispute must pertain to a legal right.
- Over the years, the Supreme Court has reaffirmed the position that when a state, as party to a litigation, affirms a legal right of its own which the Government of India has denied, or is interested in denying, Article 131 exists to provide constitutional solace (*State of Rajasthan v Union of India* 1977).
- The same intergovernmental disputes over which the Supreme Court has original jurisdiction under Article 131 appear in the text of Article 279A.

2. GST: A Legal or Political Question?

- During the debate on the dispute resolution provisions of the GST Act, the **opposition demanded that a specific forum like the GST Dispute Settlement Authority, manned by retired judges, should resolve GST-related disputes.**
- The **finance minister opined** that if dispute settlement is left to a judicial body, it would mean that the power of taxation is subject to the control of the judiciary; he added that **tax disputes under GST are political issues that need political solutions.**
- Thus, this raises the question as to whether a dispute on taxation under GST is a political issue, and this will decide the veracity of the finance minister's statement.
- The Supreme Court has reiterated that a **dispute with political characteristics is not outside the jurisdiction of the Court if it raises issues of constitutional determination** (*State of Rajasthan v Union of India* 1977)
- The power to impose taxes is a **constitutional right granted under Article 246A, which empowers the union and states to make laws pertaining to levying GST; any dispute over the exercise of this power is likely to be a legal question.**

GST Dispute Resolution Body not set up

- Article 279A is only an enabling provision and not a mechanism for resolving disputes.
- Constitution (115th Amendment) Bill, 2011 contained provisions for the **establishment of a separate GST Dispute Settlement Authority (GST DSA)** to resolve intergovernmental disputes. The proposed Article 279B (7) **bars the operation of all courts**, including the Supreme Court.
- The GST DSA was to have jurisdiction in cases where governments act against the recommendations of the GST Council and the violation detrimentally affects the

harmonised structure of GST or causes revenue loss for the state or central government (Standing Committee on Finance 2013).

- The GST DSA **was to be chaired by a former judge of the Supreme Court or a former chief justice of a high court**, who was to share the responsibilities with two other experts in law, economics, etc. To ensure impartiality, the chairman was appointed by the President on the recommendation of the Chief Justice of India, and members were appointed on the recommendations of the GST Council.
- The GST DSA, which complemented and acted in tandem with Article 279A, was sent to the gallows by the Lok Sabha Standing Committee Report, due to **concerns expressed by states**. Sushil Kumar Modi (member of the Empowered Committee of State Finance Ministers), expressing the states' views, opined that Article 279B be omitted as **GST DSA was a super-tribunal that would infringe on the legislative autonomy of the states**. Thus, the DSA was omitted, leaving the GST Council with the powers of recommendation and adjudication.
- The Ministry of Finance pointed out the illegality of the GST Council deciding disputes regarding non-compliance with its own recommendations. The ministry opined that it would be **against the rules of natural justice for the GST Council to decide on its own recommendations**.

Article 279A (11): From a Specific Body to Mere Enabling

- **The defect of having the GST Council resolve disputes arising from its own recommendations was intended to be rectified by empowering the GST Council to decide on “modalities” to resolve the disputes**. The Rajya Sabha Select Committee was of the opinion that the term “modalities” was wide enough to cover any mode of dispute resolution, including arbitration, judicial decision-making, negotiation, and mediation.
- The phrase **“decide about the modalities” was replaced by “shall establish a mechanism,”** and the intergovernmental disputes contemplated under Article 131 came into the provision, making it quite detailed; this is the root cause of the overlap with the original jurisdiction of the Supreme Court.
- A **consensus-based approach is preferred** to the judicial decision-making of the GST DSA; the aim of a political solution, the change in language suggests, is pragmatic and noble, **but the problem is in its execution**.
- **Political solutions are welcome in matters of fiscal policy, but if the law already deals with the subject matter, the option of a political solution, which is fraught with risks of horse-trading, is best avoided.**

Australian Experience

- The Commonwealth of Australia Constitution Act of 1900 (Australian Constitution) **had an enabling provision for establishing an Interstate Commission for dispute resolution.**
- Interstate Commission was established with the jurisdiction to decide any disputes pertaining to interstate commerce.
- The **High Court of Australia unanimously held that the Interstate Commission's powers of adjudication were merely incidental and ancillary to its executive and administrative functions and that these powers could only be exercised to determine questions of fact necessary for the performance of these functions.**
- The court narrowed the commission's power of adjudication to factual questions incidental to administrative function, as such powers were granted in the context of maintaining freedom of trade and commerce within the Commonwealth.

