

The controversy around the Northern Ireland Protocol

(GS Paper 2, International Relation)

Why in news?

- Recently, the UK. Administration has come up with a new legislation, the Northern Ireland Protocol Bill, which would enable the U.K. to **override provisions of the Brexit deal** that concern trading arrangements in Northern Ireland, **the Northern Ireland Protocol (NIP)**.
- The European Union (EU) has said that the proposed law violates international law and has threatened to take legal action against the U.K. if it goes ahead with the legislation.

What is Northern Ireland Protocol (NIP)

Northern Ireland is the only part of the U.K. that shares a land border with the EU, as the Republic of Ireland (or Ireland) is an EU member-state. As long as the U.K. was part of the EU, things were fine. But with Brexit, the U.K. exited the EU's customs union.

This created a problem whose solution needed two seemingly contradictory outcomes: **preserving the sanctity of the EU's single market**, as well as that of the U.K.'s domestic market.

The NIP's solution was to avoid a customs check at the actual customs border, on the island of Ireland, between Northern Ireland and the Republic of Ireland as this would have violated the 1998 Good Friday Agreement and risked instability in a region with a volatile past.

It instead shifted the customs border to that between Northern Ireland and Britain, effectively at the former's ports.

As per the NIP, goods flowing into Northern Ireland would be checked at this 'sea border' before entering the island, and Northern Ireland would continue to follow EU rules in product standards.

Why did the U.K. come up with the Northern Ireland Protocol Bill?

- The Northern Ireland Protocol (NIP) has been a lingering issue for the U.K. almost from the day Brexit was signed. In fact, back in July 2021, the Boris Johnson administration announced its intent to renegotiate the NIP. But with efforts at negotiations not producing the results it wanted, it decided to proceed with a unilateral revamp of the NIP via domestic legislation.
- The main irritant for the U.K. in the current version of the NIP was the **creation of "unacceptable barriers" to trade within the U.K. internal market** between Great Britain and Northern Ireland. It has sparked complaints from businesses about the enormous paperwork needed for supply of goods and services to Northern Ireland despite it being within the sovereign territory of the U.K.
- Also, the **Unionists of Northern Ireland** (the section loyal to the U.K.) are unhappy with the NIP, and resent having to put up with a provision that effectively puts them at one remove from the U.K., when compared with citizens in other parts of the U.K. Northern Ireland's main unionist party is, in fact, blocking the formation of a new power-sharing government in Belfast, saying it won't take part until the NIP rules are scrapped.
- It is in this context that the Northern Ireland Protocol Bill seeks to empower the U.K. government to override key provisions of the NIP.

How does the proposed Bill undermine the NIP?

- Instead of subjecting all goods moving between Britain and Northern Ireland to customs checks, the **new Bills proposes two categories of goods and checks**: goods meant only for Northern Ireland would go in a 'green lane' and will be exempt from any checks, while goods headed for Ireland and the EU would go into a 'red lane' where they will be subjected to all the checks and customs controls.

- Secondly, the Bill would **remove EU oversight on state subsidies and value-added taxes** in Northern Ireland.
- Third, the Bill proposes **settlement of trade disputes and the enforcement of the NIP by an independent body** rather than the European Court of Justice.
- Lastly, the Bill wants to give businesses the choice of selling their goods in Northern Ireland either according to the U.K. rules or the EU rules, in effect, proposing a dual regulatory regime instead of the single (EU) one as per the NIP.

What has been the reaction to the proposed Bill?

- The Bill has triggered strong pushback from MPs belonging to Mr. Johnson's own party, from Irish legislators, and from EU officials.
- All of them have pointed out that the legislation would violate international law, damage the U.K.'s reputation as a trade partner, and spark a trade war with the EU.
- The EU's executive branch announced on June 15 that it would be taking legal action against the U.K. for violating international law.

How has the Johnson administration justified the Bill?

- The U.K. administration has sought to justify its breach of its obligations under the Brexit agreement by invoking a principle of international law known as the "doctrine of necessity".
- The UN's International Law Commission allows a state to invoke this doctrine when its "essential interests" are facing a "grave and imminent peril". The Johnson administration believes that this emergency loophole will enable it to defeat any legal challenge to its proposed Bill.
- The "grave peril" in this context, according to the British government, is the threat posed by the NIP to the Good Friday Agreement.

The fragile state of nuclear disarmament

(GS Paper 3, Defence)

Why in news?

