

GOVERNANCE**Differential Licensing on Telecom Sector**

Recently, various telecom operators have collectively opposed the move to introduce differential licensing via unbundling of various layers (infrastructure, network, services, and application layer).

Key Points**Background:**

- In May 2019, the Department of Telecommunications (DoT) informed that the National Digital Communications Policy 2018, under its 'Propel India' mission, envisages reforming the licensing and regulatory regime to catalyse investments and innovation and promote Ease of Doing Business.
- Enabling unbundling of different layers through differential licensing is one of the action plans for fulfilling the strategy.
- For that, the Telecom Regulatory Authority of India (TRAI) was requested to furnish recommendations and seek stakeholders' (telecom operators) inputs on possible benefits and measures.

Current Licensing Regime:

- The grant of telecom licenses in India is primarily governed by the Indian Telegraph Act 1885, and the Indian Wireless Telegraph Act 1933.
- These Acts provide an exclusive authority to the Central Government for establishing, maintaining, and working telegraphs, and wireless telegraphy equipment, and to grant licenses for such activities.
- The 1885 Act defines "Telegraph" as any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electromagnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means.
- In November 2003, the Unified Access Service License (UASL) regime was introduced which permitted an access service provider to offer both fixed and/or mobile services under the same licence, using any technology. It came into being in 2013.
- In June 2012, the National Telecom Policy was issued with the aim to simplify the licensing framework, and to strive for the creation of One Nation-One License across services and service areas.

Issues Highlighted:

- Separating the network licence will introduce uncertainty in the licensing regime and adversely impact the future investment in the networks.
- A converged licence for network and service layer offers clarity and certainty to an operator making an investment in the network.
- Any such changes will require business models to be reconfigured which would be counterproductive.
- The process of unification is yet to be completed under the existing licensing regime and the proposal to unbundle network and service layers with a completely new type of licensing regime would introduce a great level of uncertainty in the system, with unknown and unpredictable impact on investments.

Measures if Implemented:

- There should not be any mandatory migration of licences until the validity of existing licences.
- A clear compensation methodology should also be enumerated, especially for investments made in the last 10 years.
- Address the underlying issue of the poor financial health of the telecom sector.
- Strengthening telecom infrastructure which would require enormous fund infusion, estimated to be about Rs. 2,00,000 crore over the next 2-3 years.
- The government needs to provide incentives, reduce regulatory cost, provide appropriate policy and financial stimulus to the existing service providers.

Way Forward

- Unbundling has been termed as "neither necessary nor desirable" by the telecom service providers.
- Ushering in changes that require business models to be re-configured at a time when existing investments are not already fully recovered, would be counter-productive.
- Therefore, there is a need to address the existing underlying issues prevailing in the sector instead of recommending or implementing another licensing framework which will create ambiguity and additional challenges.

SOCIAL JUSTICE**Tele-Law**

Tele-Law touched a new milestone on October 30th 2020 by providing legal advice to 4 million beneficiaries through Common Service Centres.

Common Services Centre (CSC) programme is an initiative of the Ministry of Electronics & IT (MeitY), that serves as the access points for delivery of various electronic services to villages in India, thereby contributing to a digitally and financially inclusive society.

Key Points

- About: Tele-Law programme was launched by the Ministry of Law and Justice in collaboration with the Ministry of Electronics and Information Technology (MeitY) launched in 2017 to address cases at pre-litigation stage.
- Connect Lawyers to Litigants: It is a service that uses video conferencing facilities and telephone services to connect lawyers to litigants who need legal advice. This service aims to reach out to the needy especially the marginalized and disadvantaged.
- Common Service Centres: Under this programme, smart technology of video conferencing, telephone/instant calling facilities available at the vast network of Common Service Centres at the Panchayat level are used to connect the indigent, down-trodden, vulnerable, unreached groups and communities with the Panel Lawyers for seeking timely and valuable legal advice.
- Benefits: Tele Law service enables anyone to seek legal advice without wasting precious time and money. The service is free for those who are eligible for free legal Aid as mentioned under Section 12 of the Legal Services Authority Act, 1987. For all others a nominal fee is charged.
- According to a recent report titled 'Quality of Legal Representation: An Empirical Analysis of Free Legal Aid Services in India', the majority of the people who are entitled to the free legal aid system see the service as an option only when they cannot afford a private lawyer.
- Supports SDGs: It can be noted that this initiative is in line with Sustainable Development Goal-16, which seeks to "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".

