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ANALYSIS**



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# 1 - Bail in accordance with UAPA:

## GS II

### Government Policies and Interventions

- **Context:**

- In a recent ruling, the Supreme Court denied bail to an accused member of an alleged Khalistan module, citing the Unlawful Activities Prevention Act (UAPA) as the exception to the norm that "bail is rule."

- **How Did Bail Provisions Change Under UAPA?**

- 2008: Section 43D (5) of the UAPA Amendment Act, 2008 mandated that a court deny bail if there were reasonable grounds to assume that the accused's case was initially true.
- The accused must persuade the judge that it would be illogical to accept the allegations as true at face value.
- Within the context of the UAPA, the fundamental tenet of criminal law—that one is innocent until and unless proven guilty—is modified by placing this duty on the accused.
- 2016: Despite the strict provisions of Section 43D (5), the judiciary granted bail in the *Angela Harish Sontakke v. State of Maharashtra* case. This was done in light of the lengthy custody period and the likelihood of a speedy trial, underscoring the importance of striking a balance between the accused's time in jail and the alleged offence.
- 2019: A limited interpretation of Section 43D (5) was provided by the *National Investigation Agency v. Zahoor Amhad Shah Watali* ruling, which mandated that the court accept the NIA's version of events without considering the case's merits. This makes it more difficult to obtain bail after the NIA frames charges.
- *Union of India v. K.A., 2021. Najeeb*, the Supreme Court brought attention to the prospect of granting bail on the grounds that protracted detention (being held in jail or prison) violates Article 21 rights.
- The Delhi High Court distinguished between evidence and NIA conclusions in the *State of NCT of Delhi v. Devangana Kalita* case, resulting in bail being granted based on the NIA's inability to prove a prima facie case.
- 2023: The Supreme Court stressed the need for evidentiary analysis in the *Vernon Gonsalves v. State of Maharashtra* case, departing from the earlier Watali decision regarding the "prima facie true" standard for granting bail.
- But in the most recent case, a two-judge bench disregarded the Gonsalves decision and solely applied the Watali precedent while denying bail.
- The inconsistent interpretations by several benches cast doubt on the uniformity and implementation of UAPA's bail requirements.

- **UAPA: What is it?**

- Context: The Unlawful acts (Prevention) Ordinance was enacted by the President on June 17, 1966, with the goal of "enabling the more efficient prevention of unlawful activities of individuals and associations."
- The government withdrew the strict regulation after it caused a ruckus in Parliament upon its presentation.
- The ordinance was later superseded by the Unlawful Activities (Prevention) Act of 1967, which was different.
- About: The purpose of UAPA is to combat terrorism and stop illegal activity. "Anti-Terror law" is another name for it.
- Unlawful activities are described as those that respect or cast doubt on India's sovereignty and territorial integrity, as well as those that encourage the cession or secession of any area of the country.
- The UAPA gives the National Investigation Agency (NIA) the authority to look into and prosecute cases across the country.

- **Changes:**

- It was amended several times: in 2004, 2008, 2012, and most recently in 2019. The most recent modification expanded the provisions pertaining to cyberterrorism, individual designation, property confiscation, and financing of terrorism.

- **Associated Concern:**

- Low Conviction Rate: During 2018 and 2020, 4,690 people were detained under the UAPA, yet just 3% of those people were found guilty.
- Subjective Interpretation: Because the scope of prohibited actions is so broad, it is open to subjective interpretations and could be abused against certain individuals or organisations based on their identity or ideology.
- Limited Judicial scrutiny: The 2019 amendment raises questions about due process of law and the possibility of arbitrary designations by giving the government the authority to label anyone as terrorists without any judicial scrutiny.

- **The Way Ahead:**

- Enhanced monitoring: Putting in place strong monitoring procedures to stop the UAPA from being abused, such as conducting routine evaluations of how it is being applied and bolstering judicial oversight to guarantee compliance with human rights and constitutional norms.
- Clearer Definitions: In order to reduce subjectivity and the possibility of misuse, the definition of prohibited acts needs to be improved and narrowed down.

- Time-bound Trials and Investigations: To avoid extended detentions and guarantee effective legal procedures, set down precise deadlines for trials and investigations.