- Recently, the Stockholm International Peace Research Institute (SIPRI) released its yearbook highlighting some worrying trends of the past year in international security.
- The expected rise of the global nuclear arsenal was the chief cause of concern among SIPRI experts.
- The comprehensive report claims that while absolute numbers of nuclear arsenal have reduced, they are expected to grow over the next decade.

What about global arms imports?

- All nuclear weapon owning states have, over the years, stated and worked upon their intention to **modernise multiple facets of their armed forces** ranging from the development of newer and more efficient nuclear submarines, aircraft carriers, fighter jets, manned and unmanned aerial vehicles to the growing spread of the use of missile defence systems which may result in aggravating security concerns for other countries.
- **India as being the top weapons importer during the 2017-2021 period.** Other countries to feature in the top five arms importers list include Saudi Arabia, Egypt, China, and Australia. According to SIPRI, these five nation states account for 38% of total global arms import.

What are the key developments/concerns flagged by the yearbook?

- It mentions low level border clashes between India and Pakistan, the civil war in Afghanistan, and the armed conflict in Myanmar as some of the worrying indicators of an unstable system.
- It also highlighted **three cause of concern trends**: Chinese-American rivalry, involvement of state and non-state actors in multiple conflicts, and the challenge that climatic and weather hazards pose. It is important to note here that the threat posed by climate change seems to feature in the report only nominally.
- The marginal downsizing observed in the nuclear arsenal has come mostly from the U.S. and Russia dismantling retired warheads. But the Russian invasion of Ukraine has raised some serious eyebrows because of the continuous rhetoric from the Kremlin over them not shying away from the use of nuclear weapons.

- China's recent activities surrounding construction of 300 new nuclear missile silos have also been turning heads.

Trends in Military Spending

During 2012-2021, military spending as a percentage of gross domestic product has largely been stable. If anything, the average worldwide trend has been slightly downward.

Russia leads the charge in absolute numbers of nuclear inventory, however it is the **U.S. that has the largest number of deployed warheads.**

The U.K. has 225 nuclear weapons in its inventory, while France has 290, China has 350, India has 160, Pakistan has 165. Israel is estimated to have 90 and North Korea 20.

It is concerning to see how global discourse has created a sense of fear around China's military modernisation and their upward trend in nuclear weapons development while the thousands of nuclear weapons held by the U.S. don't seem to attract a similar level of attention.

What is the general attitude among countries about existing nuclear and arms related treaties?

- Earlier in 2022, the leaders of the P5 countries (China, France, Russia, the U.K. and the U.S.) issued a joint statement affirming the belief that **“a nuclear war cannot be won and must never be fought”**.
- The joint statement also highlighted their seemingly collective belief that bilateral and multilateral arms control agreements and commitments were indeed important.
- The dichotomy of this sentiment against the upward trend in absolute numbers of arms and nuclear arsenals is rather unsettling.
- One could however claim that even with these upward trends, the nation states are making sure to remain well within the ambit of what the treaties and agreements ask for.
- The recent Russian invasion of Ukraine and the subsequent NATO bids by Finland and Sweden seem to be telling events.
- While the Ukrainian invasion saw Russian military and political establishments hype-up its nuclear attack rhetoric against Ukraine, its primary leadership (both civil and military) had been rather diplomatic and 'relatively' cordial in its treatment of the Finnish and Swedish NATO bids.
- The year 2021 also saw the Treaty on the Prohibition of Nuclear Weapons, 2017 coming into effect. The Nuclear Suppliers Group (NSG) and the Missile Technology Control Regimes (MTCR) held their annual meetings despite decision making being limited due to the COVID-19 pandemic.

What lies ahead?

- The recent geopolitical events transpiring around the world in practically all regions have made the global security climate more unstable.
- It is further aided by actions of authoritarian leaders of not just non-democratic systems but also of strongmen leaders of democratic systems.
- The muscular military policies of these nations coupled with the continuous use of rhetoric that fuel public sentiment over the state's use of military assets make ripe conditions for the situation to further deteriorate.
- A strong political opposition would be needed to help keep the ruling dispensation in check.
- Furthermore, the two largest nuclear weapons holding states need to take on a more engaging role in the international arena.

Hate speech, IPC Sec 295A, and how courts have read the law (GS Paper 2, Governance)

Context:

- The debate surrounding the comments on Prophet Mohammed have put the spotlight on the law that deals with criticism of or insult to religion.
- Provisions in the Indian Penal Code (IPC), primarily **Section 295A**, define the contours of free speech and its limitations with respect to offences relating to religion.
- India **does not have a formal legal framework for dealing with hate speech**.
- However, a cluster of provisions, loosely termed hate speech laws, are invoked. These are primarily laws to deal with offences against religions.