Comparison with Indian structure

- Section 101 of the Australian Constitution and the establishment of the Interstate Commission can be compared with Article 279A (11) and any mechanism that the GST Council might establish for dispute resolution.
- One might attempt to distinguish the two by the fact that the **Australian Constitution determines the forum (the Interstate Commission), as opposed to the Indian Constitution, which allows the GST Council to decide on the mechanism to be adopted.**
- The last line of **Article 279A limits the GST Council's power of adjudication to disputes "arising out of the recommendations of the Council or implementation thereof."** The wording is similar to the powers conferred by the Australian Constitution on the Interstate Commission to adjudicate disputes for maintaining freedom of interstate trade.
- **Going by the Australian decision, the dispute resolution power of the GST Council is considered only an ancillary power limited to deciding factual questions necessary to maintain a harmonised GST system.**
- If the GST Council's powers are limited in terms of deciding on anything other than facts, **this will cripple the entire dispute resolution mechanism.**
- **A dispute settlement body that is powerless to deal with legal disputes and which is left toothless due to an inability to grant interim remedies by way of injunctions or final remedies by way of damages is futile.**

Judicial Review and Fiscal Autonomy

- If the states or the centre are aggrieved by any decision of any mechanism of the GST Council, they can move the Supreme Court or high courts to have it overturned.
- The possibility of judicial overruling decisions made by dispute resolution mechanisms questions the fiscal sovereignty of the legislature.
- And a s power of judicial review over legislative action vested in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. (*L Chandra Kumar v Union of India* 1997)

Conclusion

- The most important limitation of any mechanism established by the GST Council will be its inability to declare any legislation that violates the harmonious structure of GST as unconstitutional or *ultra vires* the Constitution, or strike out such statutes.
- If the GST Council constitutes an ad hoc arbitral tribunal or panel of experts, they cannot question the *vires* of any legislation passed by state or central governments.
- The decision in the *L Chandra Kumar* case would have helped if the GST Council had established a dispute resolution mechanism under Articles 323A or 323B

Connecting the dots

- GST Dispute Resolution Mechanism is fraught with serious defects. Examine.
- Compare Indian Constitutional structure to adjudicate GST disputes with that of Australia.

Overweight and Obesity

GS 2

- **Issues relating to poverty and hunger**

Intro

- In recent years, **India's liberalised economy has spurred rapid diet and lifestyle changes** and propelled a swift epidemiological transition, whereby the **non-communicable diseases (NCDs) now account for a majority of deaths in India (WHO 2015)**.
- However, while India's **burden of chronic disease is also severe and growing**
- Clearly, India still faces major challenges of pervasive poverty, resulting in a high burden of pre-transitional infectious and nutritional diseases.
- As such, **India's "double burden of disease"** advances challenging questions in terms of how to allocate resources between acute and chronic care.

Trends

- **NHFS-3 conducted in 2005-06 and NHFS-4 conducted in 2014-15** provides one of the strongest **sources of data regarding nationwide overweight and obesity trends**.

1. Increase of NCDs across India

- In the past 10 years, on average, **overweight and obesity prevalence rates have rapidly increased across India** to bring the **national average prevalence to approximately 20% for both women and men** (20.8% and 19.9%, respectively).

2. Non-uniform distribution

- However, these changes have not taken place uniformly throughout India; certain populations have experienced greater increases in overweight and obesity than others

3. Poor states have higher increase

- In states with low average per capita income, **men and women both experienced higher percentage of increases** in overweight and obesity than in more affluent states.

4. Rural states have higher increase

- States with higher percentages of rural people also experienced much greater percentage changes in overweight and obesity as compared to urban states.

5. Undernourished states have higher increase

- States with greater percentages of underweight children also exhibited higher percentage changes in overweight and obesity among women

Causes for such trends

- Obesity and other NCD risk factors are precipitated and **perpetuated by socio-cultural and political–economic factors.**

1. Globalisation culture

- The changing norms and lifestyles that come with **India's increasing engagement with the global economy** are in a sense **"vectors" of NCD**

2. Processed food availability

- With economic growth, **more processed food is easily available**

3. Labour pattern mechanised

- **Labour and other daily activities have become more mechanised.**

Government efforts

- **National Programme for Prevention and Control of Cancer, Diabetes, Cardiovascular Disease and Stroke (NPCDCS)**, launched in early 2000s, is **India's primary national programme to address NCDs.**
- This programme advances a two-pronged approach emphasising
 - **prevention and control** through the promotion of **healthy lifestyle changes**
 - **early detection and treatment** of common NCDs
- However, due to underlying questions regarding its relevance, **almost 10 years after the inception of the programme, it remains in its infancy, underfunded, and under-implemented.**

