

The Bihar government's caste-count

(GS Paper 2, Social Justice)

Why in news?

- Recently, Bihar Cabinet approved a proposal to carry out a caste-based 'count' in the State.
- The State would spend its own resources for the exercise.
- The Union Government had, earlier, snubbed the Bihar government's request for a caste census on the grounds that it would be a "divisive exercise".

Why do all political parties support it in Bihar?

- Almost all political parties in Bihar identify themselves with a particular caste, sub-caste or community for representation, and leaders cannot afford to take their political identity out of that caste or group.
- The objective behind this demand is to **bring out the recent changes in caste groups and how resources may be best shared.**
- The data will help the State government understand the exact population of various caste groups and **assess the socio-economic development in every group**, and the welfare schemes needed for their benefit.

Why Union Government is against a caste census? What about the State unit?

- The Union Government has categorically **ruled out conducting a Socio-Economic Caste Census (SECC)**, stating that a caste census (except that for Scheduled Castes and Scheduled Tribes done traditionally) is **unfeasible, "administratively difficult and cumbersome."**
- In the case of Bihar, the BJP's central leaders feel that the demand for a caste census in the State is an **attempt to revive Mandal politics** by identifying castes and sub-castes and their present status for electoral benefits.
- For the party, the upper castes, which according to a rough estimate comprise 14% of the population, largely constitute its vote bank, and it fears that if there is a caste census the number of other castes, sub-castes and communities will be known and other parties who claim to represent different subsets of castes might unite against them politically and electorally..
- The Bihar legislature, earlier, in 2019 and 2020, had passed a resolution for a caste-based census in the State.
- After recent Cabinet meeting, the Bihar state government said there would be a 'ganana' or count, and refrained from calling it a census.

Benefit of Caste Count

Proper implementation of Social equality programmes and welfare measures	A count of every category of citizens is necessary so that they can get the benefit of all welfare measures.	In the absence of such data, there is no proper estimate for the population of OBC and EBC	A caste-based count goes a long way in bringing a measure of objectivity to the debate on reservations
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Have such exercises happened in other States?

- The Tamil Nadu government has appointed a commission to formulate a methodology to collect caste-wise particulars of its population and use that to come up with a report.
- States like Karnataka, Odisha and Telangana have carried out caste counts, calling it a "socio-economic survey".

