

1. UAE Banks: Indian Defaulters & Recovery

Prelims Level: Governance - Policies

Mains Level: GS-II Government Policies and Interventions for Development in various sectors and issues arising out of their Design and Implementation.

Context:

- Recently, the Union government issued a notification allowing the decrees of certain UAE courts in civil cases to be enforceable in India. At least 9 banks from the UAE are in the process of initiating legal action against Indian defaulters to recover around Rs 50,000 crore, after this new ruling.

UAE as a 'Reciprocating Territory':

- The UAE has been declared a reciprocating territory under **section 44A of Civil Procedure Code**.
- It is said to be the only remaining part of a 1999 agreement between the UAE and India related to cooperation in civil and commercial matters.
- Apart from UAE, the other countries declared to be "reciprocating territories" are: United Kingdom, Singapore, Bangladesh, Malaysia, Trinidad & Tobago, New Zealand, the Cook Islands (including Niue) and the Trust Territories of Western Samoa, Hong Kong, Papua New Guinea, Fiji, Aden.

What is a 'reciprocating territory' and what are Superior Courts?

- The Central Government may, by notification in the Official Gazette, can declare any country or territory outside India to be a reciprocating territory.
- Essentially, orders (decree) passed by certain designated courts from a 'reciprocating territory' can be implemented in India, by filing a copy of the decree concerned in a District Court here. The provision is applicable money decrees - for payment of money, not being sums payable "in respect of taxes or other charges of a like nature or in respect of a fine or other penalty". However, this does not include an arbitration award, even if such an award is enforceable as a decree or judgment.
- The courts so designated under the notifications are called 'superior Courts'.

Why is the move considered to be significant?

- Earlier UAE-based banks had no recourse to enforce judgements directly to recover their corporate or retail loans given to Indians in the UAE, but now they can take action in India.

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- Most of the cases involve corporate loans taken by Dubai or Abu Dhabi-based subsidiaries of Indian companies and also individuals.
 - The new government notification allowed the decrees of certain UAE courts in civil cases to be enforceable in India.
 - This means a UAE bank, if it has a court order in its favour against a defaulter who has fled to India or no more has operations in the Emirates, can seek to enforce it here like any local lender to recover the money.
 - So, now UAE banks may also explore initiating proceedings under the IBC (India's Insolvency and Bankruptcy Code) or the banks could also approach the NCLT or even invoke personal guarantees.
 - The decision is believed to help bring down the time required for executing decrees between the two countries.
 - Indian expatriates in the UAE would no longer be able to seek safe haven in their home country if they are convicted in a civil case in the UAE.