Connecting the dots

- **India is witnessing non communicable diseases and communicable diseases simultaneously in the poor. Examine the factors responsible for this unique trend. Also explain what steps can be taken.**

MGNREGA Success in Andhra Pradesh – Model for Rural Development

GS 2

- **Government policies**
- **Local government**

Context

- **Comptroller and Auditor General of India credited Andhra Pradesh with having implemented MGNREGS in a manner that has improved the well-being of the poorest, despite challenges to its implementation.**
- **The poor were being targeted much better in Andhra Pradesh than in Rajasthan.**

Analysis

- **The success of MGNREGS in undivided Andhra Pradesh depended heavily on ideas within the bureaucracy and the capacity of the subnational state, especially in the ability of Chief Minister Y S Rajasekhara Reddy, to insulate a committed rural development bureaucracy from powerful farmers who had a clear interest in thwarting the programme.**
- **It highlights the role of state capacity in installing an architecture that checked corruption, and even strategically exploited actors in society to achieve its ends.**

What did Andhra Pradesh do?

1. Break of patron-client relationship

- **Caste and patron–client relations engender corruption in India.**

- MGNREGS needed to break the patron–client logjam in India’s poverty-stricken rural areas.
- The answer to this puzzle lies in the way a **proactive rural development bureaucracy** convinced the chief minister about the **electoral benefits of a citizen-enhancing right to employment**, which successfully challenges a social order steeped in clientelism.

2. Works decided centrally independent of Panchayat

- First, **MGNREGS works were brought to a village government by a field assistant**. This created the possibility of dealing effectively with an upper-caste dominated panchayat.

3. MGNREGS Unions allowed

- **MGNREGS unions** were most active

4. Direct transfer of wages

- **Funds flowed straight to workers through a post office or a bank.**

5. Social audit

- **Social audit office** in Andhra Pradesh was a significant regulator of corruption. Social audits helped to bring society within the state.
- **Rather than depend on activist NGOs**, their contribution in the form of **orchestrating public hearings in villages** to curb corruption was incorporated within

Conclusion

- Andhra Pradesh presents a unique case where macro-level processes have been able to fine-tune themselves to the existing diversities at the micro level.
- **Innovative ideational evolution within the technocracy and its synergies with political will** can help the state deal with the enemies of the developmental projects favouring growth and industrialisation.

Connecting the dots

- **Explain the sociological constraints that inhibit rural development. What steps can be taken to realise the development at the grassroots?**

Ashram Schools: Need for a New Approach

GS 2

- **Welfare of vulnerable sections**
- **Issues relating to education**

Intro

- Keeping in view the peculiar problems pointed out by the **Kothari Commission (1964–66) regarding tribal marginality, especially educational backwardness**, the Maharashtra government took significant initiatives, such as **setting up residential schools known as ashram schools (AS) in tribal areas**.
- The primary objectives of these **schools are to provide free accommodation, food, and education to tribal students with the aim of empowering tribal communities through education**.

Issues associated with *ashram shalas* or tribal boarding schools

1. **Rape and sexual abuse** of children in these schools.
2. **Frequent deaths** children in ashram shalas in the last decade due to snake bites, scorpion bites, fever, and other minor illnesses - These deaths were **mainly due to the “negligence of staff” who did not ensure proper treatment in time**.
3. Lack clean classrooms
4. Lack of sufficient water and toilets.
5. Quality of education remains poor.
6. A few students demonstrated an interest in sports
7. Teaching seems to be systematic, but, due to unclean classrooms, a lack of teaching aids, and the language and style of teaching, students are unable to fully immerse themselves in the learning process.

Solutions

1. **Political will**
 - Constant attention from the political class can bring about substantial change in the quality of ashram shalas.
2. **Giving gram sabhas power and resources to monitor schools**

- This can be facilitated by empowering *gram sabhas* and showcasing tribal folklore in the areas where ashram shalas are situated

3. Revamp Tribal Sub Plan according to Kelkar Committee

- Inconsistency in **fund allocation and the implementation of the tribal sub-plan (TSP) seem to be debilitating the functioning of ashram shalas.**
- 70% of the ashram shala fund allocated is used to pay teachers' salaries and 8% is earmarked for infrastructure development As a result, only 23% of the fund is available for educational material and the welfare of the students.
- **Kelkar Committee, 2013** pointed out, the **TSP budget should be considered as a separate financial allocation over and above the general grants and welfare programmes for tribal communities** It also suggested that these funds should be distributed in line with the spirit of the Panchayats (Extension to Scheduled Areas) (PESA) Act, 1996.