Section 295A & others:

- Section 295A defines and prescribes a punishment for deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- “Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with **imprisonment of either description for a term** which may extend to [three years], or with fine, or with both,” the IPC Section 295A.

IPC chapter to penalise religious offences:

- Section 295A is one of the key provisions in the IPC chapter to penalise religious offences.
- The chapter includes offences to penalise damage or defilement of a place of worship with intent to insult the religion (Section 295); trespassing in a place of sepulture (Section 297); uttering, words, etc, with deliberate intent to wound the religious feelings of any person (Section 298); and disturbing a religious assembly (Section 296).
- Section 295A has been invoked on a wide range of issues from penalising political satire and seeking bans on or withdrawal of books to even political critique on social media.
- The state **often invokes Section 295A along with Section 153A of the Indian Penal Code**, which penalises promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc, and doing acts prejudicial to maintenance of harmony and Section 505 of the IPC that punishes statements conducing to public mischief.

Section 66A of IT Act:

- In cases **where such speech is online, Section 66A of the Information Technology Act** that punishes sending offensive messages through communication services is added.
- In a landmark verdict in 2015, the Supreme Court struck down **Section 66A as unconstitutional** on the ground that the provision was “vague” and a “violation of free speech”. However, the provision continues to be invoked.

Criticism:

- The broad, vague terms in the laws are often invoked in its misuse. Lower conviction rates for these provisions indicate that the process, where a police officer can arrest without a warrant is often the punishment. Critics have pointed out that these laws are intended for the state to step in and restore “public order” rather than protect free speech.

Origins of the law:

- **Colonial origins of the hate speech provisions are often criticised for the assumption that Indians** were susceptible to religious excitement.
- In **First Indian Law Commission**, headed by T B Macaulay who drafted the Indian Penal Code, had written to the Governor General of India in 1835 that “there is perhaps no country in which the Government has so much to apprehend from religious excitement among the people.”

Section 295A was brought in 1927.

- The antecedents of Section 295A lie in the “communally charged atmosphere of North India in the 1920s”.
- The amendment was a fallout of an acquittal under Section 153A of the IPC by the Lahore High Court in 1927 in *Rajpaul v Emperor*, popularly known as the *Rangila Rasool case*.

Rangila Rasool case:

- Rangila Rasool was a tract that had made disparaging remarks about the Prophet’s private life.
- Cases against the first pamphlet, filed under Section 153A, were dismissed by the Punjab and Haryana High Court, which examined the question whether targeting religious figures is different from targeting religions.
- When a second, similar piece was published, it raised tensions. While the magistrate had convicted the publisher Rajpaul under Section 153A, the Lahore High Court held that a “scurrilous and foul attack” on a religious leader would prima facie fall under Section 153A although not every criticism.
- This debate in interpretation prompted the colonial government to enact Section 295A with a wider scope to address these issues.

Later cases:

- In 1957, the **constitutionality of Section 295A was challenged in *Ramji Lal Modi v State of Uttar Pradesh***.
- The Supreme Court upheld the law on the grounds that it was brought in to preserve “public order”. Public order is an exemption to the fundamental right to freedom of speech and expression and the right to religion recognised by the Constitution.

Baba Khalil Ahmed v State of Uttar Pradesh:

- In a 1960 ruling, in ***Baba Khalil Ahmed v State of Uttar Pradesh***, the Supreme Court said that “malicious intent” of the accused can be determined not just from the speech in question but also from external sources.

Ramlal Puri v State of Madhya Pradesh:

- In 1973, in ***Ramlal Puri v State of Madhya Pradesh***, the Supreme Court said the test to be applied is whether the speech in question offends the “ordinary man of common sense” and not the “hypersensitive man”.
- However, these determinations are made by the court and the distinction can often be vague and vary from one judge to the other.

Baragur Ramachandrappa v State of Karnataka:

- In ***Baragur Ramachandrappa v State of Karnataka***, a 2007 decision of the Supreme Court, “a pragmatic approach” was invoked in interpreting Section 295A.
- The state government had issued a notification banning Dharmakaarana, a Kannada novel written by award-winning author P V Narayana on the ground that it was hate speech, invoking a gamut of provisions including Section 295A.
- The pragmatic approach was to restore public order by “forfeiture” of a book over individual interest of free speech.

Way Ahead

- We need people with a vision to unite all sections of society socially and culturally, and take the country forward.
- For India, the whole world is one family as encapsulated in its timeless ideal, ‘Vasudhaiva Kutumbakam’. It is with this spirit that we should move forward together.
- The government should also bring comprehensive amendments to criminal laws to prevent hate speech and expression.

