



RIGHT TO A DIGNIFIED DEATH

**IASBABA'S**

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**BI-MONTHLY  
GIST**

WATER GOVERNANCE

ARBITRATION MECHANISMS

NATIONAL HUMAN RIGHTS COMMISSION

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# National Human Rights Commission of India

## GS 2

- **Functioning of constitutional bodies**

### Establishment of NHRC

- When the **NHRC came into existence in 1993**, there was **scepticism** among civil liberties and democratic rights organisations about its purpose and indeed, usefulness.
- The institution was seen as inadequate in addressing the structural forms of human rights violations, especially those which were precipitated by socially, economically and politically dominant sections.
- It was often argued that in the context of widespread violation of the rights of people across the country (notably Punjab) by state agencies, the **NHRC was a manifestation of state appropriation of rights**.
- Considering that most democratic rights organisations were kept out of the consultations leading to the formation of the NHRC, the suspicion surrounding it seemed at that point to be well founded.
- It was also argued in other quarters that the Indian government was being compelled to set up a human rights commission to assuage international pressures particularly from countries which were linking up trade and aid to human rights records, and from international organisations which were bringing up issues of human rights violations in Punjab and Kashmir on international fora.

### Evolution of human rights regime in India

#### 1. Anti-statist - Colonial India

- The history of the **human rights commission** in India, thereafter, may be seen as one where it has emerged as a site of contestation, ambivalently located, but nonetheless a **part of the quest for human rights if not of the civil rights movement itself**.
- The antecedents of the **civil rights movement** have been traced to the **anti-colonial national liberation** struggle, where the civil liberties and democratic rights movements were decidedly **anti-statist** in character.

#### 2. Compromised for strong Centre - Constituent Assembly

- Within the Constituent Assembly, however, the **framing of rights was different**.

- **Granville Austin** draws our attention to the **conditions which influenced** the belief among Constituent Assembly members that the “renascence of India demanded **strong central government**”. The debates on fundamental rights in the Constituent Assembly were couched in terms of a curious predicament of limits, made necessary in considerations of the stability of government, security and peace.
- Indeed, while affirming the limits on rights it was understood that legal sanction of restraints should be sufficient, and questions of due process would only be procedural. It was the **collective wisdom of the legislature rather than judicial interpretation, which would remain supreme**.
- The **question of civil liberties was moreover seen as having been “resolved” with independence** and the enumeration of fundamental rights in the Constitution.

### 3. **After emergency - 70s**

- In her book ***Chains of Justice***, **Sonia Cardenas** points out that it was in the 1970s, **after the Emergency** and coinciding with the resurgence of a civil rights movement in India, that the **Janata Party promised to create a human rights commission in its election manifesto in 1977**.
- It was at this point, the author points out, that the **weaknesses of other bodies**, including the commissions for Scheduled Castes and Scheduled Tribes, linguistic minorities and the minorities were also being felt.

### 4. **By Justice Bhagwati as alternative system of justice - 80s**

- In the 1980s, the idea resurfaced. This time it was **Justice P N Bhagwati** who floated the idea, and the context was his belief in the creation of alternative systems of access to and delivery of justice.
- This idea seems to have been **coincident with the idea of public interest litigation** in the Supreme Court, and the possibility that human rights, particularly those which were ensconced in international human rights law, could be made accessible by an institution dedicated to that task.

### 5. **Part of political discourse - 90s**

- Indeed, in the 1990s, when such a commission did come up, the setting up of a human rights commission was becoming part of the mainstream political discourse with parties like the Congress making it a part of its election manifesto in 1991

## Analysis of working

- In its actual working, however, the NHRC has made **several significant interventions, but it has also been inconsistent and uneven.**

## Positives

### 1. Rights of Chakma tribals enforced

- The public interest litigation filed in the Supreme Court seeking to enforce the rights of Chakma tribals under Article 21 was its moment of glory.

### 2. Opposed TADA and POTA

- Early in its career as a human rights commission, the NHRC, discharging **its statutory function of reviewing safeguards for the protection of human rights (Section 12 of the Protection of Human Rights Act, 1993)**, set out to adopt what it expressed as “a well-informed and unambiguous **position on TADA**” (*Terrorist and Disruptive Activities* (Prevention) Act), which was coming up for renewal.
- In 2002, consistent with its stand against TADA, it **rejected the draft Prevention of Terrorism Bill submitted by the Law Commission for consideration**, opposing the Prevention of Terrorism Ordinance and Bill for its ramifications for the promotion and protection of human rights.

### 3. Appropriate cognisance of Gujarat riots

- Equally remarkable was its role in seeking justice for the victims of communal riots in Gujarat in 2002. Following its **suo motu cognisance of the situation** on 1 March 2002, and the visit by a high-level team of the NHRC led by its then chairperson between 19 and 22 March 2002, **made recommendations and observations to the Gujarat government.**
- Failing to receive an adequate response, on 1 July 2003, it filed a special leave petition in the Supreme Court requesting it to protect the right to fair trial of the riot victims.