Legal Services Authorities (LSA) Act

- In 1987, the Legal Services Authorities (LSA) Act was enacted to give free and competent legal services to the poor and paved the way for the constitution of National Legal Service Authority (NALSA) and other legal service institutions at the State, district and taluka level.
- Free legal services under LSA Act are available to a person belonging to Schedule Tribe and Schedule Caste, woman, child, victim of human trafficking, differently abled person, industrial workman, and person in custody in a protective home and the poor.

Constitutional Provision

- Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability.
- Articles 14 and 22(1) also make it obligatory for the State to ensure equality before the law and a legal system which promotes justice on a basis of equal opportunity to all.

INDIAN POLITY**Special Courts for Trial against Legislators**

Recently, a three-judge Bench of the Supreme Court has said that the setting up special courts to expeditiously try sitting and former MPs and MLAs accused of various crimes is in public interest and will enhance faith in judiciary.

The Bench was considering a report filed by a committee of the Madras High Court that raised reservations over the setting up of special courts to exclusively try legislators for various offences.

Key Points**Background:**

- In 2017, the Supreme Court had ordered that special courts be set up across the country to fast-track the long-pending trials of lawmakers.
- Following this, 12 special courts were set up across 11 States exclusively to try sitting MPs and MLAs.
- The special court in each State has jurisdiction over the entire State while the two in Delhi cover cases within the precincts of Delhi or "partly Delhi".

- In September 2020, SC-appointed amicus curiae (friend of the court), in his two reports, highlighted that despite the best efforts by the court to constitute special courts for trying cases against legislators, close to 4,442 criminal cases involving 2,556 sitting members of Parliament (MP) and members of legislative assemblies (MLAs) are pending. Reasons for delayed trial:
- Stays granted by various high courts,
- Insufficient special courts to exclusively try cases against MPs/MLAs,
- Shortage of prosecutors and latches in prosecution,

Delayed investigation.

- Considering the reports, the SC passed an order that criminal trials involving elected representatives will be monitored by a special bench of each high court and in cases where a trial has been stayed, the special bench will hear and decide on continuing or cancelling the stay, preferably within two months.
- Expediting cases against legislators is required not only because of the rising wave of criminalization that is occurring in the politics in the country, but also due to the power that elected representatives wield to influence or hamper effective prosecution.
- Reservation of the Committee of the Madras High Court: It has questioned the constitutional validity of setting up Special Courts to exclusively try MPs and MLAs for various crimes.
- Special Courts can only be constituted by a statute and not by executive or judiciary.
- The Special Courts should be “offence-centric” and not “offender-centric.”
- For example, an MP/MLA, who commits an offence under the POCSO Act can only be tried by a Special Court created under the POCSO Act and there cannot be another Special Court exclusively for trial of an MP/MLA, who commits POCSO offence.
- Further, it questioned how one Special Court could cover the cases across all districts of a State. Witnesses may face travelling and other issues.
- It also referred to how cases are filed and withdrawn in a State when a government gets changed in that State.

Criminalization of Politics

- Reasons: Criminalization of politics in India includes political control of the police, state money, corruption, weak laws, lack of ethics, values, vote bank politics and loopholes in the function of the election commission.
- Data Analysis: According to the Association of Democratic Reforms (ADR), nearly half of the newly-elected Lok Sabha members (2019) have criminal charges against them, a 26% increase as compared to 2014.

Legal Provisions:

- Section 8 of the Representation of the People Act, 1951, bans convicted politicians (for certain offences) from contesting. However, those facing trial, no matter how serious the charges, are free to contest.
- According to Article 102 (1) of the Constitution, Parliament is obliged to make a law on the matter.