*Source → The Hindu*

## 2 - Treaties for Bilateral Investment:

### GS III

#### Indian Economy

- **Context:**
- In order to increase the amount of Foreign Direct Investment (FDI), the Indian Finance Minister announced at the presentation of the interim Union budget 2024–25 that India will be negotiating Bilateral Investment Treaties (BITs) with its trading partners.
- This announcement comes at a time when India's bilateral treaties have dried up, more so, since the implementation of the Model BIT in 2016.
- **What are the Bilateral Investment Treaties (BITs)?**
- BITs are reciprocal agreements between two countries to promote and safeguard foreign private investments in each other's territories.
- In the mid-'90s, the Indian government introduced BITs to offer favourable conditions and treaty-based protection to international investors and investments.
- **Minimum Guarantees:**
- BITs create minimum guarantees between the two countries regarding the treatment of foreign investments, such as,
  - National treatment (treating foreign investors at par with domestic enterprises)
  - Fair and equitable treatment (in conformity with international law)
  - Protection from expropriation (limiting each country's power to take over foreign investments in its jurisdiction).
- **Arbitration under BITs:**
- BITs often provide a framework for addressing disputes between investors and the country of investment.

- The most preferred form of settling such conflicts is arbitration, when parties agree to have their disagreement handled by a neutral person (the arbitrator) instead of going to court.

- **Past:**

- The first BIT signed by India was with the UK in 1994.
- The BIT regime garnered notice in the year 2010 with the settlement of the first-ever investor treaty claim filed against India.
- In 2011, India received its first unfavourable award in a case coming out of the Australia-India BIT (White Industries v Republic of India) where the Indian government was compelled to pay USD 4.1 million by the International Chamber of Commerce.
- By 2015, India faced 17 documented BIT claims, notably included one with Cairn Energy Plc, a British oil and gas company, resulting in a USD 1.2 billion award against the Indian government.
- Given the burden that was being put on the public exchequer, the government was obligated to review the 1993 BIT concept. This led to the acceptance of the 2016 model BIT resulting in the government terminating 68 of the 74 treaties it had executed till 2015 with a request to renegotiate terms based on the amended language.
- The adoption of the 2016 BIT model was perceived more as a knee-jerk protectionist action rather than a thoughtful and calibrated effort to encourage foreign investment.

- **What have been the Challenges with the 2016 Model BIT?**

- **Narrowing Definition of Investment:**

- Model BIT restricted the definition of investment that needed to qualify for BIT protection. Model BIT suggests that India proposes a restrictive 'enterprise-based' definition for investment, whereby only direct investments are protected under the treaty.
- Besides this, the definition of investment in the Model BIT also comprises a negative list, which eliminates portfolio investments, interest in debt- securities, intangible rights, etc. from the definition of investment.
- Thus, the new definition does not take into account the growing scope of foreign investments in the present era of globalisation and liberalisation.

- **Exhaustion of Domestic Remedy Clause:**

- Model BIT incorporates a paragraph mandating exhaustion of domestic remedy prior to beginning international arbitration procedures.
- The 2016 model BIT stipulated that an investor must exhaust local remedies before taking recourse to international arbitration.
- This definitely does little to promote confidence in international investment.

- **Impact on FDI:**

- The difficulties in renegotiating conditions with other countries have also contributed to obstacles in recruiting FDI.
- FDI equity inflows in India decreased 24% to USD 20.48 billion in April-September 2023.
- The total FDI — which comprises stock inflows, reinvested earnings and other capital — dropped 15.5% to USD 32.9 billion during the period under review vs USD 38.94 billion in April-June 2022.

- **Wide Discretionary Powers to Host State:**

- The pact contains a language protecting fair treatment of investments, barring both parties from using measures that are plainly abusive or violate due process.
- However, what is the criterion for assessment of infringement of “due process” is not established.
- Further, Model BIT provides that if the Host State finds that the alleged breach under the BIT is a subject matter of taxation at any point in time, the decision of the Host State therein shall be non-justiciable and exempt from review by an arbitral tribunal.
- The Model BIT simplistically presupposes that a foreign investor shall have entire faith in domestic court interpretations and systems.
- This might potentially grant considerable power to the Host State to unilaterally exclude any matter from the jurisdiction of a tribunal, solely by declaring that the action in question relates to revenue.

- **The Way Ahead:**

- India can reassess its BIT regime to ensure it fits with global best practices while balancing the interests of both international investors and the domestic economy. This may require including rules for fair and equal treatment, most favoured nation status, and effective dispute resolution systems.
- The recommendations proposed by the Parliamentary Standing Committee on External Affairs in 2021, such as promoting pre-arbitration consultations and negotiations, should be adopted to ease the speedy resolution of disputes and ensure effective representation in investor-state disputes.
- India should engage in creating local competence in the field of investment arbitration to increase its capacity to handle investor-state conflicts effectively. This can require training professionals and legal experts, as well as developing specialised organisations for investment arbitration.
- India should adopt a progressive approach to BITs that balances the requirement for investor protection with the imperative of regulatory sovereignty. This may require combining provisions that encourage sustainable development, environmental preservation, and social welfare with investor rights.

