



POLITY REVISION MODULE

(APRIL 2022 -

DECEMBER 2022

Andaman and



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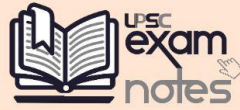
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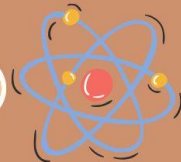
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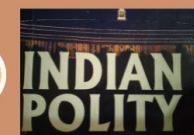
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SPECIAL PROVISIONS TO STATES

1. Background

- The Sangh Parivar has long argued that the special status accorded to Jammu & Kashmir in the Constitution has prevented its "**full integration**" into the Indian Union.
- Prominent among the "**special privileges**" available to J&K, the only Muslim-majority state in the country, is the ban on non-residents from acquiring property in the State and voting in the Legislative Assembly elections, both of which are under challenge in the Supreme Court in a case against the constitutional validity of Article 35A.

Jammu & Kashmir is not the only state for which special provisions have been laid down in the Indian Constitution a wide range of safeguards are available to as many as 11 other states, listed in Articles 371, 371A to 371H and 371J.

Article 371I deals with Goa but does not include any provision that can be termed "special".

2. Article 370

- In 1947, Jammu & Kashmir negotiated the terms and conditions of its entry into the Indian Union.
- It acceded to the Union on Defence, Foreign Affairs and Communication, but wanted its Constitution to be drafted by its Constituent Assembly.
- Article 370, which determines the contours of J&K's relations with the Centre and exists as the constitutional cord between J&K and New Delhi, was introduced in the Indian Constitution after Prime Minister Jawaharlal Nehru and J&K Prime Minister Sheikh Mohammad Abdullah negotiated it for five months between May and October 1949.

3. Article 35A

Article 35A, which empowered the J&K Constitution to define "**permanent residents**" of the state is an offshoot of Article 370 of the Indian Constitution.

It was added to the Constitution through The Constitution (Application to Jammu and Kashmir) Order, 1954, issued by the President under Article

370.

4. Special Provisions

- While the special provisions laid down in Article 371, 371A-H and 371J are not as far-reaching as Article 370, the existence of these provisions shows that other princely states, too, negotiated the terms and conditions of their entry into the Union or sought special constitutional protections given their unique needs and conditions.
- Each of these constitutional provisions is rooted in historical reasons.

One important difference between Articles 370 and 371 and Articles 371A-H and 371J, is that while the latter set of provisions was incorporated into the Constitution by Parliament through amendments under Article 368 (which lays down the **"power of Parliament to amend the Constitution and procedure therefor"**), Articles 370 and 371 have been part of the Constitution from the time of its commencement on January 26, 1950.

5. Maharashtra & Gujarat (Article 371)

1. **"Special responsibility"** to the Governor to establish **"separate development boards"** for **"Vidarbha, Marathwada and the rest of Maharashtra"** and Saurashtra and Kutch in Gujarat;
2. **"equitable allocation of funds for developmental expenditure over the said areas"**, and
3. **"equitable arrangement providing adequate facilities for technical education and vocational training and adequate employment opportunities"** under the state government.

5.1 Nagaland (Article 371A, 13th Amendment Act, 1962)

- Parliament can't legislate in matters of Naga religion or social practices, the Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law and ownership and transfer of land and its resources, without the concurrence of the Legislative Assembly.
- This provision was inserted in the Constitution after a 16-point agreement between the Centre and the Naga People's Convention in 1960, which led to the creation of Nagaland in 1963.

- Also, there is a provision for a 35-member regional council for the Tuensang district, which elects the Tuensang members in the Assembly.
- A member from the Tuensang district is Minister for Tuensang Affairs: Governor has the final say on Tuensang-related matters.

5.2 Assam (Article 371B, 22nd Amendment Act, 1969)

President may provide for the constitution and functions of a committee of the Assembly consisting of members elected from the tribal areas of the state.

5.3 Manipur (Article 371C, 27th Amendment Act, 1971)

- President may provide for the constitution and functions of a committee of elected members from the Hill areas in the Assembly; entrust "special responsibility" to the Governor to ensure its proper functioning.
- The Governor has to file a report every year on this to the President.

5.4 Andhra Pradesh & Telangana

(Article 371D, 32nd Amendment Act, 1973; substituted by the Andhra Pradesh Reorganisation Act, 2014)

- President must ensure "equitable opportunities and facilities" in "**Public employment and education to people from different parts of the state**";
- he may require the state government to organise "any class or classes of posts in the civil service of or any class or classes of civil posts under, the State into different local cadres for different parts of the State" and allow them.
- The President has similar powers vis-a-vis admissions in any university or state government-run educational institution.
- Also, he may provide for the setting up of an administrative tribunal outside the jurisdiction of the High Court to deal with issues of appointment, allotment or promotion in state civil services.

Article 371E allows for the establishment of a university in Andhra Pradesh by a law of Parliament. But this is not a "special provision".

5.5 Sikkim (Article 371F, 36th Amendment Act, 1975)

- The members of the Legislative Assembly of Sikkim shall elect the representative of Sikkim in the House of the People.
- To protect the rights and interests of various sections of the population of Sikkim, Parliament may provide for the number of seats in the Assembly, which may be filled only by candidates from those sections.
- Governor shall have "**Special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population**".
- All earlier laws in territories that formed Sikkim shall continue and any adaptation or modification shall not be questioned in any court.

5.6 Mizoram (Article 371G, 53rd Amendment Act, 1986)

Parliament cannot make laws on "religious or social practices of the Mizos, Mizo customary law and procedure, administration of civil and criminal justice involving decisions according to Mizo customary law, ownership and transfer of land unless the Legislative Assembly by a resolution so decides".

5.7 Arunachal Pradesh (Article 371H, 55th Amendment Act, 1986)

- The Governor has a special responsibility for law and order and "he shall, after consulting the Council of Ministers, exercise his judgment as to the action to be taken".
- Should a question arise over whether a particular matter is one in which the Governor is "required to act in the exercise of his judgment, the decision of the Governor in his discretion shall be final" and "shall not be called in question"?

5.8 Karnataka (Article 371J, 98th Amendment Act, 2012)

- There is a provision for the establishment of a separate development board for the Hyderabad-Karnataka region, the working of which will be reported annually to the Assembly; There shall be
 1. "equitable allocation of funds for developmental expenditure over the said region"
 2. "equitable allocation of funds for developmental expenditure over the said region"; and
 3. "equitable opportunities and facilities" for people of this region in government jobs and education.

- An order can be made to provide for reservation "**of a proportion**" of seats and jobs in educational and vocational training institutions and state government organisations respectively in the Hyderabad-Karnataka region for individuals who belong to that region by birth or domicile.

NJAC

1. Context

Vice-President Jagdeep Dhankhar commented on the debate between the Central government and the Supreme Court over the matter of judicial appointments.

2. Key points

- Referring to the 2015 verdict of the SC which struck down the National Judicial Appointments Commission (NJAC) and the 99th Amendment.
- Mr Dhankar asked how the judiciary could have run down a unanimously-passed constitutional provision which reflected "**the will of People**".

3. NJAC

- In August 2014, Parliament passed the Constitution (99th Amendment) Act, along with the National Judicial Appointments Commission (NJAC) Act, which together provided for the creation of an independent commission to appoint judges to the Supreme Court (SC) and High Courts (HC).
- This commission was to replace the collegium system.

- The two Bills were ratified by the required number of State Legislature and got the President's assent on December 31, 2014.