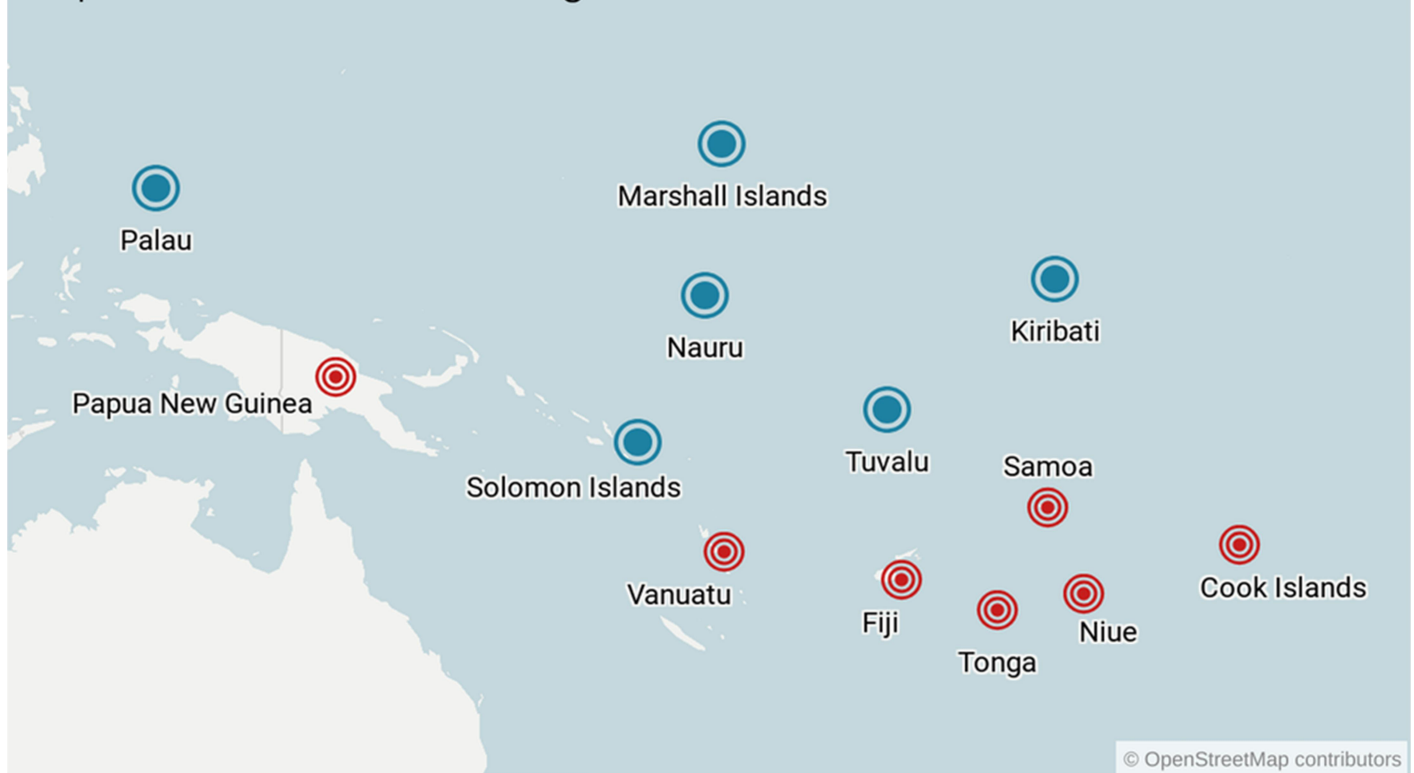
China's growing footprint in the Pacific Islands (GS Paper 2, Global Groupings & Agreements)

Why in news?

- Wang Yi, the Foreign Minister of China, is currently on an eight-day visit to **ten Pacific Island Countries (PICs)**, and has co-hosted with Fiji **the Second China-Pacific Island Countries Foreign Ministers Meeting** recently.

China's friends and relations in the Pacific

Seven Pacific Island nations officially recognise the People's Republic of China. Six recognise Taiwan.



🎯 Recognises the People's Republic of China

🟦 Recognises Taiwan (the Republic of China)

Why it matters?

- During the meeting, China's effort to push through a comprehensive framework deal, failed to gain consensus among the PICs.
- Though this has **raised regional concerns about China's growing footprint** in the Pacific islands, it has also been seen as a **demonstration of China's limitations** in the region.

About Pacific Island Countries:

- The Pacific Island Countries are a **cluster of 14 states** which are **located largely in the tropical zone of the Pacific Ocean** between Asia, Australia and the Americas.
- They include Cook Islands, Fiji, Kiribati, Republic of Marshall Islands, Federated States of Micronesia (FSM), Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

- The islands are divided on the basis of physical and human geography into three distinct parts — **Micronesia, Melanesia and Polynesia**.

What is the strategic significance of the PICs?

Economic potential:

- The islands are very small in land area, and are spread wide across the vast equatorial swathe of the Pacific Ocean. As a result, though they are some of the smallest and least populated states, they have **some of the largest Exclusive Economic Zones (EEZs)** in the world.
- Large EEZs translate into huge economic potential due to the possibility of utilising the wealth of fisheries, energy, minerals and other marine resources present in such zones. Hence, they prefer to be identified as **Big Ocean States**, rather than Small Island States.
- In fact, Kiribati and FSM, both PICs, having EEZs larger than that of India.

Strategic capabilities:

- Moreover, these countries have played an important role in major power rivalry as springboards for power projection and laboratories for developing and demonstrating strategic capabilities.
- The major powers of the colonial era competed with each other to gain control over these strategic territories.
- The Pacific islands also acted as one of the **major theatres of conflict during the Second World War**, between imperial Japan and the U.S. Due to the remoteness of these islands from the Soviet Union and major population centres of the world, some of the major nuclear weapon test sites of the U.S., the U.K. and France were located here.
- In addition, the 14 PICs, bound together by **shared economic and security concerns**, account for as many number of votes in the United Nations, and act as a potential vote bank for major powers to mobilise international opinion.