### 4. Rohingya Crisis

- In some senses the **intervention of the NHRC in the matter of the Rohingya refugees**, is one of those **moments in its career when it has created what may be called a restraining space amidst what was emerging as the dominant political status quo.**



- Two interesting strands may be identified in the notice served by the NHRC to the central government.
- There is **recourse by the NHRC to an enumerated right, that is, a right written in the Constitution as a fundamental right**, making the rights claim for the Rohingyas in terms which are broadly legal positivist. In such an articulation of rights claim, the **state is the source of rights, and the entity which provides the conditions for the protection and preservation of rights**.
- Yet, the process of expansion of rights which Baxi would term as “rights in the making”—is embedded in the natural rights tradition, which refers to the moral universe of rights with the human being as its source.

### A Toothless Tiger?

- In June 2016, the **chairperson of the NHRC, retired Chief Justice H L Dattu**, described the commission as a “**toothless tiger**,” since the Protection of Human Rights Law that brought the commission into existence in 1993 did not empower it to enforce its orders.
- Justice Dattu lamented: “We painstakingly investigate human rights violation cases, sometimes in remote areas, with our **limited resources** ... But at the end, when NHRC arrives at a finding, it **can only recommend remedial measures or direct the state concerned to pay compensation**” Further, these **directives, he said, did not percolate to the ground level** as the NHRC **did not have** the backing of the Protection of Human Rights Act to **penalise authorities which did not implement** its orders.
- Indeed, in its affidavit the **NHRC sought the help of the Court to give more teeth to the guidelines by directing all the states to strictly comply** with them since the NHRC did not itself have any powers to compel adherence from the states.

### Encounters

- In its affidavit filed before the Supreme Court, the **NHRC set out to detail the manner in which the compliance of state governments to its “recommendations” regarding the guidelines to be followed in cases of encounter deaths, issued as early as 1997, remained desultory, uneven, and inadequate**. It is significant how the **NHRC’s affidavit describes its communications with state governments as “requests”**—since the “appropriate directions” to the director general of police (DGP) of the states, could be given by the state governments and not the NHRC.
- By 2003, the NHRC had realised that “most of the States were not following the earlier guidelines in their true spirit,” and the **requirement introduced in 2003 of a magisterial enquiry in all cases of deaths which occurred in the course of police action, and six-monthly statements to the NHRC in respect of all deaths in police**

stations in a prescribed format along with the postmortem report and inquest report within 48 hours of the death, were also not being adhered to.

### AFSPA deaths

- With respect to deaths occurring in places where the Armed Forces (Special Powers) Act (AFSPA) was in operation the NHRC considered itself especially disempowered within the frameworks of the Protection of Human Rights Act itself.
- In cases of deaths as a result of action by the armed forces, **Section 19 of the AFSPA made exceptions to the procedure followed ordinarily and gave the NHRC the power to only seek a report from the central government, make a recommendation and publish it with the action taken by the central government.**

### An Inside–Outside Institution

- While the three frameworks for understanding the NHRC may to some extent apply, they **do not adequately explain its successes with the Chakma refugees earlier (and other cases like its intervention in the case regarding the Salwa Judum in Chhattisgarh) or its intervention in the Rohingya refugees case.**
- **If the birth of the NHRC through an act of Parliament with restrictive provisions, constrains its effectiveness** as a human rights institution, to one where it becomes an institution of the state performing the function of legitimization within a human rights delivery system, **there have been moments when the NHRC has opened the state to judicial and moral scrutiny.** It may be **possible to say that there exists a political field and a field of contest** within which the NHRC can be located at any given time in a collaborative or adversarial relationship with other significant political actors.

### Connecting the dots

- **NHRC works under a legal set up which is established by the state to question the misdeeds of the state only. Comment on the dichotomy.**

# Arbitration Mechanisms

## GS 2

- **Dispute resolution mechanisms**

### Context

- In October 2016, the **Mumbai Centre for International Arbitration (MCIA)** became **operational**, an event that attracted considerable attention in the realm of commerce and investment (and the legal/institutional framework related to these) in India. MCIA is designed to provide an alternative to the already-existing institutional arbitration mechanisms, such as the Singapore International Arbitration Centre, the London Court of International Arbitration, and the International Chamber of Commerce's International Court of Arbitration.
- It is also supposed to be part of the Government of India's "Make in India" strategy as well as the Government of Maharashtra's plan to set up an "international financial services centre" in Mumbai.

### Concerns in International Arbitration

- **Arbitration is meant to be a non-judicial (but legally supported) means of dispute resolution** that would (i) **save time and costs** involved in judicial recourse and (ii) **deal with concerns about bias** (against foreign parties), in cases where the parties to the dispute are of different nationalities.

#### 1. Relation between judiciary and arbitration

- This purpose would not be served if arbitration awards were constantly being challenged by courts. At the same time, completely foreclosing the option of recourse to the judiciary may neither be desirable nor even possible/enforceable.
- **Most methods of international arbitration today** (with the exception of those under the International Centre for Settlement of Investment Disputes and the Dispute Settlement Understanding under the World Trade Organization [WTO]) **usually involve—in addition to the specific arbitration rules chosen—rules of procedure of the legal system of the place of arbitration** (including the possibility of recourse to the judiciary, if one of the parties wants it).
- In the Indian case, this tension in the relation between arbitration and the judiciary is reflected, for instance, in recent moves to curtail judicial involvement in arbitration proceedings (in a bid to create a more investment-friendly atmosphere for foreign



investors) which stand in contradiction to other moves geared towards protecting the interests of Indian parties and the Indian state.

