



News Analysis (01 Sep, 2018)

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India, Pakistan Hold Talks on Indus Water Treaty

India has invited Pakistan to visit sites of the **Pakal Dul** and Lower **Kalnai** hydroelectric projects on the **Chenab** river next month to address Pakistan's concerns over the construction of hydroelectric projects.

- India and Pakistan concluded the 115th meeting of the India-Pakistan Permanent Indus Commission (PIC) in Lahore from August 29-30.
- As per the provisions of the Indus Waters Treaty 1960, technical discussions were held on implementation of various hydroelectric projects including **Pakal Dul (1000 MW)** and **Lower Kalnai (48 MW)** in Jammu and Kashmir.

What is Indus Water Treaty

- It is a treaty brokered by the **World Bank** and signed by then Prime Minister **Jawaharlal Nehru** and Pakistan's President **Ayub Khan** which administers how the waters of the **Indus and its tributaries** that flow in both the countries will be utilised.
- According to the treaty, waters of the **eastern rivers — Sutlej, Beas and Ravi** had been allocated to **India**, while the **western rivers — the Indus, Jhelum and Chenab** to **Pakistan**. However, since Indus flows from India, the country is allowed to use 20 percent of its water for irrigation, power generation and transport purposes.
- A **Permanent Indus Commission** was set up as a bilateral commission to implement and manage the Treaty.
- The Treaty also provides arbitration mechanism to solve disputes amicably.

Permanent Indus Commission

- The Permanent Indus Commission is a **bilateral commission of officials from India and Pakistan**, created to implement and manage goals of the Indus Waters Treaty, 1960.

- The Commission according to the treaty must meet regularly at least once a year, alternately in India and Pakistan.
- The functions of the Commission are:
 - to study and report to the two Governments on any problem relating to the development on the waters of the rivers.
 - to solve disputes arising over water sharing.
 - to arrange technical visits to projects' sites and critical river head works.
 - to undertake, once in every five years, a general tour of inspection of the Rivers for ascertaining the facts.
 - to take necessary steps for the implementation of the provisions of the treaty.

Issues Associated with Water Sharing

- Pakistan's demands include reduction of the **height of Pakal Dul's reservoir** and it has **technical concerns** over design of the **Lower Kalnai hydropower project**.
- There have been disagreements and differences between India and Pakistan over the treaty. For eg. In 2010 Pakistan instituted international arbitration proceedings over India's **330-megawatt hydropower project** on a small Indus tributary, the **Kishenganga** (known as Neelum in Pakistan).
- Pakistan has been facing a lot of problems in timely meetings and visits.
- Though Indus originates from Tibet, **China** has been kept out of the Treaty. If China decides to stop or change the flow of the river, it will affect both India and Pakistan.
- **Climate change** is causing melting of ice in Tibetan plateau, which scientists believe will affect the river in future.

Way Forward

- It may be noted that both India and Pakistan are still at loggerheads over various issues since Partition, but there has been no fight over water after the Treaty was ratified.
 - If Pakistan wishes to preserve the Indus treaty, despite its diminishing returns for India, it will have to strike a balance between its right to keep utilising the bulk of the river system's waters and a corresponding obligation (enshrined in international law) not to cause "palpable harm" to its co-riparian state by exporting terror.
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Law Commission's Report on Wrongful Prosecution

The Law Commission has submitted to the government a report titled "**Wrongful Prosecution (Miscarriage of Justice): Legal Remedies**" on the issue of "**wrongful prosecution**" of innocents and the remedies that can be made available to compensate them.

- Earlier in May, 2017 the Delhi High Court in the case of **Babloo Chauhan @ Dabloo vs. State Govt. of NCT of Delhi**, expressed grave concern about the state of innocent persons being wrongfully prosecuted and asked the Law Commission to undertake a comprehensive examination of the issue and make a recommendation to the Government of India.
- Reviewing the issue in the context of the Indian Criminal Justice system, it recommends **“wrongful prosecution”** as the **measure for miscarriage of justice**, NOT wrongful conviction and wrongful incarceration.
- **Wrongful prosecution** refers to the cases where the accused was not guilty of the offence, and the police and/or prosecution engaged in some form of misconduct in investigating and/or prosecuting the person.
- The **International Covenant on Civil and Political Rights (ICCPR)**, which is ratified by India creates an obligation on the State parties to enact a law to compensate the victims of such miscarriage of justice.

International Covenant on Civil and Political Rights (ICCPR)

- The International Covenant on Civil and Political Rights (ICCPR) is one of three documents that make up the International Bill of Rights, together with the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- The ICCPR was adopted by the United Nations General Assembly in 1966 and it came into force in 1976.
- It attempts to ensure the protection of civil and political rights. It recognizes the inherent dignity of each individual and undertakes to promote conditions within states to allow the enjoyment of civil and political rights.