Related Orders by the Supreme Court:

- In February 2020, the Supreme Court ordered political parties to publish the entire criminal history of their candidates for Assembly and Lok Sabha elections along with the reasons that goaded them to field suspected criminals over decent people.

View of the Election Commission:

- The EC had supported the plea seeking life ban on politicians convicted in criminal cases.
- The EC proposal to bar candidates accused of an offence punishable with at least five years of imprisonment from contesting elections, after charges are framed against them by a court, has been opposed by many parties.
- The opposition is based on two grounds: ruling politicians will misuse this against the Opposition; and the law of the land assumes everyone to be innocent till proven guilty or convicted.

Way Forward

- As politics dominates the bureaucracy, and reins in business, civil society and the media, the country needs governance that is free of the “criminal” virus.
- Ensuring prosecution with public pressure may help. If one political leader is hauled up for giving tickets to large numbers of tainted candidates, something positive may happen.

- Further, there is a need to strengthen the Election Commission, EC can register a political party but cannot deregister it. Regulating the affairs of a political party is essential for a cleaner electoral process.

INTERNATIONAL AFFAIRS

India-UAE Meet on Investments

Recently, the eighth meeting of the India-UAE High-Level Joint Task Force on Investments has been virtually hosted by India in the wake of the ongoing pandemic.



Key Points

- The Joint Task Force was created in 2012 as a crucial forum for further deepening the economic ties between the UAE and India.
- The mechanism has assumed greater importance as the two countries signed the Comprehensive Strategic Partnership (CSP) Agreement in January 2017 and the Joint Task Force is an integral component of it.
- The focus areas underlined in the CSP were economy with emphasis on a two-way flow of investments, counter-terror cooperation and defence ties.
- India has signed CSPs with the UK, Indonesia, Vietnam and Australia.
- At the meeting, both sides reviewed the existing UAE Plus and the Fast Track Mechanism created in 2018.
- UAE Plus is a special and dedicated desk constituted under Invest India with Arabic speaking officials to help facilitate investments.
- The Fast Track Mechanism aims to resolve any challenges experienced by UAE investors in India.

Scope of Improvement:

- Explore ways to facilitate investments in key Indian and UAE sectors with potential for economic growth, and to maintain their dialogue and further build on the considerable achievements of the Joint Task Force.
- Encourage investment and cooperation in areas of mutual interest with the purpose to stimulate economic activities in the post-Covid-19 times.
- Address specific barriers to trade, like anti-dumping duties, tariffs and regulatory restrictions between the two countries with an aim to further strengthen the trade and economic ties and to coordinate efforts and promote mutual cooperation.
- Continue the work between respective civil aviation authorities to ensure speedy normalisation of air transport operations for their mutual benefit.
- Development and operation of UAE-based funds to invest in India, in the light of the Foreign Portfolio Investor Regulations 2019 by the Securities and Exchange Board of India (SEBI).
- India agreed to look into these issues with the objective of facilitating further direct investments of UAE-based funds and seeking mutually beneficial solutions in that regard.
- Focus on opportunities for cooperation and potential investments in key sectors in India including the healthcare and pharmaceutical industry, mobility and logistics, food and agriculture, energy and utilities and others.

India-UAE Relations

- India and the United Arab Emirates (UAE) enjoy strong bonds of friendship based on age-old cultural, religious and economic ties between the two nations.

- The relationship flourished after the accession of H.H. Sheikh Zayed Bin Sultan Al Nahyan as the Ruler of Abu Dhabi in 1966 and subsequently with the creation of the UAE Federation in 1971.
- Political Relations:
- In August 2019, UAE awarded ZAYED Medal, their highest civilian award, to the Prime Minister of India for consolidating the long-standing friendship and joint strategic cooperation between the two nations.
- Indian Prime Minister's visit to the UAE in August 2015 marked the beginning of a new and comprehensive and strategic partnership.
- The Crown Prince of Abu Dhabi visited India in February 2016 and had wide-ranging discussions on bilateral, regional and multilateral issues of mutual interest.