- The newly set-up tribunal, MCIA, also attempts to deal with this question through its feature of the “sanity check” that aims to ensure that its awards are scrutinised so that they are less likely to be challenged by Indian courts.

## 2. Ambiguity in solving bias

- Another concern that has been raised about international arbitration is about the bias in awards in favour of Western countries, which is part of the rationale of setting up new international tribunals (such as the MCIA in India).
- However, it is not always clear **whether the bias is in the interpretation of the contract** and the laws/rules to which it is subject (which seems to be what investors typically talk about) **or whether the content of the contract itself** is already biased because of unequal bargaining positions of the parties in question (a point that is often raised by those critical of international trade and investment agreements).
- Further, **in the case of the latter, whether and under what circumstances biased contract clauses can be overturned** or even raised in the course of an arbitration process, is debatable.

## 3. Consideration of human rights missing

- The consideration of human rights is often kept out of international investment arbitration proceedings. This can be related to the privileging of contract law in a market society and the differences in values underlying contract law and human rights.
- The implications of such a separation are significant in terms of a relationship between economy, society, and law.
- The international arbitration (particularly investment arbitration) has been working has often led to a separation between different legal regimes, such that the consideration of human rights or public purpose are kept out of arbitration proceedings and the focus is restricted to contract law.

### Connecting the dots

- **Besides other deficiencies in the international arbitration, the absence of human rights consideration is particularly worrisome. Examine the statement.**

# Water Governance

## GS 2

- Government policies

## GS 3

- Different types of irrigation and types

### Mihir Shah Committee

- **Committee on Restructuring the CWC and CGWB** in September 2015 submitted final report to the Government of India in July 2016.
- But even after 18 months have passed, it is evident that change faces serious obstacles, especially when reforms mean something quite different from the usual connotation of privatisation.
- The attempt to bring the voices of the marginalised into policymaking and to check widespread corruption in the irrigation sector is fiercely resisted by dominant vested interests.

### Other committees

- Besides Mihir Shah committee, the government has **set up two other committees**: one to **draft a Model Groundwater Bill for adoption by the states**, and another to **draft the National Water Framework Law**.
- Both these committees have also submitted these draft laws to the government, which is currently working on their enactment.

### Water governance

- The **Central Water Commission (CWC)** was set up in **1945**. Ever since independence, it has continued to function unreformed, presiding over a development paradigm based on **command-and-control over the rivers** of India.
- The **Central Ground Water Board (CGWB)**, set up in **1971**, pioneered the deeper **search for groundwater**, which has relentlessly continued over decades, not always recognising that a major portion of the country's land mass is underlain by hard rock formations, leading to a situation where both water tables and water quality have declined to dangerous levels today.

- Even as the **objective conditions on the ground, the demands of the economy and society, and our understanding of water have all undergone a sea change, both the CWC and the CGWB continue to function unreformed**, still clinging to a long bygone era.

## Issues of water governance

### 1. Efficacy of dams for irrigation

- At the epicentre of the present drought is Maharashtra, the State with the highest number of dams in India. State has 40% of the country's large dams, but 82% area of the state is rainfed.
- We have moved away from our vision of watershed and conservation. We did not think about hydrology, geology and topography of a region before pushing large dams everywhere. We **pushed large dams, not irrigation**.
- The government has invested **₹4 lakh crore in major and medium irrigation projects since independence**. Official records reveal that the **irrigation potential created is 113 million hectares (mha), the potential utilised is 89 mha**, and the gap is growing by the year. Vast storages of water are not reaching the farmers.
- **Reforms turned around the fortunes of Andhra Pradesh's** Department of Water Resources over the last 10 years, led to **Gujarat** recording a 11% rate of growth in agriculture over 2000–10, and to a dramatic rise in **Madhya Pradesh's** irrigated area from 0.6 to 3 mha during 2009–14.

### 2. Empowering Water User Associations

- As farmers shift to water-intensive crops once irrigation water is made available, the key **institutional reform needed in the water sector is to affect behaviour changes for regulating the growth in demand for water in various competitive use sectors**
- There is a need to **make water management in our irrigation commands more participatory**, and understand that **water is essentially a multidimensional resource, requiring a multidisciplinary approach towards its management**.
- Thus the states need to do much better in **empowering the WUAs** to enable them to function more effectively. The key role has to be played on the ground by adequately empowered WUAs who pay central attention to resolving issues of equity within themselves.
- However, **WUAs [water user associations] are defunct in all the states**, in the absence of devolution of any kind of powers to them. The **state irrigation departments that are concerned with irrigation management are not willing to share any of their powers with the farmer organisations**.