### **3 - Development and Promotion of Jute Industry:**

#### **GS II**

#### **Government Policies and Interventions**

- **Context:**

- Recently, the Standing Committee on Labour, Textiles and Skill Development has presented the Fifty-Third Report on 'Development and Promotion of Jute Industry'.

- **What are the Key Highlights of the Report?**

- **Potential of Jute Industry:**

- The Jute industry occupies an important place in the national economy of India. It is one of the major industries in the eastern region, particularly in West Bengal.
- Jute, the 'golden fibre', meets all the standards for 'safe' packaging in view of being a natural, renewable, biodegradable and eco-friendly product.

- **India as Major Share of Jute Production in the World:**

- India is a major player in global jute production, contributing 70% of the world's jute output.
- The Jute industry directly employs approximately 3.7 lakh workers, with around 90% of the production consumed domestically.
- About 73% of jute industries are concentrated in West Bengal (out of 108 composite jute mills 79 are in West Bengal).

- **Production and Export Data (2022-23):**

- In the fiscal year 2022-23, the production of jute goods reached a significant milestone, totalling 1,246,500 metric tons (MT).
- Exports of jute goods surged to 177,270 MT, constituting approximately 14% of the total production. This represents a remarkable 56% increase in exports compared to figures recorded in 2019-20.
- The rise in exports can be attributed to several factors, including increased demand for environmentally friendly and sustainable products worldwide.
- India imported 121.26 thousand MT of raw jute during the same period.

- The importation primarily stems from the preference for high-quality jute from Bangladesh, which is utilised in the manufacturing of value-added products.
- The top export markets for jute goods include a diverse array of countries such as the USA, France, Ghana, the UK, the Netherlands, Germany, Belgium, Côte d'Ivoire, Australia, and Spain.
- **Major Challenges Faced by Jute Industry:**
  - High Rate of Procurement: Mills face a high rate of procurement, acquiring raw jute at prices exceeding their selling prices post-processing.
  - This is exacerbated by a convoluted procurement process involving middlemen or traders, increasing costs further.
  - Insufficient Raw Material: Despite efforts to boost jute cultivation, India still struggles with insufficient raw material supply, exacerbating procurement issues and affecting production capacity.
  - Obsolete Mills and Machinery: The Jute Industry grapples with obsolete mills and machinery, necessitating technological upgrades to enhance efficiency and competitiveness.
  - Fierce Competition From Synthetic Materials: Jute contends with fierce competition from synthetic materials, which offer cheaper packaging solutions, impacting demand for jute products negatively.
  - Furthermore, decreased demand is witnessed due to the availability of alternative fibres like Mesta, diminishing the market for jute products.
  - Labour issues and Infrastructure Hurdles: Labor issues plague the industry, particularly in West Bengal, with frequent strikes, lockouts, and disputes disrupting operations and adding to instability.
  - Infrastructural bottlenecks such as inadequate power supply, transportation challenges, and limited access to capital impede the industry's sustainability efforts, hindering growth and modernization initiatives.
- **What are the Key Facts About Jute?**
- **Conditions Required for Cultivation:**
  - Temperature: Between 25-35°C
  - Rainfall: Around 150-250 cm
  - Soil Type: Well drained alluvial soil.
- **Jute Production:**
  - India is the largest producer of jute followed by Bangladesh and China.
  - However, in terms of acreage and trade, Bangladesh takes the lead accounting for three-fourths of the global jute exports in comparison to India's 7%.



- Jute crop cultivation is concentrated in three States, namely, West Bengal, Assam and Bihar accounting for 99% of the production.
- It is mainly concentrated in eastern India because of the rich alluvial soil of the Ganga-Brahmaputra delta.
- **Uses:**
- It is known as the golden fibre. It is used in making gunny bags, mats, ropes, yarn, carpets and other artefacts.
- **What are the Key Recommendations of the Standing Committee?**
- **Modernising and Upgrading Technology:**
- There is a need to encourage jute mills to invest in state-of-the-art machinery and technology to enhance productivity and elevate product standards.
- Foster partnerships with research institutions to drive innovation and progress.
- **Efficient Raw Material Procurement:**
- Streamline the process of acquiring raw jute to minimise expenses. Promote contract farming initiatives and offer incentives to farmers to boost jute cultivation.
- **Enhanced Quality Control and Standardisation:**
- Reinforce quality control protocols to maintain uniform excellence in jute products. Establish and enforce stringent standards for jute goods.
- **Skill Enhancement and Training:**
- Empower jute workers with comprehensive training programs to refine their expertise.
- Place emphasis on honing skills in weaving, dyeing, and value-added processes.
- **Market Expansion:**
- There is a need to pioneer exploration into untapped global markets for jute products.
- Promote jute-based handicrafts and lifestyle commodities to broaden market reach.
- **Research and Development Promotion:**
- Allocate resources for research endeavours focused on advancing jute-related innovations.
- Encourage collaborative efforts between industry players and research entities.