Commercial Relations:

- India-UAE trade was around USD 59 billion making UAE, India's third-largest trading partner for the year 2019-20 after China and the USA.
- The UAE is the second-largest export destination of India with an amount of over USD 29 billion for the year 2019-20.
- For the UAE, India is the second-largest trading partner for the year 2019 with an amount of around USD 41.43 billion for non-oil trade.
- India's Major Exports: Food items, Machinery, Gems and Jewellery, Textiles, Engineering and Machinery Products, Chemicals, etc.
- India's Major Import: Crude Oil, Petroleum and Petroleum Products, Precious Metals, Minerals, Chemicals, Wood and Wood Products.

Cultural Relations:

- The two nations share historical ties and have maintained regular cultural exchanges both at official and popular levels.
- They signed a Cultural Agreement in 1975 and the embassies continue to organise various cultural activities on their own as well as by collaborating with other cultural organisations.

Indian Community:

- The UAE is home to the Indian expatriate community of more than 2.6 million, the largest expatriate community in the UAE, which has played a major role in the economic development of the UAE.
- Recently, India has asked the members of the Gulf Cooperation Council (GCC) which also includes UAE, to facilitate the return of Indians who want to resume work with the relaxing of Covid-19-related restrictions.

Recent Developmental Events in the UAE

- In March 2019, the 46th session of the Council of Foreign Ministers of the Organisation of Islamic Cooperation (OIC), was held in Abu Dhabi where India was invited as a guest of honour.
- The UAE hosted the event and had strongly defended the decision to invite India despite Pakistan's strong objection and threat to boycott the event.
- In February 2020, the UAE issued an operating licence for the Arab world's first nuclear power plant, paving the way for it to start production in 2020.
- UAE Mars Mission: In July 2020, the UAE launched a Mars probe named Amal (Hope) from Japan, marking the Arab world's first interplanetary mission.
- In September 2020, the UAE signed the Abraham Accord with Israel and Bahrain, which is the first Arab-Israeli peace deal in 26 years.

IMPORTANT FACTS FOR PRELIM

Luhri Stage-I Hydro Electric Project

Recently, the Cabinet Committee on Economic Affairs has approved the investment for 210 MW Luhri Stage-I Hydro Electric Project.

It is located on **River Satluj** in Shimla and Kullu districts of **Himachal Pradesh**.

Key Points

- It is being implemented by Satluj Jal Vidyut Nigam Limited (SJVN) on Build-Own-Operate-Maintain (BOOM) basis with active support from Government of India and the State Government.
- Government of India is providing grants of Rs. 66.19 crore for enabling infrastructure.
- SJVN has envisaged Internal Growth Targets of total installed capacity from all sources of 5000 MW by 2023, 12000 MW by 2030 and 25000 MW by the year 2040.

Significance:

- This project will generate 758.20 million units of electricity annually, which will help in providing grid stability and improve the power supply position.
- Besides adding valuable renewable energy to the grid, the project would also lead to a reduction of 6.1 lakh tons of carbon dioxide from the environment annually, thus contributing to an improvement in air quality and less air pollution.
- The construction activities will result in direct and indirect employment and will contribute to the overall socio-economic development of the State.
- Himachal Pradesh will benefit with free power worth around Rs. 1140 crore, during the Project Life Cycle of 40 years.
- The project affected families will be provided with 100 units of free electricity per month for ten years.

DAILY ANSWER WRITING PRACTICE

Qns. The Jurisdiction of the Supreme court under Article 142 supersedes the executive and the legislature. Discuss (150 words)

Ans.

Article 142 of Constitution of India deals with Enforcement of decrees and orders of the Supreme Court. It states that the Apex Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing "complete justice" in any case pending before it.

Such orders of the Supreme Court are enforceable throughout the territory of India as prescribed by any law made by Parliament or order of the President of India.