4. Articles 124 and 217

- Articles 124 and 217 of the Constitution deal with the appointment of judges to the SC and HC s of the Country.
- Article 124 (2) states "**every Judge of the Supreme Court shall be appointed by the President**" after "**consultation**" with the judges of the SC and the HCs.
- So while the collegium system does not figure in the Constitution, its legal basis is found in three SC judgments usually called the "**Judges Cases**".
- To replace this system which received criticism over the years for its lack of transparency, among other provisions, the Constitution (99th Amendment) Act, introduced three primary Articles.

Article 124A created the NJAC, a constitutional body to replace the collegium system, Article 124B conferred the NJAC with the power to make appointments to Courts and Article 124C accorded express authority to Parliament to make laws regulating the manner of the NJAC's functioning.

5. Recommendations

- Under the NJAC Act, the Chief Justice of India and Chief Justices of the HCs were recommended by the NJAC on seniority while SC and HC judges were recommended based on ability, merit and "**other criteria specified in the regulations**".
- Notably, the Act empowered any two members of the NJAC to veto a recommendation if they did not agree with it.
- In the collegium system, senior-most judges make appointments to the higher judiciary.

6. NJAC challenged

- In early 2015, the Supreme Court Advocates-on-Record Association (SCAORA) filed a plea challenging the provisions which had by then become laws.
- The SCAORA Contended in its petition that both the Acts were "**Unconstitutional**" and "**invalid**".

It argued that the 99th Amendment which provided for the creation of the NJAC took away the "Primacy of the collective opinion of the Chief Justice of India and the two Senior-most Judges of the Supreme Court of India" as their collective recommendation could be vetoed or "suspended by a majority of three non-Judge members".

- It invoked the Second Judges Case to say that CJI primacy had to be protected.
- It also stated that the amendment "**severely**" damaged the basic structure of the Constitution, of which the independence of the judiciary in appointing judges was an integral part.

6. Second Judges Case

- The Second Judges Case of 1993 emphasised the role of the CJI in appointing judges to SC and HCs.
- The role of the CJI is primal because this is a topic within the judicial family, the Executive cannot have an equal say in the matter, the verdict reasoned.
- The "**basic structure**" doctrine refers to the idea that the Constitution could not be amended or read in a manner that destroyed the document's basic structure.

7. Arguments between the Centre and the SC

- Former Attorney-General Mukul Rohatgi for the Union government had argued in court that the Second Judges case, invoked by the petitioners was not Valid in the case of the NJAC as the "**very basis**" of the ruling was now gone.
- The Centre also argued that the Act in no way took away the primacy of the judiciary but diluted the executive's power as only one member, the Law Minister was in the NJAC as opposed to three SC judges.
- It also said that the amendment was "**perfectly consonant**" with the basic structure as it strengthened the "**independence of the judiciary, checks and balances and democracy**".
- Solicitor-General Ranjit Kumar further argued that the collegium was a "**failure**" and worked on a system of "**intra-dependence**", where there was "**no transparency**".

In October 2015, the five-judge bench of the top court hearing SCAORA's plea gave its ruling, with a 4:1 majority, that the NJAC was "**unconstitutional**" and violated the "**basic structure of the constitution**".

- Significantly, the Bench admitted that all was not well even with the Collegium system of "**judges appointing judges**" and that the time was ripe to improve the system of judicial appointments.

NATIONAL PARTY

1. Context

The Aam Aadmi Party (AAP) was leading in 5 seats in Gujrat after more than seven hours of counting votes on December 8, but its vote share was close to 13%, which meant it is on track to be recognized as a national party by the Election Commission of India (ECI).

2. National Party

- The name suggests that a national party would have a presence 'nationally', as opposed to a regional party whose presence is restricted to only a particular state or region.
- National parties are usually India's bigger parties, such as the Congress and BJP. However, some smaller parties, like the communist parties, are also recognized as national parties. A certain stature is sometimes associated with being a national party, but this does not necessarily translate into having a lot of national political clout.
- Some parties, despite being dominant in a major state-such as the DMK in Tamil Nadu, BJD in Odisha, YSRCP in Andhra Pradesh, RJD in Bihar, and TRS in Telengana-and having a major say in national affairs, remain regional parties.

3. How is a national Party Defined?

The ECI has laid down the technical criterion for a party to be recognized as a national party. A party may gain or lose national party status from time to time, depending on the fulfillment of these laid-down conditions.

As per the ECI's Political Parties and Election symbols, 2019 handbook, a political party would be considered a national party if:

- It is recognized in four or more states: or
- If its candidates polled at least 6% of total valid votes in any four or more states in the last Lok Sabha or Assembly elections and have at least four MPs in the last Lok Sabha polls: or
- If it has won at least 2% of the total seats in the Lok Sabha from not less than three states.

3.1 To be recognized as a state party, a party needs:

- At least 6% vote-share in the last Assembly election and have at least 2 MLA's; or have 6% vote-share in the last Lok Sabha elections from that state and at least one MP from that state; or
- at least 3% of the total number of seats or three seats, whichever is more, in the last assembly elections; or
- at least one MP for every 25 members or any fraction allotted to the state in the Lok Sabha; or
- Have at least 8 % of the total valid votes in the last Assembly election or Lok Sabha election from the state.

4. Other National Parties

The ECI has recognized eight parties as national parties- the BJP, Congress, Trinamool Congress, CPI(M), CPI, Nationalist Congress Party (NCP), Bahujan samaj party (BSP), and Conrad Sangma's National People's Party (NPP), which was recognized in 2019.

Once the official results of the Gujarat elections are announced, AAP will become the ninth party to be recognized as a national party.

5. When can a party lose its tag?

- Once recognized as a national or state party, a political party retains that status irrespective of its performance in the next elections.
- It loses the given status only if it fails to fulfill any of the conditions for two successive Assembly and two successive Lok Sabha elections.

PM KUSUM

1. About

PM-KUSUM Scheme was launched in 2019, PM-KUSUM and aims to help farmers access reliable daytime solar power for irrigation, reduce power subsidies, and decarbonize agriculture.

PM-KUSUM provides farmers with incentives to install solar power pumps and plants in their fields.

2. Aim

- PM-KUSUM Scheme is targeted to achieve 10000 MW capacity through the installation of grid-connected solar power plants each of capacity up to 2 MW under Component A and solarisation of 35 lakh agriculture pumps under Component-B and Component-C.
- PM-KUSUM is a demand-driven scheme and capacities are allocated based on demand received from the states.

Scheme aim to increase the country's solar water pumps manufacturing capacity:

1. The target of installation or solarisation of 35 lakh pumps through central financial support under the Scheme provides visibility of demand in the coming years.
2. Condition of the domestic content requirement for participation in Component-B and Component-C.
3. Direct participation of manufacturers of solar pumps/ solar photovoltaic modules/ solar pump controllers either as sole bidder or member of a Joint Venture, in bidding under Component-B and Component-C.

3. Implementing Agency

The Ministry of New and Renewable Energy is the implementing Agency.

Two major schemes for decentralized solar power production.

1. PM-KUSUM scheme targeted to achieve 10000 MW capacity through the installation of grid-connected solar power plants each of capacity up to 2 MW under Component A and solarisation of 35 lakh agriculture pumps under Component- B and Component-C; and
2. Rooftop Solar Programme Phase II is targeted to achieve 40 GW rooftop solar capacity in the country. The timeline of both the schemes has been extended till 31.3.2026

COOPERATIVE SOCIETIES ACT

1. Context

The Bill to amend the Multi-State Cooperative Societies (MSCS) Act, 2002, was introduced in the Lok Sabha on December 7.