4. Improve infrastructure

- The criticism that ashram shalas lack staff is primarily linked to the lack of infrastructure at the school level. Although a few schools are located in semi-urban areas, the infrastructure and facilities to accommodate teachers are not available.

Connecting the dots

- **Examine the problems faced by tribal education programmes, especially ashram schools and suggest measures to improve these education programmes.**

Cyber- Security Policy, Law, and Institutional Frameworks

GS 3

- **Basics of cyber security**

Growing scope of internet

- Initially conceptualised as a United States (US) defence project, the Internet has become a “network of networks” spanning the globe, which links **many groups of interconnected computers and devices located across several jurisdictions**.
- Since the network relies on a combination of public and private components, there is **no single owner** of the Internet as a whole.
- As it crosses multiple national borders, no single government or any other entity has exclusive power over its functioning.

Threats to Cyberspace

1. Attacks from private organised and unorganised hackers

- The recent **WannaCry ransomware attack** (May 2017), which infected more than 2,30,000 computers in over 150 countries, brought the compelling need for cyber security policies and laws into sharp focus.
- This malware infected at least 48,000 computer systems across various organisations in India.

2. State sponsored cyber attacks

- In a series of recent events, a number of countries have witnessed serious incidents wherein outside agencies have attempted to hack networks during general elections and **turn cyberspace to a certain strategic advantage** or tip election results in favour of a particular party or candidate.
- It is widely believed that the **2016 US presidential election** was an easy target for Russian cyber espionage

Indian cyber security efforts

- Currently, cyber security relies mainly on new and innovative tools.
- These tools need to be **integrated into the existing framework of governmental structures and the private sector**.
- The **NCSP suggests creating a national nodal agency to coordinate all matters relating to cyber security**.

1. **National Critical Information Infrastructure Protection Centre**

- **GoI established the National Critical Information Infrastructure Protection Centre (NCIIPC) to safeguard critical infrastructure and key resources in 2014.**
- The NCIIPC acts as a nodal agency for all measures to protect critical information infrastructure (CII), defined in the IT Act (2000) as “the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health, or safety.”

2. **CERT-In**

- Meanwhile, to handle emergency situations and ensure crisis management, another institution—the **Computer Emergency Response Team-India (CERT-In)**—has been created.
- It operates 24/7 to help users respond to cybersecurity incidents.
- CERT-In has established links with international CERTs and security agencies to facilitate the exchange of information on the latest cybersecurity threats and international best practices.

3. **Defence cyber security**

- An increase in the volume and scale of cyber-attacks on defence infrastructure has heightened the need for cyber security.
- A proposal is already pending before the **Ministry of Defence to set up a dedicated tri-service command with the Indian Air Force, army and navy for cyber security.**
- It is time to enhance cyber capabilities so that the defence forces can deploy both defensive and offensive cyber operations to protect vital national interests.

4. **National Cyber Security Policy, 2013**

- Cyber-policies provide an overview of the measures required to effectively protect information, information systems, and networks.
- They also provide insight into the government’s strategy for protecting cyberspace and outline how key players can work collaboratively in public and private to safeguard the country’s information and information systems.
- This policy aims to ensure a secure and resilient cyberspace for citizens, businesses, and the government. Its mission envisions a multipronged strategy to “protect information as well as information infrastructure, reduce vulnerabilities, build capabilities to prevent and respond to cyber threats and minimise damage from cyber incidents”

- The NCSP offers a **14-point strategy to establish a secure cyber-ecosystem** and assurance framework.
- It centres on product, process/technology, and the personnel that form the basic building blocks of any cyber security system.
- It seeks to promote global best practices in information security (IS) and compliance through standards and guidelines—the **International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 2001** is the best known standard in the family providing requirements for an information security management system (ISMS)—it includes IS system audits, penetration testing and vulnerability assessments, formal risk assessments and risk management processes, as well as a cyber-crisis management plan for all entities within the government and critical sectors.
- The document **envisioned the creation of a 5,00,000-person workforce (cyber-warriors) skilled in cyber security within five years**. However, there appears to be a **glaring skill gap** in the cyber security industry, and to compound the problem, cyber security professionals are in great demand in the public as well as private sectors.
- Moreover, there are **very few academic programmes on cyber security at the university level**, and existing curricula do not address emerging trends and challenges.
- The NCSP needs an overhaul to grapple with new technological innovations and, in turn, challenges in the field.