Background

- According to the National Crime Records Bureau's (NCRB) annual statistical report called the '**Prison Statistics India (PSI-2015)**', out of total prisoners in the country, **67.2% were undertrials** (i.e. people who have been committed to judicial custody pending investigation or trial by a competent authority); substantially higher than the convict population (32.0%).
- The data shows that 25.1% of the total undertrials spent more than a year in prison; 17.8% spend up to 1 year in prison as undertrials, 21.9% of the undertrials were in prison for 3 to 6 months, and 35.2% undertrials spent up to 3 months in prison.
- Such large number of undertrials (more than the number of convicts) year after year and their long detention periods show that undertrials spent a substantial period of time awaiting trials/ judicial determination of their case.

- This delay and waiting becomes a graver miscarriage of justice when the person is wrongfully accused and incarcerated pending trial/proceedings, which he should not have been subjected to in the first place.
- In such cases, it is the **violation of fundamental rights under Article 21** (the right to life and liberty), and **Article 22** (protection against arbitrary arrests and illegal detention etc.) that invokes the writ jurisdiction of the Supreme Court and the High Courts under **Articles 32 and 226** of the Constitution respectively.

Recommendations

- Enactment of **specific legal provision** for redressal of cases of miscarriage of justice resulting in wrongful prosecution.
 - Designation of **special courts in each district** for adjudicating upon the claims of compensation for wrongful prosecution.
 - The **claim for compensation** can be brought by the accused person so injured; or by any agent duly authorized by the said accused person; or where the accused person died after the termination of the wrongful prosecution, by all or any of the heirs or legal representatives of the deceased.
 - The legal provision should include the **guiding principles/factors** that a Special Court will be required to consider while determining the compensation including the amount of monetary compensation.
 - Compensation under this framework will include **both pecuniary and non-pecuniary assistance** (form of services such as counselling, mental health services, vocational/employment skills development, and such other similar services).
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4th BIMSTEC SUMMIT 2018

The 4th BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) summit was held in Kathmandu, Nepal on August 30-31. The major focus of this year's BIMSTEC was enhancing regional connectivity and trade.

The **Kathmandu Declaration** was adopted unanimously at BIMSTEC-2018. It called for a **Peaceful, Prosperous and Sustainable Bay of Bengal Region**.

Focus Areas

- **Memorandum of Understanding on Grid Interconnection:** To enhance energy cooperation between member states and to remove barriers to grid interconnections.
Advantages of BIMSTEC grid interconnection:
 - The agreement will provide a broad framework, for the parties, to cooperate towards the implementation of grid interconnection for the electricity trade.
 - It will promote rational and optimal power transmission in the BIMSTEC region.
 - The promotion of efficient, economic, and secure operation of the power system needed through the development of regional electricity networks.
- **Transport and Communications (Connectivity):** Enhancing Connectivity is a major issue among the countries in the region. BIMSTEC members agreed to Step up efforts to conclude the BIMSTEC Coastal Shipping Agreement and the BIMSTEC Motor Vehicle Agreement as early as possible.
- **Trade and Investment:** BIMSTEC Free Trade Agreement was negotiated in 2004, talks on it are yet to be concluded. BIMSTEC members agreed to an early conclusion of BIMSTEC Free Trade Agreement.
- **Counter-terrorism and Transnational Crime:** As BIMSTEC region is under threat from radical terrorist groups, member nations agreed to Identify and hold accountable states and non- state entities that encourage support and finance terrorism.
- **Environment and Disaster Management:** South and South-east Asia is prone to disasters like Cyclone, earthquake and Tsunami. BIMSTEC members agreed to develop a plan of action to improve preparedness and coordination for responding to natural disasters in the Bay of Bengal Region.
- **Poverty alleviation:** Eradication of poverty in the Bay of Bengal Region by 2030 in line with the 2030 Agenda for Sustainable Development of United Nations.
- **Climate Change:** To protect and preserve the environment and to address the impact of Climate Change on the livelihoods of people in the region.
- **Public Health:** To cooperate on efforts to address non-communicable diseases as well as diseases like HIV and AIDS, malaria, dengue, tuberculosis, viral influenza- including avian and swine influenza and other emerging public health threats.
- **Cultural Cooperation:** To enhance cultural exchange among the Member States with Buddhism acting as a connecting thread in the region and to establish a Buddhist Circuit.
- To take concrete steps to promote **Tourism, People-to-People contact, Mountain Economy, and Blue Economy.**

About BIMSTEC

- The BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) is a regional grouping comprising India, Bangladesh, Myanmar, Sri Lanka, Thailand, Bhutan, and Nepal.
- Originally formed as BIST-EC (Bangladesh, India, Sri Lanka and Thailand Economic Cooperation) in 1997 by Bangkok Declaration.
- It became BIMST-EC when Myanmar joined, and BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) in 2004 with the inclusion of Nepal and Bhutan.
- The founding objectives of the sub-regional initiative are:
 - creating an enabling environment for the rapid economic development of the sub-region,
 - encouraging the spirit of equality and partnership,
 - promoting active collaboration and mutual assistance in the areas of common interests of the member countries,
 - accelerating support for each other in the fields of education, science, and technology, etc
- Around 22% of the world's population live in these seven countries around the Bay of Bengal, with a combined GDP close to \$2.7 trillion.