### 3. Role of centre and states in governing water

- Because **water is a state subject** in India (**except for the inter-state river basins**), most of the reforms have to happen at the state level, in order to affect changes in the orientation and working of the agencies which plan, design, execute, and run water projects.
- Ideally, reforms are required to affect changes in the functioning of the state water agencies which plan and develop the water resources.
- **The role of the centre in both incentivising and facilitating reform by the states through the instrument of the National Irrigation Management Fund, from where funds will flow to the states only to the extent that they undertake fundamental reforms in the direction of decentralising management of their irrigation commands by making them people-centred.**
- The crucial role of the centre would be to monitor the performance of the states against these commonly agreed benchmarks of reform, and ensure that funds are released as per the adherence by the states to the schedule of reforms in the direction of IMT and empowering WUAs.
- Thus, both the centre and the states will work together to accelerate the movement towards realising the national goal of *har khet ko paani* (water for every farm).

### 4. Aquifer Management

- **National Aquifer Management Programme** is a new six-year programme that has just been initiated with World Bank assistance for Groundwater Development and Management with a total financial outlay of ₹6,000 crore is a step in the right direction.
- **However, participatory aquifer mapping can do little to halt resource depletion.**
- But, exemplary work done in states such as **Maharashtra, Madhya Pradesh, and Andhra Pradesh.**

### 5. River Rejuvenation

#### Integrating CWC and CGWB

- One of the key proposals of the report is that the **CWC and CGWB need to work much more closely together at the river basin level** if we are to achieve the national goal of river rejuvenation.
- In India today, we see **repeated instances of what the 12th Plan document has called “hydro-schizophrenia,”** where the **left hand of surface water does not seem to know what the right hand of**

- The single most important factor explaining the **drying up of post-monsoon flows in India's peninsular rivers is the over-extraction of groundwater**. The drying up of base-flows of groundwater has converted so many of our "gaining" rivers into "losing" rivers.
- If river rejuvenation is, indeed, the key national mandate assigned to the Ministry of Water Resources, then this cannot be done without **hydrologists and hydrogeologists working together, along with social scientists, agronomists and other stakeholders**.

### **Integrating river basins**

- The **river basins must form fundamental units for strategic planning and management of water resources**. The distribution of such regional centres, currently, is skewed and needs an improved representation.
- Both the **CWC and CGWB have regional centres in only seven of the 22 river basins**. There are **four river basins where there is either a CWC or CGWB regional centre**. There are **11 river basins where neither the CWC nor the CGWB has a regional centre**. Both the **CWC and the CGWB have regional centres within four of the hydrogeological settings, with one such setting where CGWB alone has one regional office**. There are **no regional offices of the CWC or the CGWB in one of the six hydrogeological settings**.
- **Larger river basins such as that of the Ganga are significantly represented** through many regional centres, whereas the **Brahmaputra does not seem well represented** despite its size.
- **Smaller river basins are poorly represented**, and as many as 11 such river basins have no significant presence of these organisations.
- Hydrogeologically too, the **unconsolidated sedimentary aquifers are well represented along with the Himalayan, volcanic, and crystalline aquifer settings**. There are **fewer regional offices within consolidated sedimentary aquifer formations**.
- We should ensure the presence of surface- and groundwater-related interdisciplinary expertise in each of the river basins and hydrogeological settings.
- To enable this, the **National Water Commission (NWC), the committee proposes, by integrating the CWC and CGWB, must operate at the scale of the river basin integrating these interdisciplinary functions**.
- A network of NWC centres to strengthen the existing regional offices or to establish new ones in the different river basins of India.
- **Rationalise a set of sub-centres under the NWC that can be used to decentralise operations** pertaining to **surface water and groundwater management**. The headquarters of the NWC for each river basin has then been so chosen as to ensure

that it is either a CWC chief engineer's headquarters and/or the regional directorate of the CGWB.

## Conclusion

- **Managing water today is no longer only about developing new sources through conventional means** by construction of reservoirs, digging wells and laying canals and pipelines, but also **about finding new sources of water and allocating the limited water amongst various competitive uses, while protecting the hydrological integrity of our catchments, rivers, lakes and aquifers.**
- **Inter-sectoral water allocation** requires greater use of sound **economic principles for efficient pricing**, introduction of **water-use restrictions**, etc.
- **Water resource management** requires application of **ecological sciences, ecological economics** and environmental economics.
- Thus our water-sector institutions have to be equipped with more technical manpower, with greater competence and with people from multiple disciplines.

## Connecting the dots

- **The reform in the governance of water resources involve various issues. Identify those issues and suggest feasible solutions thereof.**



# Right to a Dignified Death

## GS 2

- Indian Constitution
- Issues relating to health

### Evolution of euthanasia debate

- In **1977, C A Thomas Master** had moved the Kerala High Court seeking permission to end his life, arguing that he had fulfilled his life's mission and had no desire to live any longer. In **2000, the court dismissed** the petition.
- Euthanasia continues to be illegal in India, though the **2011 Supreme Court judgment in *Aruna Ramchandra Shanbaug v Union of India & Ors* allowed withdrawal of life support in the case of patients who are permanently in a vegetative state** with no chance of recovery. It **made a distinction between passive and active euthanasia**, the former being withdrawal of treatment while the latter indicating the active process of causing death through medical interventions.
- **Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2016** aims to legislate the Supreme Court order into law.
- The euthanasia debate in India is predominantly **shaped by the question of who owns life and who has the right to decide when to end it.**
- Appeals for euthanasia become particularly pressing given how difficult it is to die with honour in India. The government's discomfort with "living wills"—a will whereby an individual can refuse treatment in the future—and **active euthanasia is the possibility of their "misuse" by relatives who may have a vested interest in hastening the death of the elderly.** This is ironical given how little the government does to ensure that illnesses are not "misused" by the private healthcare industry.