5. Information Technology Act, 2000

- The IT Act, 2000 was **designed in response to the increasing risk of cyber-attacks**.
- It **seeks to reduce the digital divide to bring about societal transformation**.
- The IT Act is an umbrella legislation that **primarily aims to regulate electronic commerce as well as to gradually promote a culture of e-governance** in India.
- It seeks to **effectuate the 1997 United Nations Commission on International Trade Law (UNCITRAL) Model Law on E-Commerce** and refers to it in its preamble.
- An **amendment in 2008** to the act **widened the definition of cyber security to include “protecting information, equipment, devices, computer, computer resources, communication device, and information stored therein from unauthorised access, use, disclosure, disruption, modification, or destruction”**
- The law seems to make a reasonable effort to tackle two areas of policy in need of reform: cyber security and data privacy.
- However, it **lacks detailed architecture to establish an effective cyber security system**.
- As such, it calls for a comprehensive cyber security legislation to address growing threats to information infrastructure systems and networks and suggests a new specialised professional institutional structure to meet the cyber security challenge.

Internationalisation of cyber security

- The **Snowden leak (2013)** has brought into focus the extent of the mass **unwarranted cyber surveillance by a single country, that is, the US.**
- It has raised serious **concerns regarding the sovereignty and security of nation states** and the extent of **violation of basic human rights such as the right to privacy.**
- The **Internet now has the potential to affect the geopolitics of states as well as their geo-economics.**
- The issue has become so critical that there is additional pressure on sovereign states to develop effective cyber security at the national level as well as to engage in internet diplomacy to protect their interests in the transnational digital realm.
- **Cyber-attacks pose an acute threat to countries' strategic assets, economies, and even to the privacy of citizens.** It has spurred countries to create specialised laws on cyber security.
- In a way, this shows that **countries are becoming sensitive to cyber security and will not hesitate to take extreme steps to defend national sovereignty.**
- Powerful states, rogue states, or even non-state actors, use cyber weapons to wreak havoc on targeted installations, cities, and nuclear and missile assets, or cause mayhem in vital communication networks.

German law

- For instance, on 25 July **2015, a new German law** seeks to make security standards more robust for its critical infrastructure in compliance with the minimum standards for IT security and mandates that significant IT security incidents are reported to the Federal Office for Information Security (BSI); in addition, it imposes a heavy penalty on website operators and service providers who fail to comply with legal requirements.

Chinese law

- In order to exercise jurisdictional control over the cross-border flow of data, **China has a new cyber security law, which came into effect on 1 June 2017.**
- It mandates that **network operators store select data within China** and allow Chinese authorities to conduct spot-checks on a company's network operations.

UK law

- The United Kingdom's (UK) Investigatory Powers **Act, 2016** is another piece of legislation that **supports data localisation** and legalises the "interception of communications, equipment interference and the acquisition and retention of communications data, bulk personal data sets, and other information."

Beyond ICANN towards UN's ITU

- In the early 1990s, the so-called domain name system (DNS) was brought new players into the picture: international organisations and nation states.
- It ended with the **establishment of a new organisation—the Internet Corporation for Assigned Names and Numbers (ICANN)**
- It has **become the coordinator of the main internet technical resources, following a contract with the US government.**
- Even as the Internet has become part of global infrastructure, many nation states feel alienated from the decisions being made about the usage and governance of the Internet.
- Given the US government's dominance over Internet resources through ICANN, **many countries—especially in the global south—are toying with the idea of creating an alternative international organisation to govern the Internet.**
- The **obvious choice would be the United Nations (UN) and its specialised agency—the International Telecommunication Union (ITU).** In fact, the ITU previously managed global communication resources.
- However, it found itself increasingly sidelined in the new international communication framework promoted by industrialised countries through ICANN and the World Trade Organization.
- The issue of governing the Internet has assumed importance for BRICS (Brazil, Russia, India, China, and South Africa) countries, as they have a huge user base and a rapidly growing internet industry.

India's position

- India has hosted **the 57th meeting of ICANN from 3–9 November 2016 in Hyderabad.**
- However, India's position has hovered between a **multilateral approach and a multi-stakeholder approach.**
- While a multilateral approach emphasises national sovereignty, a multi-stakeholder approach includes larger participation of not only governments but also the private sector, international technical institutions, and civil society.
- It **balances the need for internet freedom vis-à-vis internet sovereignty.**

Connecting the dots

- **India has undertaken various cyber security initiatives. Examine a few of them.**
- **Why is it important to alter the governance of internet globally? Examine.**

Best Wishes!

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