Opposition parliamentarians alleged that Bill's provisions encroached upon the rights of state governments, demanding that it be referred to a Standing Committee.

2. Multi-State Cooperatives

- According to the International Cooperative Alliance (ICA), cooperatives are people-centred enterprises jointly owned and democratically controlled by and for their members to realise common economic, social and cultural needs and aspirations.
- Multi-state cooperatives are societies with operations in more than one state, for instance, a farmer-producers organisation procures grains from farmers from multiple states.
- The board of directors are from all the States in these collectives and operates in and controls all the finances and administration.
- There are close to 1, 500 MSCSs registered in India with the highest number being in Maharashtra.

3. Concerns

- The independent and autonomous character of cooperative societies was to be crucial in their functioning.
- The inclusion of cooperatives in the planning process as development instruments made the sector an avenue for dispensing patronage to the supporters of ruling political parties.

- Moreover, the state government's policy to contribute to the share capital of the cooperatives enabled governments, **"in the name of public interest"** to directly intervene in the working of legally autonomous cooperatives.

Notably, the potency of cooperatives as an apparatus of political control can be seen in States such as Maharashtra, Kerala, Gujarat, parts of Karnataka, Tamil Nadu, Madhya Pradesh and West Bengal.

- Besides, MSCSs were formed to ease the operation of collectives throughout the country.
- MSCSs are facing issues regarding trust, which is the very basis of cooperation.
- This has brought MSCSs under multiple controls from the Centre.
- Monitoring is one of the important institutional functions in a collective organisation but if monitored from much above, it takes a top-down approach as opposed to a grassroots one.

In 1991, the Choudhary Brahm Perkash Committee of the planning commission made far-reaching recommendations to reorganise multi-state cooperatives but researchers point out how the Act has not been modified as per the report.

4. The Bill seeks to change

- To plug the **"loopholes"** in the MSCS Act, the Centre introduced a Bill seeking to amend the 2002 law for more **"transparency"** and **"ease of doing business"**.
- The amendments have been introduced to improve governance, reform the electoral process, strengthen monitoring mechanisms and enhance transparency and accountability.
- The Bill also seeks to improve the composition of the board and ensure financial discipline, besides enabling the raising of funds in multi-State cooperative societies.

5. Central Co-operative Election Authority

- The Bill creates a Central Co-operative Election Authority to supervise the electrical functions of the MSCSs.

- The Authority will have a chairperson, vice-chairperson and up to three members appointed by the Centre.
- Notably, the constitutional domain of States in regulating cooperative societies was upheld by the Supreme Court last year when it struck down a part of the 97th Constitution Amendment.

It also envisages the creation of a Co-operative Rehabilitation, Reconstruction and Development Fund for the revival of sick multi-State co-operative societies.

This fund shall be financed by existing profitable multi-State co-operative societies which will have to deposit either ₹1 crore or 1 per cent of the net profit into the Fund.

- To make the governance of multi-State cooperative societies more democratic, the Bill has provisions for appointing a Cooperative Information Officer and a Cooperative Ombudsmen.
- To promote equity and facilitate inclusiveness, provisions relating to the representation of women and Scheduled Caste/Tribe members on the boards of the multi-State cooperative societies have also been included.

ELECTORAL BONDS

1. Context

Political parties collected Rs 676.26 crores in the 23rd phase of the sale of electoral bonds (EBs) between November 11 and 15, ahead of the Assembly elections in Gujarat and Himachal Pradesh.

2. Key points

- As much as Rs 660.25 crores of EBs 97.63 per cent of the bonds sold were encashed by political parties at the New Delhi Main branch of State Bank of India.
- SBI is the only bank authorised to issue EBs to political parties.
- SBI said EBs worth Rs 309.45 crores were sold by the Mumbai Main branch and Rs 222.40 crores by the New Delhi Branch.

- With this, the total amount collected by parties through EBs has gone up to Rs 11, 467 crores from various anonymous donors in 23 phases since 2018 when the Electoral Bond Scheme was introduced.

Anonymous donors had given Rs 545 crores in the 22nd sale of EBs conducted between October 1 and 10, according to data available from SBI. Parties got 1,221 crores in the last two months and Rs 389.50 crores in the previous sale in July this year.

3. Electoral bonds

- Simply, electoral bonds are a debt instrument through which anyone can donate money to political parties.
- Such bonds are a debt instrument through which anyone can donate money to political parties.
- Such bonds are sold in multiples of Rs 1,000, Rs 10, 000, Rs 1 lakh, Rs 10 lakh and Rs 1 crore and can be bought from authorised branches of the State Bank of India.

A donor is required to pay the amount say Rs 10 lakh via a cheque or a digital mechanism (cash is not allowed) to the authorised SBI branch. The donor can then give this bond (just one, if the denomination chosen is Rs 10 lakh or 10, if the denomination is Rs 1 lakh) to the party or parties of their choice.

- The political parties can choose to encash such bonds within 15 days of receiving them and fund their electoral expenses.
- On the face of it, the process ensures that the name of the donor remains anonymous.

4. Reasons for introducing electoral bonds

The central idea behind the electoral bonds scheme was to bring about transparency in electoral funding in India.

1. The country has not been able to evolve a transparent method of funding political parties which is vital to the system of free and fair elections.
2. Political parties continue to receive most of their funds through anonymous donations which are shown in cash.

3. An effort, therefore, requires to be made to cleanse the system of political funding in India.

5. Introducing electoral bonds

Formally these bonds were introduced in 2018 with two main changes.

1. The reduction of the amount of money that a political party could accept in cash from anonymous sources from Rs 20, 000 to Rs 2, 000.
2. The introduction of electoral bonds is a way to make such funding more transparent.

ONE NATION ONE ELECTION

1. Context

Prime Minister Narendra Modi repeated from the ramparts of the Red Fort Thursday his idea of simultaneous elections in all of India. The Prime Minister has been committed to the idea for several years now, and he announced soon after being reelected to office that a committee would be formed to discuss the idea with all political parties.

2. Key takeaways

- One Nation, One Election would reduce the cost of holding elections, and limit all elections to a single season
- At present, elections happen somewhere or the other almost all the time, and it is often argued that the Model Code of Conduct gets in the way of the government announcing projects or policy plans for the benefit of the people.
- Holding just one mega election would be too complex an exercise to tackle in a country as large and as complex as India, It would be a logistic nightmare requiring, about twice as many electronic voting machines and Voter Verifiable Paper Audit Trail machines as are used now.
- India did start with simultaneous elections, Lok Sabha and state legislatures went to polls together in 1952 and 1957
- The cycle was first broken in Kerala, in July 1959, when the government of Jawaharlal Nehru used Article 356 of the Constitution to dismiss the government of the Communist E M S Namboodiripad.

- EMS had become Chief Minister after the elections of April 1957 and, Kerala voted for a new five-year Assembly again in February 1960.
- In the 1967 elections, the Congress suffered setbacks in Bihar, UP, Rajasthan, Punjab, West Bengal, Orissa, Madras and Kerala, and governments of the Samyukta Vidhayak Dal, comprising the Bharatiya Kranti Dal, Samyukta Socialist Party, Praja Socialist Party, Swatantra Party, Bharatiya Jana Sangh and defectors from the Congress, were formed.
- The governments were unstable, there were rampant defections, and many of these Assemblies were dissolved before their terms were over, resulting in the separation of the election cycles of many states from that of the Lok Sabha.
- At present, Assembly elections in only Andhra Pradesh, Odisha, Arunachal Pradesh and Sikkim are held together with the Lok Sabha elections.

