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Daily News Juice



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COP27: How will UN climate deal on loss and damage work?

Relevance: Prelims & GS Mains III; Environment

History

- In the **early 1990s**, the **Alliance of Small Island States**, a group of low-lying coastal and small island countries, **began calling for the establishment of a loss and damage fund** as the United Nations was creating a framework to deal with climate change on an international level.
- Since then, the idea has always been a **part of annual U.N. climate summits**.
- However, it was **often talked about on the margins of negotiations**. For the **first time**, at this year's **COP27**, it was **included in the agenda and became the centerpiece of discussions**.

Who will fund it?

- The fund will initially draw on **contributions from developed countries and other private and public sources**, such as international financial institutions, with an option for other major economies to join down the line.
- **More details of who pays will be decided by a committee that plans to get the fund going within a year**.

Who will get the money?

- The deal says the fund will **assist “developing countries** that are particularly vulnerable to the adverse effects of climate change,” though there will be **room for middle-income countries that are severely affected** by climate disasters to also get paid.
- **Pakistan, which was devastated by flooding that put a third of the country underwater, or Cuba, recently battered by Hurricane Ian, could be eligible.**
- The loss and damage fund will also fit in with **“other institutions, agencies that are out there doing humanitarian work, helping people rebuild, dealing with migration and refugee crises, dealing with food security, water security”**.
- Those **details will also be decided out** by the committee in the coming year.

Need for Rebuilding trust

- Beyond just financial help, setting up the fund is seen as a huge step forward, but how it’s ultimately viewed will depend in part on how fast it can be set up.
- There is a **credibility gap** because of past broken promises. In **2009, rich nations agreed to provide \$100 billion a year to help developing countries transition to green energy systems and adapt to climate change.** However, to date, that initiative has **never been fully funded.**

Repercussions

- One of the main reasons that **rich nations long opposed such a loss and damage fund** was the fear that it would open them up to **long-term liability**.
- Despite passage, that concern is very much still at play, as evidenced by how negotiators made sure the language of the fund **didn't say "liability"** and that **contributions were voluntary**.
- Despite those caveats, the establishment of such a fund could have repercussions, both legal and symbolic, in climate circles and beyond. For example, **several Pacific Island nations have been pushing for the International Court of Justice to consider climate change**.
- They **argue that international laws must be strengthened to protect their rights in the case that their lands are engulfed by rising seas**. The establishment of a loss and damage fund could bolster those arguments.

New data protection Bill

Relevance: Prelims & GS Mains II; Governance



Why in news?

- The latest draft of the data protection law — the **Digital Personal Data Protection Bill, 2022 (DPDP Bill, 2022)** — has now been made **open for public comments** and the government is expected to introduce the Bill in Parliament in the budget session of 2023.

Fourth Draft Bill

- This is the **fourth iteration** of a data protection law in India. The **first draft of the law** — the **Personal Data Protection Bill, 2018**, was proposed by the Justice Srikrishna Committee.
- The **government made revisions to this draft and introduced it as the Personal Data Protection Bill, 2019 (PDP Bill, 2019)** in the Lok Sabha in 2019.
- The Lok Sabha passed a motion to refer the PDP Bill, 2019 to a **joint committee** of both the Houses of Parliament. Due to delays caused by the pandemic, JPC **submitted its report on the Bill after two years in December, 2021**.
- The report was accompanied by a **new draft bill**, namely, the Data Protection Bill, 2021 that incorporated the recommendations of the JPC.
- However, in August 2022, citing the report of the JPC and the “**extensive changes**” that the JPC had made to the 2019 Bill, the **government withdrew the PDP Bill**.

Need of bill

- The current legal framework for privacy enshrined in the Information Technology Rules, 2011 (IT Rules, 2011) is wholly inadequate to combat such harms to data principals, especially since the **right to informational privacy has been upheld as a fundamental right by the Supreme Court (K.S. Puttaswamy vs Union of India [2017])**.

Scope of the bill

- The DPDP Bill, 2022 **applies to all processing of personal data that is carried out digitally**. This would include both personal data **collected online** and personal data **collected offline** but is digitised for processing. In effect, it is **completely inapplicable to data processed manually**.
- Furthermore, as far as the territorial application of the law is concerned, the **Bill covers processing of personal data which is collected by data fiduciaries within the territory of India** and which is processed to offer goods and services within India.
- The current phrasing seems to **exclude data processing by Indian data fiduciaries** that collect and process personal data outside India, **of data principals who are not located in India**.
- This position further seems to be emphasised with the DPDP Bill, 2022 exempting application of most of its protections to personal data processing of non-residents of India by data fiduciaries in India.

Protection expected

- The bulwark of most data protection legislations consists of **allowing maximum control to the data principal** over their personal data.
- This happens by mandating a **comprehensive notice to the data principal on different aspects of data processing** based on which the data principal can provide **explicit consent** to such processing.
- While **limited circumstances for non-consent based processing** of personal data exists, it **still gives the data principal the right to access, correct, delete etc their data.**
- Concomitantly, the data fiduciary has data minimization obligations:
 - Collect only such personal data as is required to fulfil the purpose of processing (**collection limitation**);
 - Process it only for the purposes stated and no more (**purpose limitation**)
 - Retain it in its servers only for so long as is required to fulfil the stated purpose (**storage limitation**).

Issues with Current draft

- The current draft **removes explicit reference to certain data protection principles such as collection limitation.**
- **Making collection solely contingent on consent**, ignores the fact that data principals often do not have the requisite know-how of what kind of personal data is relevant for a particular purpose.
- Depending on the increased potential of harm that can result from unlawful processing of certain categories of personal data, most data protection legislations **classify these categories as “sensitive personal data”**. By doing away with this distinction, the DPDP Bill, 2022 does away with these additional protections.
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Network Readiness Index 2022

Relevance: Prelims



India's Performance

- India has improved its position by six slots and is now placed at **61st rank as per the Network Readiness Index 2022** (NRI 2022) report released recently.
- India has not only improved its ranking, but also improved its **score from 49.74 in 2021 to 51.19 in 2022.**
- NRI-2022 report states that India has a greater network readiness than would be expected given its income level. India is ranked **3rd out of 36 in the group of lower-middle-income countries** after Ukraine (50) and Indonesia (59).

About the Index

- In its latest version of 2022, the NRI Report maps the **network-based readiness landscape of 131 economies** based on their performances in **four different pillars: Technology, People, Governance, and Impact** covering a total of **58 variables.**
- The report has been prepared by the **Portulans Institute, an independent non-profit, nonpartisan research and educational institute based in Washington DC.**