- **Promoting Jute Products:**

- Launch awareness campaigns spotlighting the eco-friendly attributes and sustainability of jute.
- Educate consumers on the merits of choosing jute products.

- **Policy Advocacy:**

- Formulate policies that incentivize jute cultivation and value addition.
- Extend financial assistance to jute mills for the adoption of cutting-edge technologies.

- **What are the Government Schemes Related to Jute Industry?**

- **Export Market Development Assistance (EMDA) Scheme:**

- The EMDA program, initiated by the National Jute Board (NJB), encourages manufacturers and exporters of jute products to participate in international fairs worldwide. It aims to promote the export of lifestyle and other Jute Diversified Products (JDPs).
- Jute Packaging Materials (Compulsory Use in Packing Commodities) Act 1987:
- The act was enacted to ensure the mandatory use of jute packaging material in the supply and distribution of certain commodities.
- The Cabinet Committee on Economic Affairs has extended mandatory packaging of 100% food grains and 20% sugar in diversified jute bags for the Jute Year 2023-24.

- **Jute Geotextiles (JGT):**

- The Cabinet Committee on Economic Affairs (CCEA) has approved a Technical Textiles Mission which includes Jute Geo-Textiles.
- JGT is one of the most important diversified jute products. It can be applied in many fields like civil engineering, soil erosion control, road pavement construction and protection of river banks.

- **Minimum Support Price for Jute:**

- Jute Corporation of India (JCI) is the Price Support Agency of the Govt. of India for jute, to protect the interest of the Jute Growers through procurement of Raw Jute under the MSP fixed by the government from time to time and also to stabilise the raw jute market for the benefit of the jute farmers and the jute economy as a whole.

- **Golden Fibre Revolution and Technology Mission on Jute and Mesta:**

- They are two of the government initiatives to boost jute production in India.

- Due to its high cost, it is losing the market to synthetic fibres and packing materials, particularly nylon.

*Source → The Hindu*

## 4 - India's Renewable Energy Vision: IREDA:

### GS III

#### Environmental Conservation

- **Context:**
- Recently, the Indian Renewable Energy Development Agency (IREDA) addressed an international webinar organised by the World Bank (WB), shedding light on India's Renewable Energy landscape and its ambitious targets to combat Climate Change while ensuring energy security.
- **What are the Key Highlights of the IREDA's Address at Webinar?**
- **Huge Invests to Meet Climate Goals:**
  - India's Nationally Determined Contributions (NDCs), or its self-defined climate pledges under the Paris Agreement, for 2030 would require Rs 30 lakh crore of investments.
  - According to India's NDC goals, India pledges to reduce emissions intensity of its GDP (Gross Domestic Product) by 45% by 2030, from 2005 level and achieve about 50% cumulative electric power installed capacity from non-fossil fuel-based energy resources by 2030.
  - The investment is required in manufacturing and capacity build-up for solar power, electrolysers, wind and battery space, power transmission, Green Hydrogen, hydro power and waste-to-energy sectors.
- **Elevation of Rooftop Solar Sector:**
  - IREDA highlighted the significance of the "PM Surya Ghar Muft Bijli Yojana," a rooftop solar scheme.
  - This visionary project, backed by an investment exceeding Rs. 75,000 crores, aims to solarize 1 crore households by providing up to 300 units of free electricity every month.
  - The scheme not only provides substantial benefits but also fosters awareness about renewable energy, contributing to India's ambitious goal of achieving Net-Zero emissions by 2070 and Energy Independence by 2047.

- **Increase in Energy Demand:**

- India's energy demand would increase significantly due to the ambitious plans of the government for the country and maximum energy demand would be met through renewable sources.
- Approximately 90% of this demand is expected to be met through renewable sources.
- Until sufficient energy storage for renewable energy is achieved, thermal energy will also be developed alongside.

- **What is IREDA?**

- IREDA is a mini ratna company under the Ministry of New and Renewable Energy (MNRE).
- It was set up in 1987 as a specialised non-banking finance agency for the renewable energy sector.
- IREDA plays a key role in renewable energy project financing which gives confidence to the financial institutions/banks to lend in the sector.

*Source → The Hindu*



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