Importance of BIMSTEC

- BIMSTEC is significant for India as it acts as a bridge between South Asia with South-east Asia. As ASEAN member's (Thailand and Myanmar) are also included in BIMSTEC.
- For India, it is a natural platform to fulfill our key foreign policy priorities of 'Neighbourhood First Policy' and 'Act East Policy'.
- BIMSTEC could allow India to put forward its agenda to counter Chinese investments in the region (e.g. Belt and Road Initiative), and instead show how to follow best practices for connectivity projects based on international norms.
- With SAARC (South Asian Association for Regional Cooperation.) becoming almost non-functional because of obstructionist approach of Pakistan, BIMSTEC has emerged as a new platform for India to engage with its neighbors outside of SAARC.
- Through BIMSTEC, Bay of Bengal can be showcased as open and peaceful, as compared to China's aggressive behavior in the South China Sea.

- BIMSTEC is also helpful for other members as:
 - Bangladesh views BIMSTEC as a platform to position itself beyond Bay of Bengal region.
 - Sri Lanka sees it as an opportunity to realize its ambition to connect with Southeast Asia and serve as the subcontinent's hub for the wider Indian Ocean and Pacific regions.
 - For Nepal and Bhutan, BIMSTEC stands to connect with the Bay of Bengal region and escape their landlocked geographic positions.
 - For Myanmar and Thailand connecting more deeply with India across the Bay of Bengal also would allow them to access a rising consumer market.

Challenges

- **Inconsistency in Meetings:** BIMSTEC planned to hold summits every two years, ministerial meetings every year, but only four summits have taken place in 20 years.
- **Neglect by member states:** It seems that India has used BIMSTEC only when it fails to work through SAARC in the regional setting and other major members like Thailand and Myanmar are focused more towards ASEAN than BIMSTEC.
- **Broad Focus Areas:** The focus of BIMSTEC is very wide, including 14 areas of cooperation like connectivity, public health, agriculture etc. It is suggested that BIMSTEC should remain committed to small focus areas and cooperate in them efficiently.
- **Bilateral Issues between Member Nations:** Bangladesh is facing one of the worst refugee crisis of Rohingyas from Myanmar who are fleeing prosecution in the state of Rakhine in Myanmar. There is a border conflict between Myanmar and Thailand.
- **No FTA:** BIMSTEC FTA was negotiated in 2004, talks on it are yet to be concluded.

Way forward

- BRICS-BIMSTEC outreach summit organized by India has brought BIMSTEC in focus as a regional grouping. India has renewed its interest in the grouping.
 - It is necessary that BIMSTEC members should conclude talks on the Free Trade Agreement in a swift manner, BIMSTEC-FTA can create enormous opportunities for member countries in the field of employment, investment, and infrastructure.
 - Instead of fourteen focus areas, BIMSTEC's priority areas should be trade and investment, connectivity, energy, people-to-people exchanges, counter-terrorism, the Blue Economy.
 - It is necessary that countries within BIMSTEC should resolve their internal issues in a fair manner. If the cooperation among the members will be in right directions then it can prove a better alternative to SAARC.
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Important Facts for Prelims (1st September 2018)

Meeting of Department of Official language

The Union Home Minister chaired the first review meeting of the Department of Official Language to discuss the functioning and issues related to implementation of Hindi language in official work.

- **Article 351** of the Constitution deals with the directive to **promote the use of Hindi for the official purposes of the Union**, hence the Department of Official Language was set up in 1975 as an independent Department of the Ministry of Home Affairs to accelerate the **progressive use of Hindi** for the official purposes of the Union.
 - The department has developed a computer software called **"Kanthasth"** for **translating the all kinds of official files from English to Hindi and vice versa** to make the translation work simpler and quicker.
 - **Lila Mobile App** has been developed for making the learning of Hindi language easier, which was launched on the **occasion of Hindi Diwas** on 14th September 2017.
 - An E-learning platform called the **"Pravah"** is also being developed by the department for use in 16 Indian languages including English. It will be launched on Hindi Diwas on 14th September, 2018. Anybody can learn Hindi through his mother tongue with the help of this E-learning platform.
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