Article 142 enables superseding the executive and the legislative

- From Article 142, the Supreme Court derives overarching powers to perform the functions of Executive and legislative in order to bring about complete justice.
- In this pursuit, Article 142 is supplemented by the Articles 32 (Right to constitutional remedies), Article 141 (The law declared by the Supreme Court shall be binding on all courts within the territory of India) and Article 136 (Special Leave petition).
- This is often termed as judicial activism. To do "complete justice" it has often overridden the laws made by Parliament such as in the following cases.
- Union Carbide Case: In 1989, the Supreme Court invoked Article 142 to provide relief awarding the compensation of to victims affected in the Bhopal Gas Tragedy.
- Coal Block Allocation Case: In 2014, the Supreme Court used the said provision of the constitution to cancel the allocation of coal blocks granted from 1993 onwards who were guilty of wrongdoing and imposed a penalty on coal mined illegally.
- Ban on liquor sale on highways case: In 2016, under Article 142 the apex court banned the sale of alcohol within a stipulated distance of 500 metres from the outer edge of the highway. Such a decision was taken to avoid accidents due to drink and drive.

Merits of Article 142

- Judiciary has used the powers under 142 for upholding citizens' rights and implementing constitutional principles when the executive and legislature fails to do so.
- As the guardian of the constitution Article 142 provides its power to fill the statutory vacuum.
- It also sets out a system of check and balance and controls to the other branches of the government. For example:
- In Vishakha v State of Rajasthan case, Supreme Court laid down the guidelines to protect a woman from sexual harassment at its workplace
- Bandhua Mukti Morcha Case the Hon'ble Court gave its landmark judgment on bonded labour system of India
- In Olga Tellis Case where Right to livelihood was declared part and parcel of the right to life.

Demerits Of Article 142

- Unaccountability: One of the demerits of the powers of the Supreme Court under Article 142, is that unlike the executive and legislature, it cannot be held accountable for its decisions.
- For example in one of the verdicts, the apex court banned e-rickshaws in certain parts of delhi without making provisions for alternative employment. However, it cannot be held accountable for violating the fundamental right to to carry on any occupation or trade.
- In the coal block allocation case, The Supreme Court did not hear individuals and their particular facts, but only their associations were heard.

- Judicial under-reach: The problem of judicial under-reach arises where courts shirk its responsibilities, despite having the jurisdiction, resulting in injustice.
- Like majority of the petitions/appeals filed before the Supreme Court under Article 136 of the Constitution of India are dismissed, but its judges are not liable to explain the reasons for such dismissal.
- Repeated interventions of courts can diminish the faith of the people in the integrity, quality, and efficiency of the government.

Conclusion

- Thus, there is a need to strike a balance between three pillars of government without encroaching on each other's area. The powers under Article 142 being curative in nature cannot be construed as powers which authorise the court to assume the role of executive or legislature.
- In the Bar association of Supreme court vs. The Union of India Case Supreme Court itself held that the power to do complete justice under Article 142 is in a way, corrective power, which gives preference to equity over law but it cannot be used to violate substantial rights.

DAILY QUIZ

1. With reference to Luhri Stage-I Hydro Electric Project, consider the following statements:

1. It is being constructed on the Ravi river.
2. It is being implemented on a Build-Own-Operate-Maintain basis.

Which of the statements given above is/are correct?

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

2. With reference to Pinaka Mark (Mk) -1 Missile, consider the following statements:

1. The missile was first used successfully in the Indo-Pak war of 1971.
2. The enhanced version of Pinaka Mk-1 has been designed recently by the Armament Research and Development Establishment (ARDE), Pune.

Which of the statements given above is/are not correct?

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

3. Saffir-Simpson Scale remains in the news. It is used to measure?

- a) Amplitude of Tsunami waves
- b) Wind speed of Hurricanes**
- c) Intensity of Earthquake in Polar region
- d) Solar intensity for establishing solar PV cells

4. With reference to Leishmaniasis, consider the following statements:

1. It is transmitted through the bite of sand flies.
2. Kala Azar is one of its types prevalent in India.

Which of the statements given above is/are correct?

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

5. With reference to Tele-Law, consider the following statements:

1. It is launched by the Ministry of Law and Justice.
2. It is a service that uses ICT for access to courts.
3. It seeks to further implement Article 39 A of Indian Constitution.

Which of the statements given above is/are correct?

- a) 3 only
- b) 2 and 3 only
- c) 1 and 3 only**
- d) 1, 2 and 3