### Right to life vs Right to die

- When a government fails to ensure a life with dignity for the sick and the elderly, it loses all moral authority to deny people the right to a dignified death. But the laws of the land make a distinction between right to life, held to be a "natural right," and right to death, seen as "unnatural."
- What remains forgotten is that the state in India arrogates to itself the right to death on many occasions; capital punishment is upheld by law, and "encounter killings" are given legitimacy under sweeping legal provisions in both paramilitary and police operations.

- However, the demand for the right to death for individual citizens must simultaneously articulate the right to quality and affordable public healthcare, and protection from exploitation by private interests.

### Euthanasia debate and Public health

- While this debate is likely to continue, a productive way to engage with the issue is to understand what the demand for euthanasia implies for the state of India's public health.
- **India is one of the worst countries to die in, especially for those suffering from terminal illnesses.**
- In 2015, the **Economist Intelligence Unit brought out a Quality of Death Index**, which ranked India 67th out of the 80 countries it had surveyed.
- In December 2017, a joint report published by the **World Health Organization and the World Bank** revealed that **49 million Indians are pushed into poverty every year due to out-of-pocket expenditure on healthcare**, accounting for half of the 100 million who meet such a fate worldwide. India's Central Bureau of Health Intelligence data puts the figure even higher.
- This unconscionable situation is the **direct outcome of the sorry state of our public health system.**
- India's spending on health is among the lowest in the world. The *Economic Survey 2017–18* shows that the government spends **only 1.4% of its gross domestic product (GDP) on health.**
- With over **90% of intensive care units in the private healthcare sector**, it is **largely the rich section that can access expensive treatments.** But this **does not improve end-of-life situations for them.**
- **Awareness and training in palliative care remain grossly inadequate.** For those making profit in the private healthcare sector, there is no incentive to provide such treatment.
- Instead, **treatment for the terminally ill continues to involve prolonging life with expensive, invasive, and painful treatment with very little concern for the patients themselves or their families.**

### Connecting the dots

- **The debate on euthanasia cannot be comprehensive without considering the state of public health in India. Comment.**

# Issues of NRI Women

## GS 2

- Indian diaspora and issue faced by them

### Intro

- NRIs occupy an enviable role.
- The **remittances from them help the economy** apart from their families and their number is increasing (nearly **15.6 million Indian-born immigrants live abroad**).

### Problems faced by women married to NRI men

- The problem of non-resident Indian (**NRI**) **women trapped in situations of domestic torture** a great distance away from immediate family and living in a culture that is at best unfamiliar and at worst alien, is not new. With increasing emigration from across India's socio-economic strata the number of such women too has increased phenomenally.
- While the women labelled "NRI brides" represent a myriad of different backgrounds, official as well as other studies show that **Punjab, Andhra Pradesh, Telangana and Gujarat register the highest number of complaints**. Each of these states, among others in the country, has a backlog of pending cases filed by abused/cheated women.
- The **complaints range from abandonment after marriage (either in India or abroad), bigamous unions (the man already has a wife abroad), false information about the man's job and earnings, harassment for dowry, domestic violence, and ex-parte divorce based on false documents**. These cases predominantly are from **the United Kingdom, the United States (US) and West Asia** where most of the Indian diaspora is based. The women hail from different educational backgrounds, ranging from semi-literate to engineering and computer technology graduates.
- There are **innumerable cases where the woman finds that she is not really a life partner as much as cheap domestic labour** and caregiver in foreign countries where such services cost an arm and a leg.

### Way forward

- The **Indian government needs to be more proactive** rather than wait for complaints to deal with the issue (the **Punjab state government has set up police stations** to handle such complaints).

- A **committee** set up by the present government has **recommended the cancellation of the passports of NRIs found harassing or deserting their wives, inclusion of cases of domestic violence in the scope of extradition treaties, and increase in financial assistance provided to the women by Indian missions abroad.**
- It has also **called upon state governments to compulsorily register all marriages, including NRI ones, until a central law to this effect comes into force, besides entering all the bridegroom's legal details on the marriage registration form and setting up a national mechanism to deal with complaints.**

### Connecting the dots

- **Despite the significance of Indian diaspora for India, it has caused problems as well, particularly for women. Discuss such problems and the potential solutions.**

## Indo–Russian Energy Cooperation

### GS 1

- **Distribution of natural resources**

### GS 2

- **Bilateral relations**

### GS 3

- **Infrastructure - Energy**

### Intro

- Russia, under President Vladimir Putin, is well aware of the **shifting global economic balance of power in favour of Asia**, and understands that **economic integration with this region is the key to Russia's successful long-term economic growth and geopolitical clout.**
- Its pursuit of closer integration with Asia **hinges on its energy export goals, its desire to become a major supplier of hydrocarbon to the fast-growing economies of the Asian and Asia–Pacific regions.**
- Likewise, Asian investment is crucial for Russia's ability to explore and tap hydrocarbon resources in its territories under the pursuit of "strategic energy alliance" and "Asia pivot."