3. Origin of the idea

In 1983, the Election Commission suggested simultaneous elections, The Law Commission headed by Justice B P Jeevan Reddy, in its 170th Report in May 1999

In 2003, Prime Minister Atal Bihari Vajpayee took up the matter with Congress but the idea could not be ultimately pursued.

In 2015, the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, headed by E M Sudarsana Natchiappan, prepared a report on the 'Feasibility of Holding Simultaneous Elections to House of People (Lok Sabha) and State Legislative Assemblies'.

The report said that simultaneous elections would help to reduce the:

1. The massive expenditure that is currently incurred for the conduct of separate elections
2. The policy paralysis that results from the imposition of the Model Code of Conduct during election time
3. The impact on the delivery of essential services
4. The burden on crucial manpower that is deployed during election time

In a draft report on August 30, 2018, the Law Commission headed by Justice B S Chauhan said simultaneous elections could not be held within the existing framework of the Constitution.

Appropriate amendments to the Constitution, the Representation of the

People Act 1951, and the Rules of Procedure of Lok Sabha and state Assemblies

The Commission recommended that all elections due in a calendar year should be conducted together. To preempt the disruption that a no-confidence motion, if carried, may cause, the Commission recommended that the “no-confidence motion” should be replaced with a “constructive vote of no-confidence” through appropriate amendments and that a government may be replaced only if there is confidence in an alternative government.

REVIEW PETITION

1. Context

The Supreme Court has dismissed a petition filed by 2002 Gujrat riots victim Bilkis Bano, seeking a review of its May 2022 order which said the Gujrat government was the appropriate government to decide the prayer for remission by one of the 11 convicts handed life terms in her case, and let the state's 1992 remission policy apply in the matter.

2. What is a Review Petition

- The review petition is a petition in which it is prayed before the court of law to review its order or judgment which it has already pronounced. The court may accept a review petition when a glaring omission or patent mistake or a grave error has crept in earlier by judicial fallibility.
- When a review takes place, the court will not take fresh stock of the case but just correct grave errors that have resulted in the miscarriage of justice. Also, judicial review can only correct a "patent error" and not "minor mistakes of inconsequential import".
- The provision of review is an exception to the principle of state decision. The principle of stare decision binds courts to follow legal precedents set by previous decisions.

3. Constitutional Provisions behind Review Petition

- Under Article 137 of the constitution of India and the rules made under Article 145, the supreme court of India has the power to review its judgment pronounced by it.
- As per Supreme court rules, a review petition is to be filed within 30 days of the pronouncement of judgment or order and that petition should be circulated without oral arguments to the same bench that delivered the judgment.

4. Procedure for review

- A review petition must be filed within 30 days of the pronouncement of the judgment. Except in cases of the death penalty, review petitions are heard through "circulation" by judges in their chambers. They are usually not heard in open court.
- Lawyers in review petitions usually make their case through written submissions, and not oral arguments. The same judges who passed the original verdict usually also hear the review petition.
- It is not necessary that only parties to a case can seek a review of the judgment on it. As per the Civil procedure Code and the Supreme Court Rules, any person aggrieved by a ruling can seek a review. However, the court does not entertain every review petition filed.

5. Should the court allow every review petition?

- The court does not entertain every review petition filed. It exercises its discretion to allow a review petition.
- Usually, the court allows a review petition only when it shows the grounds for seeking the review.

6. Grounds for review

There are narrow, specific grounds on which a review petition can be entertained. Therefore, the court has the power to review its rulings to correct a "patent error"- but not "minor mistakes of inconsequential import".

In a 1975 ruling, Justice Krishna Iyer said a review can be accepted "only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility."

In a 2013 ruling, the Supreme Court laid down three grounds for seeking a review of a verdict it has delivered:

1. The discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the petitioner or could not be produced by him;
2. A mistake or error apparent on the face of the record; or
3. any other sufficient reason. In subsequent rulings, the court specified that "any sufficient reason" means a reason that is analogous to the other two grounds.

In another 2013 ruling (Union of India v. Sandur Manganese & Iron Ores Ltd), the court laid down nine principles on when a review is maintainable. "A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error," the court said.

It added that the mere possibility of two views on the subject cannot be a ground for review.

COOPERATIVE SOCIETIES HEALTH

1. Context

According to the Ministry of Cooperation's mandate to strengthen the cooperative movement in the country and promote a cooperative-based economic development model.

The Government is working towards transforming cooperatives into vibrant economic entities and bringing them at par with other economic entities both as beneficiaries and participants.

2. Multi-State cooperative societies

- As per Part IX B of the Constitution of India, incorporation, regulation and winding up of multi-State cooperative societies come under the purview of the Central Government.
- While as per List-II of the Seventh Schedule to the Constitution, incorporation, regulation and winding up of cooperatives societies registered under State Cooperative Societies Acts comes under the purview of respective State Governments/UT Administrations.
- Therefore, data on several cooperative societies, other than those registered under the Multi-State Cooperative Societies Act, of 2002, is not maintained in the Ministry of Cooperation.

- However, as far as multi-State cooperative societies are concerned 27 societies have been put under liquidation in the last three years.

3. Government Initiatives

The Ministry has taken various initiatives to improve the health of cooperative societies in the country such as:

3.1. Project for Computerization

- Under this 63, 000 functional Primary Agriculture Credit Societies (PACS), in the next three years, with a total financial outlay of ₹ 2, 516 Crore has been approved by the Cabinet Committee on Economic Affairs vide its decision dated 29th June 2022.
- This project entails bringing all the functional PACS onto an ERP (Enterprise Resource Planning) based common software, linking them with NABARD through State Cooperative Banks (StCBs) and District Central Cooperative Banks (DCCBs).

3.2. Model bye-laws for PACS

- These have been prepared after detailed stakeholder consultations, including all the States/Union Territories and Ministries, Concerned, for adoption by PACS as per their respective State Cooperatives Societies Act.
- These Model Byelaws of PACS will enable them to undertake more than 25 business activities like **dairy, fishery, floriculture, setting up of godowns, procurement of foodgrains, fertilizers, seeds, LPG/Petrol/Green energy distribution agency, banking correspondents, common service centres, etc.**

3.3. e-Marketing platform

- On 1st June 2022, Union Cabinet has taken a decision allowing cooperatives to register as buyers on the Government e-Marketing platform, enabling them to procure goods and services from nearly 40 lakh vendors registered on the **GeM portal** throughout the country.
- This will help cooperatives in making savings and improving transparency in their procurement system.

3.4. Reduction of Surcharge

- Surcharge on Co-operative societies was reduced from 12 per cent to 7 per cent for those co-operative societies having a total income of more than Rs. 1 Cr and up to Rs. 10 Crores.
- To enhance the income of Cooperative societies and their members.

3.5. Minimum Alternate Tax (MAT)

MAT rate was reduced for the Co-operatives from 18.5 per cent to 15 per cent to provide them with a level playing field with Corporates.

3.6. Availability of Credit

To provide adequate, affordable and timely credit to the co-operative institutions to give a boost to the co-operative based economic development model, non-scheduled Urban Cooperative Banks, State Co-operative Banks and District Central Co-operative Banks have been notified as Member Lending Institutions in Guarantee Fund Trust (CGTMSE) Scheme.

3.7. Removing from the Additional-Income Tax Category

The cooperative sugar mills by clarifying that sugar co-operative mills shall not be subjected to additional income tax for paying higher sugarcane prices to farmers up to the Fair and Remunerative Prices (FRP) or State Advised Price (SAP), as the case may be.