What does China seek to achieve from the PICs and how?

- China does not have any particular historical linkages to the PICs unlike the Western powers. Therefore, its interest in the PICs is of relatively recent origin, and is linked to China's rise in the past few decades.
- The PICs **lie in the natural line of expansion of China's maritime interest** and naval power. They are **located beyond China's 'First Island Chain'**, which represents the country's first threshold of maritime expansion.
- The PICs are **located geostrategically** in what is referred to by China as its 'Far Seas', the control of which **will make China an effective Blue Water capable Navy**, an essential prerequisite for becoming a superpower.
- At a time when the Quadrilateral Security Dialogue has emerged as a major force in the Indo-Pacific vis-à-vis China, the need to influence the PICs have become an even more pressing matter for China.

Taiwan factor:

- Apart from the vast marine richness of the PICs, the **Taiwan factor plays a major role in China's Pacific calculus**. China, which considers Taiwan to be a breakaway territory, is preparing for what seems like an inevitable military invasion.
- In this context, it becomes important to break Western domination of island chains of the Pacific which could impede reunification. Wooing the PICs away from the West and Taiwan will therefore make the goal of Taiwan's reunification easier for China.
- It has to be noted here that a zero-sum game has been underway in the past few decades in the Pacific between China and Taiwan in terms of gaining diplomatic recognition.
- China has been successful in getting diplomatic recognition from 10 out of the 14 PICs through its economic largesse. **Only four PICs — Tuvalu, Palau, Marshall Islands and Nauru, currently recognise Taiwan.**

What are the implications of China's latest move?

- China has increasingly started talking **about security cooperation in addition to its economic diplomacy** towards the PICs.
- In April 2022, China signed a **controversial security deal with the Solomon Islands**, which raised regional concerns.

- Prior to the current visit of Wang Yi, two draft documents prepared by the Chinese side were leaked, and gained the attention of regional leaders in the Pacific as well as the larger international community.
- One of the documents is the “**China-Pacific Island Countries (PICs) Common Development Vision**”, and the other is “**China-Pacific Islands Five-Year Action Plan on Common Development (2022-2026)**”. The vision gives a broad proposal about co-operation in the political, security, economic and strategic areas, whereas the action plan outlines the more specific details of co-operation in the identified areas. The secrecy surrounding the draft, and the haste with which it was discussed with the governments of the PICs during the meeting sent worrying signals across the Pacific.
- The PICs as a collective did not agree to China’s extensive and ambitious proposals, and therefore China failed to get a consensus on the deal.

Caution by consensus among the PICs:

- In fact, the Prime Minister of FSM had sent a letter to all the PIC governments prior to the meeting, to consider China’s proposals with caution, as they could have negative implications for the sovereignty and unity of PICs and may drag them into major power conflicts in the future.
- Some have argued that China has acted too boldly and has therefore met with such a debacle. China might have also miscalculated the regional reaction, perhaps led by a monolithic understanding of the PICs after seeing Solomon Islands’ positive response earlier this year.
- However, China can always come back with improvised plan which is more acceptable and use it to further pursue its final objectives incrementally. Moreover, this debacle does not stop China from pursuing bilateral deals of similar nature.

What it translates for U.S. and Australia?

- The intensification of China’s diplomacy towards the Pacific Islands have made the powers who have traditionally controlled the regional dynamics like the U.S. and Australia more cautious.
- The U.S. has started revisiting its diplomatic priority for the region ever since the China-Solomon Islands deal.
- The role played by the U.S. in mobilising opposition against China’s proposed deal could not be ruled out as FSM is the only country which recognises China and at the same time is part of the Compact of Free Association with the U.S.
- Australia, in the meanwhile, has sent its new Foreign Secretary to the islands for revitalising ties, with promises of due priority and assistance to the PICs.

Way Forward:

- Chinese Foreign Minister may leave the Pacific humbled at the end of his visit, but with more insights; the Western powers may have been relieved, but may have turned more vigilant; and the PICs may have become more united than ever before.