Environmental fallout of the Ukraine war

(GS Paper 2, International Relation)

Context:

- On 24 February, Russian President Vladimir Putin launched an all-out invasion of Ukraine. Since the end of World War II in 1945, this is the **first time one nation has tried to redraw borders in Europe**.
- Russian preparation for the invasion **coincided with the wrapping up of the 2021 United Nations Climate Change Conference (COP 26)** in November 2021. And this time, COP26 came out with environmentally significant commitments.

Commitments at COP 26:

- Nations affirmed the Paris agreement targets of limiting the rise of global temperature to not more than 2 degrees C from the pre-industrial period.
- As many as 137 nations committed to taking steps to reverse forest land degradation by 2030, and 103 nations pledged to reduce methane emissions by 30 per cent of 2020 emission levels by 2030.
- One of the major hindrances in achieving these lofty environmental targets is the world’s dependence on hydrocarbons.

Environmental aspect:

- The war has been going on for more than three months. It has **changed geopolitics and alliances** across the globe. Environment and climate change policies are also impacted by it significantly.
- The fifth session of the **United Nations Environment Assembly (UNEA 5.2)** got underway in the Kenyan capital, Nairobi, with discussions on global environmental concerns.
- One of the key points discussed was the reason **why the biodiversity and wildlife of Ukraine must bear the brunt of this war**.
- Russia remained oblivious to these concerns. Amidst an ongoing war, environmental protection is not a major issue for Russia.

Russia as energy supplier:

- Russia is an energy giant with \$167 billion worth of energy exports in 2020. Energy exports contribute to about 67 per cent of the Russian economy. In 2020, the carbon footprint of Russia amounted to 1.48 billion metric tons of CO₂.
- With sanctions restricting Russian gas supplies to the west, the EU needs to hastily look for alternative solutions. Germany imports 40 per cent of its gas and 25 per cent of its oil from Russia.

Gas imports by Germany & Italy:

- Germany, mentioned during the early days of the war that it would stop its Russian oil imports by the end of 2022, followed by its gas supplies.
- Ukraine's president is urging all EU states to stop energy trading with Russia as this 'blood money' is feeding the Russian war machine. The sale of Russian oil and gas accounts for \$1 billion per day.
- Economists have warned Berlin that immediate stoppage of oil and gas supplies from Russia could initiate an economic recession in the country.
- Italy is the next largest buyer of Russian hydrocarbons. Both nations are looking at alternative energy sources to limit their dependency on Russian energy imports.
- As of now, Russian gas reaches the EU through Ukraine: The Yamal-Europe pipeline crosses Belarus and Poland to Germany, and the Nord Stream pipeline passes below the Baltics.
- Germany can import from the UK, Norway and Netherlands to augment its energy demands, while eastern and southern European nations can import Azerbaijani gas via the Trans Adriatic Pipeline and the **Trans-Anatolian Natural Gas Pipeline (TANAP)** through Turkey.

EU Solar Strategy'

The 'EU solar strategy' can double energy generation through photovoltaic cells.	The same strategy would bring another 600GW of new solar infrastructure by 2030.	Member nations would have to identify geographical locations to install renewable energy infrastructure with the least environmental impacts.	The plan targets 10 million tonnes of domestic renewable hydrogen production and 10 million tonnes of imports by 2030 to phase out natural gas.	To improve hydrogen-linked technologies, 200 million will be set aside to fund research.
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Supply by US:

- The US has also committed to delivering 5 billion cubic metres of liquefied natural gas (LNG) through North-Atlantic routes.
- The Trans- European Energy Networks (TEN-E) is working to build new pipelines to bring gas from other nations.
- If energy solutions are not there will be pressure on the Dutch government to allow more extraction from the vast Groningen gas field, which is already prone to land subsidence.
- According to reports, 85 per cent of EU citizens favour moves to reduce dependence on Russian gas.
- But replacing Russian gas with other supplies is not a sustainable solution. European Green Deal legislation focuses on consumer behavioural changes to reduce energy loss.

- This would cut the energy demands by 5 per cent. It would also speed up renewable energy development in the EU.

Way Forward:

- To unshackle the Russian energy chains, Europe must develop green alternatives. The war highlights the need for sustainable energy infrastructure, to safeguard the global economy from energy giants such as Russia.
- The EU is taking positive steps to build its renewable infrastructure which can be a positive model for other nations to follow. This would make our world a peaceful place and build a green, sustainable, zero-emission future.