3.8. National Cooperative Development Corporation (NCDC)

It is a statutory organization under the Ministry of Cooperation, provides financial assistance to the cooperative sector and undertakes various activities such as strengthening the share capital base of primary or District cooperative marketing societies, setting up processing centres, and storage facilities, establishing and modernizing cold chain, creation of cooperative banking units, agricultural services, Integrated Cooperative Development Projects, assistance for computerization of cooperatives.

3.8.1. Schemes under NCDC

1. "Yuva-Sahkar" for cooperative enterprise support and innovation,
2. "Ayushman Sahkar" Covers the health sector,
3. "Nandini Sahkar" to support women's cooperatives. etc.

COMMITTEE ON CONTENT REGULATION IN GOVERNMENT ADVERTISING-(CCRGA)

1. Context

Delhi Lieutenant-Governor (L-G) has directed the Chief Secretary to implement a 2016 Committee on Content Regulation in Government Advertising (CCRGA) order.

2. Key Points

- The order calls for recovering ₹97.14 crores plus interest from the ruling Aam Aadmi Party (AAP) for "**political advertisements**" published or telecast as government advertisements in 2015 and 2016.
- The move added to the long list of escalations between the AAP-led Delhi government and the L-G.

3. Supreme Court judgment on CCRGA

- A three-member body, the CCRGA was formed by the Union Ministry of Information and Broadcasting in April 2016, on the directions of the Supreme Court in its judgment in the **Common Cause vs. Union of India** case in May 2015.
- The body is set up to regulate the content of Central and State government advertisements on all media platforms.
- The SC had also mandated States to constitute their respective bodies.
- While some States have set up committees to regulate public advertising content, some have given consent to the CCRGA to monitor their advertisements.
- The SC, in its order, had also issued a set of guidelines for public-funded advertising by governments.

Some of the Guidelines mentioned include that government advertising should maintain political neutrality and avoid glorification of political personalities or projecting a positive impression of the party in power or a negative impression of parties critical of the government. They also should not be used at patronising media houses.

4. Delhi High Court order

- Months after its formation, the CCRGA, following a complaint from Congress leader Ajay Maken, issued notices to the Delhi government on allegations of violation of the SC-mandated guidelines in publishing advertisements.

- In its response, the Delhi government informed the CCRGA that it was going to form a committee of its own as per the 2015 order of the SC, which mandated that States have to set up their respective bodies to regulate government advertisement content.
- The Delhi High Court in the matter ruled in August 2016 that Union Territories are not authorised to constitute their committees and will, therefore, come under the jurisdiction of the CCRGA.
- The CCRGA, after its investigation, passed an order on September 16, 2016, ruling that several Delhi government advertisements had violated the guidelines on various fronts such as publishing false or misleading ads, mentioning the party in power by name, self-glorification and targeting political opponents.

5. Committee's Direction

- The Committee also directed the Delhi government's Directorate of Information and Publicity (DIP), which issues government campaigns, to identify specific advertisements, quantify the money spent on them and recover it from the AAP.
- After quantifying an amount of ₹97,14,69,137 spent on these advertisements, the DIP on March 30, 2017, directed AAP convener Arvind Kejriwal to pay ₹42, 26, 81,265 to the State exchequer immediately and to release the remaining amount directly to the agencies or publications which ran the advertisements within 30 days.

MULTI-STATE COOPERATIVES ACT

1.Context

Centre has decided to amend the Multi-State Cooperative Societies (MSCS) Act, 2002 to "plug the loopholes in the Act"

2.Objective OF The Act

Cooperatives are a state subject, but there are many societies such as those for sugar and milk, banks, milk unions, etc whose members and areas of operation

are spread across more than one state. The Act was passed to govern such cooperatives.

3.About Act

Most sugar mills along the districts on the Karnataka-Maharashtra border procure cane from both states. They draw their membership from both states, and they are thus registered under the MSCS Act. Their board of directors has representation from all states they operate in. Administrative and financial control of these societies is at the center.

Since the law was enacted, 1,479 such societies have been registered, of which 9 have been deregistered since. Maharashtra has the highest number at 567, followed by Uttar Pradesh (147) and New Delhi (133). Credit societies constitute the bulk of registered societies at 610, followed by agro-based ones (which include sugar mills, spinning mills, etc) at 244. There are 96 multistate cooperative dairies and 66 multistate cooperative banks.

4.Reason For Amending The Act

1. The exclusive control of the central registrar, who is also the Central Cooperative Commissioner, was meant to allow the smooth functioning of these societies. The central Act cushions them from the interference of state authorities so that these societies are able to function in multiple states. What was supposed to facilitate smooth functioning, however, has created obstacles.
2. Financial and administrative control rests with state registrars who exercise it through the district- and tehsil-level officers. "Thus if a sugar mill wishes to buy new machinery or go for expansion, they would first have to take permission from the sugar commissioner for both. Post this, the proposal would go to the state-level committee that would float tenders and carry out the process
3. The board of directors has control of all finances and administration. For expenditure above a certain level, the annual general body meeting of the society has to be called. The annual report of these societies has to be submitted either online or offline to the central registrar before September every year. This year, 1,458 reports have been submitted.

5.Other Issues

1. Lack of control-apparent lack of day-to-day government control on such societies. Unlike state cooperatives, which have to submit multiple reports to the state registrar, multistate cooperatives need not
2. Inspection -the central registrar can only allow inspection of the societies under special conditions, a written request has to be sent to the office of the registrar by not less than one-third of the members of the board, or not less than one-fifth of the number of members of the society. Inspections can happen only after prior intimation to societies.
3. Infrastructure -there are no officers or offices at the state level, with most work being carried out either online or through correspondence. For members of the societies, the only office where they can seek justice is in Delhi, with state authorities expressing their inability to do anything more than forwarding their complaints to the central registrar.
4. Defaulting -there have been instances across the country when credit societies have launched Ponzi schemes taking advantage of these loopholes. Such schemes mostly target small and medium holders with the lure of high returns. Fly-by-night operators get people to invest and, after a few installments, wind up their operations. In Maharashtra, the state commissioner used to get multiple complaints of this nature but could not take any action, given the lack of ground staff necessary for verifying the antecedents of such societies.

6. Amendments

1. The Centre is holding extensive consultations with experts from various fields: bankers, sugar commissioners, cooperative commissioners, housing societies federations, etc.
2. Manpower - they will also increase their manpower, first in Delhi and then in the states, to ensure better governance of the societies.
3. Transparency - technology will be used to bring in transparency.

TRADEMARK

1. Context

The Delhi High Court, in the case of Hamdard National Foundation (India) vs Sadar Laboratories Pvt. Ltd., restrained Sadar Laboratories from manufacturing and selling beverages under the impugned trademark 'Dil Afza'. The court

observed that the trademark 'Rooh Afza' is prima facie a strong mark requiring a high degree of protection as it has acquired immense goodwill.

2. What is the dispute?

- The manufacturers of 'Rooh Afza' moved an appeal against the rejection of its application seeking an interim injunction against Sadar Laboratories Pvt. Ltd. for their product 'Dil Afza'.
- The appellant stated before the court that the trademark 'Rooh Afza' is a highly reputed mark in the market with regard to sharbat (sweet beverage).
- Furthermore, it was claimed about of the product 'Dil Afza' is deceptively similar to the get-up and trade dress of the appellant's product.