Social media: Appeal panels may be set up for grievances

(GS Paper 2, Regulatory Bodies)

Why in news?

- The **Ministry of Electronics and Information Technology (MeitY)** has **proposed the setting up of government-appointed appellate committees** that will be **empowered to review and possibly reverse content moderation decisions taken by social media** companies like Facebook, Twitter and YouTube.

Background:

- In a draft of proposed amendments to the **Information Technology Rules 2021 (IT Rules)**, the MeitY said that the Central Government **shall constitute one or more Grievance Appellate Committees**, which shall **consist of a Chairperson and such other Members**, as the Central Government may, by notification in the Official Gazette, appoint”.

Grievance officer under IT Rules 2021:

- Under the IT Rules, released in February 2021, **social media companies** like Facebook and Twitter are **mandated to appoint India-based resident grievance officers** as part of their due diligence as ‘intermediaries’ who enjoy legal immunity from third-party content on their platform.
- These officers are responsible for overseeing the grievance redressal mechanism of complaints from the people who use their services.
- This means that if a user has an issue with an account or a piece of content on a social media platform, they can complain about it to the company’s grievance officer who will have to act and dispose of that complaint within 15 days.
- It suggests that in case a user is not satisfied with the content moderation decision taken by a company’s grievance officer, they can appeal that decision before the proposed government-appointed appeals committee.
- Every order passed by the Grievance Appellate Committee shall be complied with by the concerned intermediary.



Composition of GAC:

- The Grievance Appellate Committee is set up to provide an alternative to a user to file an appeal against the decision of the Grievance Officer rather than directly going to the court of law. However, the user has the right to seek judicial remedy at any time.
- The Ministry has not specified the composition of the committee and if it will consist of only people from the government or also include former judges and people from the industry. The committee will have 30 days to act on a user’s appeal.

What is the current remedial measure available?

- Currently, the only remedial measure a user has if they feel a content decision by a company is unfair is to approach the courts.

Criticism of the move:

- The proposal has invited criticism from civil society.
- The Delhi-based digital rights group Internet Freedom Foundation said that the proposal, without any legislative basis, seeks to subject content on social media to the direct scrutiny of the Government by permitting users to appeal decisions of social media platforms to a Grievance Appellate Committee constituted by MeitY.

- The draft also proposes to place additional responsibilities on grievance officers. It suggests that if a user complains about content which is “patently false”, infringes copyright, and threatens the integrity of India, among other things, a grievance officer will have to expeditiously address it within 72 hours.
- Current rules require these officers to address all content-related complaints within 15 days.

Issue with WhatsApp:

- The IT Rules, since implementation in May 2021, have run into several legal troubles. In 2021, WhatsApp filed a lawsuit against a particular provision in the rules which requires encrypted messaging platforms to trace the identity of the originator of a message.
- In its lawsuit, the company said that implementing the provision would dilute its encryption security and present a privacy-risk to users’ personal conversations.

What’s next?

- The proposal has triggered concerns about the government overriding social media companies’ content decisions. Incidentally, the draft amendments were uploaded to the MeitY’s website but were subsequently taken down.

GST Council must uphold fiscal federalism

(GS Paper 3, Indian Economy)

Why in news?

- The recent ruling of the Supreme Court on the **nature of recommendations made by the GST Council** has **attracted widespread comments** because of the important observations made on Indian federalism, especially on it being a dialogue between cooperative and uncooperative federalism.
- The states, the court held, were free to use means of persuasion ranging from collaboration to contestation.



What was the case before the Supreme Court?

- The **Gujarat High Court had quashed the two notifications that levied IGST (Integrated GST) on the ocean freight component in a CIF (cost, insurance and freight) contract**. Briefly, the High Court held that these notifications were unconstitutional and amounted to double taxation.
- The Supreme Court, in appeal, had to merely consider the correctness of this judgment. The constitutional status of the GST Council and issues relating to fiscal, collaborative, and cooperative federalism were never raised before the high court.

- However, before the Supreme Court, the Union of India made far-reaching submissions that led to this landmark ruling on federalism in general, and fiscal federalism in particular.