- Russia has speeded up its plans to **expand the East Siberia–Pacific Ocean oil pipeline**.

### Russia's plans for Asia

- There are **multiple Asian stakeholders** and aspirants in Russia's Asia pivot strategy.
- For Russia, **China** is a major export destination, and the **30-year gas deal between Gazprom and China** National Petroleum Corporation (CNPC) marks the culmination of decade-long negotiations between the two countries, whereby Russia has offered 10% of its Vankor oilfield, worth \$1 billion, to CNPC.
- In the midst of fierce competition, **Japan** too made some attractive proposals when Russia was debating the relative merits of constructing a pipeline from East Siberia to the Pacific coast
- In 2014, the Russian Parliament wrote off 90% of North Korea's debts to Russia, estimated at \$10 billion, in exchange for **Pyongyang's agreement to build a pipeline that would run from Sakhalin via North Korea to South Korea**. At the same time, Rosneft is working with South Korea by allowing the Korea National Oil Corporation (KNOC) to participate with a 40% stake in exploration of the West Kamchatka shelf.
- As sanctions gradually lift off Iran, Russia is moving to invest billions of dollars towards **upgrading and expanding the Iranian energy infrastructure**.
- Moreover, in 2015, Russia signed a 10-year liquefied natural gas (LNG) agreement with Singapore's state-owned Pavilion Gas to enhance gas supply.
- The visit of Igor Sechin, the **chief executive officer of Rosneft, to Japan, India, South Korea, the Philippines, and Vietnam** towards the end of 2014 was undertaken to streamline trade in the hydrocarbon sector in these regions.

### Prospects for India

#### 1. Element of bilateral and geopolitical engagement

- During the meeting, both Narendra Modi and Vladimir Putin clearly indicated their interest in joint exploration of oil and natural gas resources, the establishment of petrochemical plants, construction of pipelines between the two countries, transportation, feasibility studies, enhanced oil recovery, and training in the hydrocarbon sector.
- Since President Putin's visit to India in December 2014 when the **"Druzhba–Dosti" joint statement** was signed, **hydrocarbon energy has turned into a strategic area of discussion and cooperation**
- Some relatively recent developments, such as the Ukrainian crisis and economic sanctions against Russia, the economic slowdown in Europe and China, Russia's uneasy relationship with the West, and the cancellation of the South Stream gas

pipeline project with Turkey, have created opportunities for Asian countries such as India to look for extensive trade and investment in the hydrocarbon sector in Russia.

## 2. India's growing energy needs

- **India's industrialisation and its domestic energy requirements, its quest for diversification of energy sources, rapid geopolitical changes, and the need for an uninterrupted, affordable, and reliable supply of hydrocarbon are the prime factors that have pushed India towards Russian energy resources and trade.**
- **While India's energy consumption has grown over the last decade, its domestic oil production has stagnated since the early 2000s, and its natural gas production has declined since 2010.** More significantly, India's domestic requirement and economic growth will prompt India to import 90% of its oil and gas requirement by 2025, up from its existing import level of 70%.

## 3. Ongoing joint projects

- The Oil and Natural Gas Corporation (**ONGC**) **Videsh Limited (OVL)** has invested over **\$8 billion in Russia**. Its \$2.5 billion investment in **Sakhalin-1**, a large-scale shelf development project in Russia, is being implemented under a production-sharing agreement, in which OVL has a 20% stake (OVL 2017). The government is **now looking for participation in Russia's Sakhalin-3 project**.
- India is **planning to invest approximately \$1.5 billion in the Russian Yamal Peninsula—which has one-fifth of the global natural gas reserves—and is likely to compete with Japan in trying to acquire a 9% stake in Yamal LNG.**
- Cooperation between the two countries in development of the Arctic Shelf is undergoing. **Arctic exploration is significant for India to strengthen the economic and political position of the country in this region.**

## Transportation to India

### 1. RCI pipeline

- Moscow's overseas **quest for the 2,600 km-long overland Russia–China–India (RCI) pipeline, starting from Russia's western Siberian fields via the Altai region and China's Xinjiang province, to Jammu and Kashmir** is congruent with the shifting emphasis in the energy sector globally.
- For the RCI pipeline, the route is likely to be challenging due to **geographical constraints, environmental effects, and security risks**. Around 35% of its said route would lie in mountainous terrain. It is strongly **opposed by environmental groups,**



since the **Altai region is home to sensitive and endangered species**. The pipeline would pass through the restive Xinjiang Uygur Autonomous Region of China.

## 2. **R-TAPI pipeline**

- If this pipeline is not operationalised, alternative pipeline options could be available for India to access Russian oil and natural gas; for example, the **Russian pipeline that reaches Mazar-e-Sharif in Afghanistan could be extended to connect with the ongoing Turkmenistan–Afghanistan–Pakistan–India gas pipeline (R–TAPI)**.
- R–TAPI pipeline would cross through militancy-affected Afghanistan and Pakistan.