3. What is a Trademark?

- Trademark refers to the graphical representation of goods or services to make them distinguishable from others.
- It can be words, symbols, sounds, colors, the shape of goods, graphics representation or packaging, etc.
- It protects the owner against unfair competition and prevents damage to the reputation of the owner and consumer welfare.
- In India, trademarks are governed under the Trademarks Act, 1999 (it deals with the precise nature of rights one can acquire in respect of trademarks), under the aegis of the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce.
- The implementing body is the Controller General of Patents, Designs, and Trademarks.

3.1 Trademark Act, 1999

- Trademark Act, of 1999 was implemented by the government of India by complying with TRIPS obligation recommended by the World Trade Organisation.
- The Trademark Act, of 1999 gives the right to police to arrest in case of infringement of the trademark. The Act gives a complete definition for the term infringement which is frequently used.
- The act was amended in the year 2010 to include the provisions of International Registration of Trademarks, wherein the entire chapter 4A was included in the Act.

- The act was brought in consonance with the Madrid Protocol, which was adopted in 1989 by World Intellectual Property Organisation (WIPO).

3.2 Refusal of registration

Section 11 of the Act, gives relative grounds for the refusal of registration of a trademark.

A trademark cannot be registered because of (i) Its identity with an earlier trademark and similarity of goods and services, (ii) its similarity to an earlier trademark and the similarity of the goods, and confusion is probable.

3.3 Section 29

- Section 29 of the Trademark Act 1999 deals with trademark infringement. It says that if a person uses the same trademark which is registered by another company or person and creates confusion in the minds of people, they will be liable for trademark infringement.
- Difference between Passing Off and Trademark infringement.
- Trademark protects registered goods and services whereas Passing Off protects unregistered goods and services.
- Passing off is a common law remedy whereas Trademark infringement is a statutory remedy.

4. Madrid Protocol

- India Parliament has passed the Trade Marks (Amendment) Bill, 2009 for enacting special provisions relating to the protection of trademarks through international registration under the Madrid Protocol.
- As per the Amendment Bill, from the date of the international registration of a trademark where India has been designated or the date of the recording in the register of the International Bureau about the extension of the protection resulting from an international registration of a trademark to India, the protection of the trademark in India shall be the same as if the trademark had been registered in India.
- The Amendment bill is yet to be notified. India acceded to this protocol in 2013.

5. Courts verdict

- A Division bench of the Delhi High Court restrained the respondent (Sadar Laboratories Pvt. Ltd.) from manufacturing and selling any product under the trademark 'Dil Afza' till the final disposal of the trademark infringement suit.
- The court held that "it is not difficult to conceive that a person who looks at the label of 'Dil Afza' may recall the label of 'Rooh Afza' as the word 'Afza' is common and the meaning of the words 'Rooh' and 'Dil', when translated in English, are commonly used in conjunction.
- The court also said that as the product is a low-priced consumable item, "the average customer would not deliberate on the details of the product as one would do while taking a high-value investment decision.

6. Strong Trademark

A mark is said to be strong when it is well-known and has acquired a high degree of goodwill. The degree of the protection of any trademark changes with the strength of the mark; the stronger the mark, the higher the requirement to protect it.

DELIMITATION COMMISSION

1. Context

The Election Commission of India said Tuesday it has begun the **process of delimitation** of Assembly and Parliamentary constituencies in Assam.

The process will be based on Census data from 2001. The last **delimitation of constituencies in Assam** was done in 1976 based on the 1971 Census.

2. Key takeaways

- In 1971, Assam's population was 1.46 crore. In 2001, it increased to 2.6croresre and to 3.12 crore in 2011

- The EC also issued a directive banning the creation of new administrative units in the state with effect from January 1 next year until the completion of the delimitation exercise in the state
- Assam currently has 14 Lok Sabha and 126 Assembly constituencies.
- As mandated under Article 170 of the Constitution, census figures (2001) shall be the purpose of readjustment of Parliamentary and Assembly Constituencies in the State.
- Reservation of seats for the Scheduled Castes and Scheduled Tribes will be provided as per Articles 330 & 332 of the Constitution of India
- The Commission will design and fise its own guidelines and to delimiting the constituencies
- During the delimitation exercise, the Commission will keep in mind the physical features, existing boundaries of administrative units, facility of communication, and public convenience and as far as practicable, the constituencies will be kept as geographically compact areas
- According to the EC, once a draft proposal of delimitation of constituencies in Assam is finalised by the Commission, it will be published in the Central and State Gazettes inviting suggestions/objections from the general public
- Section 8A of the Representation of the People Act allows for delimitation of Parliamentary and Assembly constituencies in Arunachal Pradesh, Assam, Manipur or Nagaland

3. What is Delimitation

Delimitation is a process of fixing the boundaries of Parliamentary and Constituent assemblies according to the changes in the Population

It is to make sure equal representation to equal segments of the population, and a fair division of geographical areas so that one party will not have an advantage over others

Delimitation follows the One Vote One Value Principle

- Article 82 empowers the Parliament to enact a Delimitation act with Every Census
- Article 170, States also get divided into Assembly constituencies according to the Population change

4. About Delimitation Commission

Delimitation Act was enacted in 1952, The first delimitation commission was carried out by The President of India in 1951-52

1. Delimitation commission is appointed by the President of India in collaboration with the Election Commission of India
2. It has been set up five times until now 1952, 1963, 1973, and 2002, 2022(J&K, Assam)

4.1. Structure

- Retired Supreme Court Judge
- Chief Election Commissioner
- Respective Election Commissioners

4.2. Objectives

- It is to determine the number and boundaries of constituencies to make the population of all constituencies almost equal
- To find out the SC and ST constituencies according to the population rise in their population

DISPUTES AMONG STATES

1. Context

The border dispute between Maharashtra and Karnataka is intensifying, with both states hardening their stance.

On December 27, both Houses of the Maharashtra Assembly passed a unanimous resolution to support a legal battle to resolve the dispute.

This came just days after the Karnataka Assembly passed a resolution reiterating Karnataka's position on the issue.

2. Maharashtra-Karnataka border dispute

- The border dispute over Belagavi, Karwar and Nipani in North Karnataka is longstanding.

- When state boundaries were redrawn on linguistic lines as per the States Reorganisation Act of 1956, Belagavi became part of the erstwhile Mysore state.
- Maharashtra claims that parts of Belagavi, where Marathi is the dominant language, should remain in Maharashtra.
- In October 1966, the Centre set up the Mahajan Commission, led by the former Chief Justice of India Mehr Chand Mahajan, to resolve the border dispute in Maharashtra, Karnataka and Kerala.
- The Commission recommended that Belgaum and 247 villages remain with Karnataka.
- Maharashtra rejected the report and in 2004 moved to the Supreme Court.

3. Resolving the issue

- Attempts are often made to resolve inter-state disputes with the cooperation of both sides, with the Centre working as a facilitator or a neutral mediator.
- If issues are resolved amicably, Parliament can bring a law to alter state boundaries, such as the Get breaking news alerts Bihar-Uttar Pradesh (Alteration of Boundaries) Act of 1968 and the Haryana-Uttar Pradesh (Alteration of Boundaries) Act of 1979.

Union Minister Amit Shah met the Chief Ministers of both states and asked them to form a six-member team, comprising three ministers from each side, to address all boundary issues.

4. Other methods

There are other formal methods in the Constitution to resolve inter-state disputes.

4.1. Judicial Redressal

The Supreme Court in its original jurisdiction decides imputes between states. Article 131 of the Constitution reads: "Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute.

- (a) between the Government of India and one or more States or
- (b) between the Government of India and any state or States on one side and one or more other states on the other or
- (c) between two or more states, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement and or another similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute.