GST Council as decision-making body for framing GST laws:

- **Article 246A confers simultaneous or concurrent powers on Parliament and the state legislatures** to make laws relating to GST. This article is in sharp contrast to the constitutional scheme that prevailed till 2017.
- It clearly demarcated taxing powers between the Centre and states with no overlaps. After 2017, several central and state levies were subsumed into GST. Each state was to have its own GST Act, all of them being almost identical to the Central GST Act. Inter-state supplies and imported goods are liable to IGST.
- **Under Article 279A**, the GST Council has to make “recommendations” on various topics including the tax rate and exemptions.

Centre’s argument:

- The Union of India argued that the “constitutional architecture” showed **that Articles 246A and 279A, when read together, made the GST Council the ultimate policy-making** and decision-making body for framing GST laws.
- The GST Council was unique and incomparable to any other constitutional body and its recommendations would override the legislative power of Parliament and state legislatures; neither of them could legislate on GST issues independent of the recommendations of the GST Council.
- On a combined reading of Article 279A, the provisions of the IGST and CGST Acts and the recommendations of the GST Council were transformed into legislation. In simple terms, a recommendation of the GST Council was law and binding on Parliament and state legislatures.

Judgement of Supreme Court on powers of GST Council:

- The Supreme Court ruled that a **draft Article 279B, which provided for a GST Disputes Settlement Authority, was omitted** because it would have effectively overridden the sovereignty of Parliament and the state legislatures, and diminished the fiscal autonomy of the states.
- Democracy and federalism are interdependent for their survival. If the states had been conferred less power, they could still resist the mandate of the Union by using different forms of political contestation as permitted by constitutional design. Such contestation is valuable as part of “uncooperative federalism”.
- Putting to rest any controversy, the court held that the **recommendations of the GST Council had only a persuasive value**. To regard them as binding edicts would disrupt fiscal federalism because both the Union and states were conferred equal power to legislate on GST.

Voting in GST Council:

- The GST Council has the Union finance minister as the chairperson and the Union minister of state in charge of revenue or finance as a member.
- While these two ministers from the Centre have one-third voting power, 31 states (including two Union Territories) share the remaining two-thirds of the vote. Thus, the GST Council has a total of 33 members. Out of a total of 33 votes, 11 belong to the Centre and 22 votes are shared by 31 states/UT, with each state/UT having a 0.709 vote.
- Any decision of the GST Council requires a three-fourth majority or a minimum of 25 votes. As the Centre has 11 votes, it requires an additional 14 votes. As each state has a 0.709 vote, at least 20 states must also vote with the Centre in favour of the resolution. Now, each state has one vote regardless of its size.
- **Unlike so many statutes, Article 279A has made no provision to make the decision of the majority binding on the dissenting states.**

Why this voting pattern was adopted for GST Council?

- Paragraph 2.73 of the Select Committee Report on the 122nd Constitution (Amendment) Bill, 2014, noted that this voting pattern was to maintain a fine balance as, in a federal constitution, the dominance of one over the other was to be disallowed.
- But the Supreme Court rightly noted that several sections in the state GST laws, CGST and in IGST, cast a duty even on dissenting states to issue notifications to implement the recommendations of the GST Council.

- Thus, the Court held that the state governments and Parliament, while exercising their rule-making powers under the provisions of the State GST Acts, CGST & IGST Acts, are bound by the recommendations of the GST Council.
- But even **this did not mean that all recommendations of the GST Council are binding on state legislatures** or Parliament to enact primary pieces of legislation on GST. In effect, states can amend their GST laws if they so choose.

Way Forward:

- In the end, the attempt of the Union of India to make the GST Council's recommendations have an overarching and binding effect was unsuccessful. But the Supreme Court's decision ought to be a **wake-up call and deserves careful consideration**.
- The GST Council is founded on the bedrock of collaborative federalism. If the GST Council meets periodically as mandated and there is active participation of the states in making recommendations, no state will oppose a recommendation that has been carefully deliberated and is in the national interest.
- Indeed, there is little chance of cracks developing in the GST edifice as long as the spirit of cooperative and collaborative federalism prevails.