## 3. **Other options**

- Other options are also being negotiated between the two countries, or should be pursued, such as: the construction of an **underwater pipeline from Iran to India via Oman**; implementation of a **North–South Transport Corridor connecting Russia, Azerbaijan, Iran, and India**; and the **possible extension of the India–Iran–Afghanistan Trade Corridor to Russia through the Central Asia or Caspian underwater pipeline**.
- Compared to the RCI and R–TAPI pipelines, all these have major advantages from the security and geopolitical point of view.

## **Implications of Indo-Russia energy relationship**

- The energy trade between India and Russia (and China) has several implications.

### 1. **Energy security and more bargaining power for India in energy market**

- Energy trade could signal India's willingness to prioritise its energy security along with geopolitical interests.
- Once the RCI pipeline materialises, India, like China, as a key driver of global energy prices, would have more bargaining power in the LNG global market.
- Diversifying our suppliers by buying more oil from Russia will cushion us against geopolitical risks and take our energy security to a higher trajectory.

### 2. **Enhance ties with Eurasian Economic Union**

- It could promote economic ties between India and the Eurasian Economic Union.

### 3. **New dimension in cooperation with Central Asia and SCO**

- The pipeline will be a step forward towards a larger presence in the Shanghai Cooperation Organisation (SCO) and the establishment of a unified energy market within it.
- It will create an opportunity for India to pursue its “Connect Central Asia” policy.

#### 4. **Speeding up TAPI**

- Russia’s involvement in the R–TAPI project will speed up the process of the ongoing TAPI project.

### **Indo-US energy cooperation**

India’s approach towards Russia vis-à-vis the US should not be interpreted in terms of a zero-sum-game because of the following factors.

#### 1. **TAPI revived by US**

- New Delhi’s TAPI pipeline was revived through US backing.

#### 2. **Indo-US Nuclear deal**

- When India opted for the Indo–US nuclear deal in the civilian energy sector, Moscow appreciated the step.

#### 3. **US support to Myanmar-Bangladesh-India pipeline project**

- US is persistently pressing Dhaka for the implementation of the Myanmar–Bangladesh–India gas pipeline project and the supply of surplus gas from Bangladesh.

However, there are **some limitations to Indo–US cooperation**.

#### 1. **US competing with Russia in Europe for energy exports and thus little left for India**

- US is pumping energy to the European markets to reduce the European Union’s dependency on Russian hydrocarbon resources.
- Hence, the **scope for India accessing American shale energy sources seems to have a lesser possibility now.**

#### 2. **Higher premium to US**

- India has to pay a high premium to the US because of there being a large number of buyers.
- On the other hand, Russian gas is cheaper, as seen in the context of the recent China–Russia gas pipeline contract, and Moscow is obviously looking for larger markets for its booming industry.
- Whatever the limitations, both India and the US have started working on shale energy, and India can use US shale as a potential bargaining chip to trade with the Russians, and vice versa, for the enrichment of its import basket, and diversification of energy destinations.

## India-China energy relationship

### 1. Contest

- Both China and India are in a race for Russian oil and gas assets; yet, the former's trade and investment in the Russian energy market is huge.
- **Unlike other parts of the world, such as in Angola, Ecuador, Kazakhstan, and Venezuela, where India has lost lucrative deals to China, instances of sharp competition in the Russian energy market today are not so prominent.** But, it cannot be denied that there is the possibility of potential competition in the future.
- **Since China has the “first mover” advantage and a record of early implementation, as seen in the implementation of Myanmar–China gas pipeline (which caused the near death of the Myanmar–Bangladesh–India pipeline project), Beijing might have leverage over New Delhi in the future.**
- **Mani Shankar Aiyar**, “When we compete in an unhealthy manner to acquire oil fields in third countries, we only end up driving costs for each other and we have ended up paying billions of dollars more by trying to outbid each other everywhere”. Hence, **India hopes for a collaborative approach with China** to avoid needless cost hikes. The **Chinese response to this Indian concern seems supportive in some contexts (Syria and Sudan) but non-committal in others (Ecuador).**

### 2. Chinese slowdown and Indian burgeoning growth

- Nevertheless, as regards China's investment plans in Russia's energy sector, Moscow is certainly concerned about developments such as the ongoing Chinese economic slowdown and its stock market decline, project delays, suspension of the Power of Siberia 2 pipeline, and latent rivalry in Central Asia.

### 3. Trilateral geopolitics

- While Moscow is focusing on Asia to diversify its market, New **Delhi is looking for opportunities to prevent Russia from leaning so much on China**, which will pose a real challenge to Indian regional and global interests. Therefore, **India is pushing Moscow to play a bigger role in the Asian strategic landscape and regional energy market**, since a stable balance of power in Asia cannot emerge without India and Russia working together to manage China's rise.
- **Russia is also concerned about rising China**, and consequently, its own relative power position vis-à-vis China and India in the Asian interstate hierarchy, besides the fast-growing relationship between New Delhi and Washington. Hence, Moscow sees India as a potential Asian power to engage with.
- **China, on the other hand, is also wary of its overdependence on Russia for energy resources; therefore, it is now focusing on its own shale energy and constructing pipelines with Central Asian countries**, avoiding and bypassing the Russian territory.
- **Energy has become one of the important areas of discussion in multilateral fora such as BRICS, Asia-Pacific Energy Forum, and Russia-India-China trilateral meets**, where these three countries have persistently stressed a new type of international relations based on a win-win cooperation in the oil and natural gas sector.