4.2. Inter-State Council

- Article 263 of the Constitution gives powers to the President to set up an Inter-state Council for the resolution of disputes between states.
- The Council is envisaged as a forum for discussion between the states and the Centre.
- In 1988, the Sarkaria Commission suggested that the Council should exist as a permanent body and in 1990 it came into existence through a Presidential Order.

The provision reads: "provisions concerning an inter-State Council if any time it appears to the President that the public interest would be served by the establishment of a Council charged with the duty of

(a) inquiring into and advising upon disputes which may have arisen between States

(b) investigating and discussing subjects in which some or all of the states or the Union and one more of the States, have a common interest or

(c) making recommendations upon any such subject and in particular, recommendations for the better coordination of policy and action concerning that subject, it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure.

- In 2021, the Centre reconstituted the Inter-State Council and the body now has 10 Union Ministers as permanent invitees.
- The Standing Committee of the Council has been reconstituted with Home Ministers as Permanent invitees.
- The Standing Committee of the Council has been reconstituted with Central Home Minister as chairman.
- Finance Minister and the Chief Ministers of Maharashtra, UP and Gujarat are some of the other standing committee members.

5. Other inter-state disputes in India

In a reply to Parliament, in 2015, the Centre said that there are border disputes mostly arising out of claims and counter-claims over territories between

1. Assam-Meghalaya
2. Assam-Nagaland
3. Assam-Mizoram
4. Assam-Arunachal Pradesh and
5. Maharashtra-Karnataka.

EWS QUOTA

1. Context

On September 27, a constitutional Bench led by CJI U.U.Lalit heard multiple petitions against reservations based solely on economic criteria introduced by the Constitution (103rd) Amendment Act, 2019. After extensive hearings, the Bench reserved its judgment in the case.

2. Types of Reservations:

Vertical reservation: Reservation for Scheduled Castes, Scheduled Tribes, and other Backward classes is referred to as vertical reservation. It applies separately for each of the groups specified under the law.

Horizontal Reservations: It refers to the equal opportunity provided to other categories of beneficiaries such as women, veterans, the transgender community, and individuals with disabilities, cutting through the vertical categories.

3. The Application of Reservations:

- The horizontal quota is applied separately to each vertical category, and not across the board.
- For Example, if women have a 50% horizontal quota, then half of the selected candidates will have to necessarily be women in each vertical quota category-i.e., half of all selected SC candidates will have to be women, half of the unreserved or general category will have to be women, and so on.
- The interlocking of the two types of reservation throws up a host of questions on how certain groups are to be identified. For example, would an SC woman be put in the category of women or SC? since

quotas are fixed in percentages, what percentage of quota would be attributed to each?

4. Special measures provided by the 103rd Constitutional Amendment Act

- Article 15 stands amended enabling the state to take special measures (Not limited to reservations) in favor of EWS generally with an explicit sub-article on admission to educational institutions with a maximum 10% reservation.
- The amendment to Article 16 allows 10% reservation (and not special measures) for Ews in public employment and does so in a manner that is different from reservation for scheduled caste/Scheduled Tribes and other Backward Classes.
- The amendment leaves the definition of 'Economically Weaker Sections' to be determined by the state based on 'family income and other economic indicators.
- Also critical to this amendment is the exclusion of SC/STs, OBCs, and other beneficiary groups under Articles 15(4), 15(5), and 16(4) as beneficiaries of the 10% Ews reservation.

5. Indra Sawhney Case

- To start the constitutional examination of the recent amendment let us take the supreme court's view on reservation based purely on economic criteria.
- Eight of the nine judges in Indra Sawhney (November 1992) held that the Narasimha Rao government's executive order (and not a constitutional amendment)providing for 10% reservations based purely on economic criteria was unconstitutional.
- Their reasons include the position that income/property holdings cannot be the basis for exclusion from government jobs, and that the constitution was primarily concerned with addressing social backwardness.

6. 103rd Amendment will be tested against the Basic structure doctrine

- However, the decision in Indra Sawhney involved testing an executive order against existing constitutional provisions. In the current situation, we are concerned with a constitutional amendment brought into force using the constituent power of parliament.

- The fact that we are not concerned with legislative or executive power means that the amendment will be tested against the 'basic structure and not the constitutional provisions existing before the amendment.
- The pointed question is whether measures based purely on economic criteria violate the 'basic structure of the constitution.
- Experts believe, it is a sufficient answer to say that 'backwardness' in the constitution can only mean 'social and educational backwardness.
- It is difficult to see an argument that measures purely on economic criteria are per se violative of the Basic structure.
- EWS reservations might not be able to alleviate poverty but that is not the nature of 'basic structure' inquiry. Economic criteria form the basis for differential treatment by the state in many ways and it would be a stretch to suddenly see it as constitutionally suspect when it comes to 'special measures; and reservation in education and public Employment.
- Poverty inflicts serious disadvantages and the prerogative of the state to use special measures/ reservations as one of the means to address it (however misplaced it might be as a policy) is unlikely to fall foul of the 'basic structure doctrine.

7. Challenges to the amendment

- A challenge to the amendment may lie in the context of Article 16 by shifting how reservations can be provided in public employment.
- Under Article 16(4), reservations for the backward classes (SC/STs, OBCs) are dependent on beneficiary groups not being 'adequately represented' but that has been omitted in the newly inserted Article 16(6) for EWS.
- The amendment through Article 16(6) ends up making it easier for the state to provide reservations in public employment for EWS than the requirements to provide reservations for 'backward classes' under Article 16(4).
- Supreme court might have its views on this. On the one hand, it is confronted with the reality that 'backward classes' like SC/STs and OBCs are disadvantaged along multiple axes.
- On the other hand, it is now far more difficult for the state to provide reservations to these groups than the EWS. The response might well be that 'representation' is not the aim of EWS reservation and questions of 'adequacy' are relevant only in the context of representation claims like those of the backward classes under Article 16(4).

8. Breaching the 50% Ceiling

- In many of the responses to the amendment, breaching the 50% ceiling on reservations has been cited as its greatest weakness. It is hard to see the merit of that argument because the amendment by itself does not push the reservation beyond 50%
- While it might be a ground to challenge the subsequent legislative/executive actions, the amendment itself is secure from the challenge. But even beyond this narrow technical response, the 50% ceiling argument is far from clear.
- In *Indra Sawhney*, the majority of judges held that the 50% ceiling must be the general rule and a higher proportion may be possible in 'extraordinary situations'. Fundamentally this argument stems from an unresolved normative tension in *Indra Sawhney*.

9. The Saurav Yadav versus the State of Uttar Pradesh 2020 Case:

The court ruled against the Uttar Pradesh government, holding if a person belonging to an intersection of the vertical-horizontal reserved category had secured scores high enough to qualify without the vertical reservation, the person would be counted as qualifying without the vertical reservation, and cannot be excluded from the horizontal quota in the general category.

A similar question had arisen in the case of vertical reservation in the past, and the law had been settled similarly: If a person in the SC category secures a higher score than the cut-off for the general category, the person would be counted as having qualified under the general category instead of the SC quota.

10. The Government's argument:

The government's policy was to restrict and contain reserved category candidates to their categories, even when they had secured higher grades. The court said this amounted to ensuring that the general category was 'reserved' for upper castes.

11. The Court's reasoning:

If both vertical and horizontal quotas were to be applied together-and consequently, a high-scoring candidate who would otherwise qualify without one of the two reservations is knocked off the list-then the overall selection would have candidates with lower scores.