#### Connecting the dots

- **India's relationship with Russia for energy is significant for both economic and geopolitical reasons. Examine.**

# NOTA and the Indian Voter

## GS 2

- Salient features of RPA

### Intro

- NOTA is a choice of **negative voting in certain electoral systems to help voters express their dissent for all the candidates competing** in an election. It is based on the principle that the spirit of democracy is upheld by **giving citizens a platform to voice their dissent while simultaneously participating in the electoral process.**
- Introduced through *People's Union for Civil Liberties v Union of India 2013*, "none of the above" (NOTA) option has **gradually become a notable part** of Indian elections.
- Yet, NOTA polling figures are small. **On an average, the maximum NOTA vote share has not crossed 2.02%** of the total votes polled in any election cycle. The **perceived cynicism of Indian voters against the political class thus seems exaggerated.**
- In the 2014 Lok Sabha polls, 59,99,247 voters opted for NOTA which was 1.1% of total votes. In 17 states/union territories, the number of NOTA votes was above the national average in Lok Sabha elections.

### How was NOTA introduced?

- In 2004, People's Union for Civil Liberties filed a writ petition in the Supreme Court **questioning the constitutional validity of the Conduct of Elections Rules 41 (2 and 3) and 49-O, as these violated the secrecy of a vote.**
- While deciding this petition in September 2013, the Supreme Court directed the ECI to introduce NOTA in electronic voting machines.
- The fundamental right under Article 19(1) (a) read with statutory right under Section 79(d) of the RP Act is violated unreasonably if right not to vote effectively is denied and secrecy is breached. Article 19 guarantees all individuals the right to speak, criticise, and disagree on a particular issue. Not allowing a person to cast vote negatively defeats the very freedom of expression and the right ensured in Article 21 i.e., the right to liberty.)
- The **Court thereby raised negative voting to the status of fundamental right.**
- It also went beyond the primary argument of safeguarding secrecy of voter, emphasising the positive impact negative voting can have on cleaning politics and improving participation in electoral democracy.

## Significance

- Across elections, the **number of NOTA votes polled was larger than the winning margin in several of the constituencies.**
- This was the case in 55 out of 629 constituencies across four states that went to the polls in 2013. In 2014, 62 out of 1,079 constituencies across nine states had NOTA exceeding the winning margins. In the 2015 assembly elections, this was true for 21 out of 313 constituencies, and in 2016, for 62 of 824 constituencies. In the Lok Sabha elections, NOTA votes exceeded the winning margin in 24 of 543 constituencies.

## Pattern of NOTA voting

- An analysis of the limited NOTA voting figures so far indicates four clear patterns.
1. **Reserved constituencies**
    - First, **reserved constituencies have seen relatively larger number** of NOTA votes.
    - This points to the continued social prejudice against political reservation for Scheduled Castes (SCs)/Scheduled Tribes (STs).
  2. **LWE affected constituencies**
    - Second, constituencies affected by left-wing extremism (**LWE**) **have also recorded higher NOTA votes**, and here probably it served as an instrument to protest against the state itself.
  3. **Reflect distrust in top national parties**
    - Third, NOTA figures are comparatively higher **in constituencies that have seen a direct contest between the Congress and the Bharatiya Janata Party (BJP).**
    - One may read this as an indication of the people's disenchantment with the two mainstream political parties.
  4. **Not against candidates but political system**
    - Lastly, against the widely held perception, NOTA need not lead to higher voter turnout.
    - Overall, Indian voters seem to be **using NOTA not just to show their disapproval of the candidates in the fray but to express their protest against things they perceive wrong in the political system.**



- **Chile discarded compulsory voting in 2013 and voter turnout declined drastically** from 87.67% in the 2009 elections to 49.25% in the 2013 parliamentary elections. The state of Nevada in the US which instituted negative voting in 1976 has interestingly seen a decline in voter turnout since the introduction of negative voting.
- In **Bangladesh, negative voting option was introduced in 2008 with the right to reject. Voter turnout saw a dramatic rise in the subsequent parliamentary elections reaching 85.26% but declined drastically to 51.37% in the 2014 election.**
- Voting trends in India suggest that NOTA need not necessarily drive up voter turnout. In the **Lok Sabha elections, NOTA had no correlation with voter turnout.**

#### Conclusion

- The trends so far show that at least a small number of Indian voters have come to see NOTA as an instrument of protest against many things that they believe is problematic with the political system of the country.
- However, it will become a **meaningful means of negative voting only if it becomes a “right to reject” rather than being a symbolic instrument** to express resentment as it is now.

#### Connecting the dots

- **NOTA has failed to imbibe the political dissatisfaction of the masses through the electoral process. Critically analyse.**

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