On the other hand, if a high-scoring candidate is allowed to drop one category, the court found that the overall selection would reflect more high-scoring candidates. In other words, the "meritorious" candidates would be selected.

12. Reservations are not an 'exception' but a 'facet' of equality

- While committing to the constitutional position that reservations are not an 'exception' but a 'facet' of equality, the majority in Indra Sawhney also invokes the idea of balancing the equality of opportunity of backward classes 'against' the right to equality of everyone else.
- When the governments implement the EWS reservations and push quotas beyond 50%, the supreme court will be forced to confront this normative tension.
- If reservations further equality, what then are the justifications to limit it to 50% when the identified beneficiaries constitute significantly more than 50%?
- The answer to that question might lie in Indra Sawhney's position that the constitutional imagination is not one of 'proportional representation' but one of 'adequate representation'.
- However, as discussed above, if abandoning the 'adequacy' requirement per se is upheld for EWS reservations, the basis for a 50% ceiling becomes unclear.

13. Conclusion

Reservation is a form of positive discrimination, created to promote equality among marginalized sections and to protect them from social and historical injustice. The ruling will give clarity on the reservation and make it easier for governments to implement and apply reservations. More needy scheduled castes, scheduled tribes, and other backward-class candidates will be benefited if high-scoring candidates are recruited under the general category.

DISQUALIFICATION OF CONVICTED LEGISLATORS

1. Context

Two Uttar Pradesh legislators were convicted on criminal charges in recent days, but only one of them has been disqualified and his seat declared vacant by the State's Legislative Assembly Secretariat.

2. Key points

- Azam Khan, the Samajwadi Party MLA for Rampur was sentenced to a three-year jail term for making an inflammatory speech in 2019.

- Disqualification upon conviction on a criminal charge, accompanied by a prison sentence of two years and more is immediate.

3. Disqualification

- Section 8 of the Representation of the People Act (RPA), 1951, contains provisions aimed at decriminalising electoral politics.
- There are two categories of criminal cases that attract disqualification upon conviction.
- In the first category are offences that entail disqualification for six years upon any conviction.

If the punishment is fine, the six-year period will run from the date of conviction, but if there is a prison sentence, the disqualification will begin on the date of conviction and will continue up to the completion of six years after the date of release from jail.

4. Major IPC offences are included under this head

1. Making speeches that cause enmity between groups (Sec. 153A) and doing so in a place of worship (Sec.505),
2. Bribery and personation during elections and other electoral offences,
3. Offences relating to rape and
4. Cruelty to women by husband and latter's relatives.

5. Serious provisions of special laws

- Besides, serious provisions of special laws such as the **Protection of Civil Rights Act, Customs Act, Unlawful Activities (Prevention) Act etc** are among the category of offences that entail disqualification regardless of the quantum of punishment.
- Laws for preventing **Sati, Corruption, terrorism and insult to the national flag and national anthem** are also part of this group.
- All other criminal provisions form a separate category under which mere conviction will not entail disqualification.
- A sentence of at least two years in prison is needed to incur such disqualification.

6. Legal protection for legislators

- Under Section 8 (4) of the RPA, legislators could avoid immediate disqualification until 2013.
- The provision said that concerning a Member of Parliament or a State legislator the disqualification will not take effect for three months.
- If within that period, the convicted legislator files an appeal or revision application, it will not take effect until the disposal of the appeal or application.
- In other words, the mere filing of an appeal against conviction will operate as a stay against disqualification.

7. Lily Thomas vs. Union of India

In this case, the Supreme Court struck down clause (4) as unconstitutional, thus removing the protection enjoyed by lawmakers.

8. Can the disqualification be removed?

- The Supreme Court has the power to stay not only the sentence but also the conviction of a person.
- In some rare cases, conviction has been stayed to enable the appellant to contest an election.
- However, the SC has made it clear that such a stay should be very rare and for special reasons.
- The RPA itself provides a remedy through the Election Commission.
- Under Sec. 11 of the Act, the EC may record reasons and either remove or reduce the period of, a person's disqualification.
- The EC exercised this power for Sikkim Chief Minister P.S. Tamang, who served a one-year sentence for corruption and reduced his disqualification to contest a byelection and remain in office.

MINORITY STATUS IN INDIA

1.Context

The Supreme Court has taken up a petition seeking the identification of minorities at the state level and granting minority status to Hindus in states and union territories where their numbers have gone below other communities.

2.About petition

The petition by Advocate Ashwini Upadhyay has contended that the 2011 census showed that Hindus have become a minority in Lakshadweep (2.5%), Mizoram (2.75%), Nagaland (8.75%), Meghalaya (11.53%), J&K (28.44%), Arunachal Pradesh (29%), Manipur (31.39%), and Punjab (38.40%), but were being denied minority benefits that are currently being enjoyed by the respective majority communities in these places

3.Minority Definition under Indian Law

- The expression "minorities" appears in some Articles of the Constitution but is not defined anywhere
- Currently, only those communities notified under section 2(c) of the National Minorities Commission Act, 1992, by the central government are regarded as a minority
- In exercising its powers under Section 2(c) of the NCM Act, the Centre on October 23, 1993, notified five groups: Muslims, Christians, Sikhs, Buddhists, and Parsis , as ‘minority’ communities. Jains were added to the list in January 2014.

4.Constitutional provisions

- Article 29, which deals with the “Protection of interests of minorities”, says that “any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same”, and that “no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them”.
- Article 30 deals with the “right of minorities to establish and administer educational institutions”. It says that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. It says that “in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause

- Article 350(A) says there shall be a Special Officer for linguistic minorities appointed by the President. "It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned".

GOVERNOR

1. Context

Dravida Munnetra Kazhagam (DMK) leader TR Baalu on Tuesday urged "all like-minded MPs" to support a proposal to remove the Tamil Nadu governor, R N Ravi.

2. Introduction

- Part VI of the constitution deals with the states and lists out the role and responsibility of the Governors of states.
- Article 153 provides for a Governor of every state and is the constitutional head of the state.
- The executive power of the state shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him by this Constitution (Article 154).
- Governor performs the same duties as of president, but as the executive head of the state; the work remains the same as of the office of the President of India.
- A governor is a nominated head and not an elected representative.
- Dual Role of the Governor as head and representative-1. Constitution head of the state; and 2. The link between Union and State governments.
- His dual role makes him a key functionary in the Indian Constitutional system.

3. Appointment and Eligibility for the post Governor

Articles 157 and 158 specify eligibility requirements for the post of governor.

Eligibility of governor:

1. Must be a citizen of India
2. He must be at least 35 years of age.
3. Not be a member of either house of the parliament or any state legislature.
4. Not hold any office of profit

The governor of a state shall be appointed by the President (Article 155).

Reasons for the nomination of governor instead of election:

The nominated governor will promote all-India unity and not separatist provincial tendencies. An elected governor will belong to a party, hence, will not be impartial and neutral. Conflicts will arise between CM and Governor if both are elected by the People.

4. Removal of Governor

As he holds the office at the pleasure of the president, a Governor can not be impeached. No specified grounds exist for removal.

Their term is terminated on the following occasions-

Dismissal by the President on the advice of the Council of Ministers headed by the prime minister of the country. Dismissal of governors without a valid reason is not permitted. However, it is the duty of the President to dismiss a governor whose acts are upheld by courts as unconstitutional and mala fide. Resignation handed in by Governor.

5. Governor-state Relations

The Governor enjoys certain power granted under the Constitution, such as giving or withholding assent to a Bill passed by the state legislature, assenting to the convening of the state legislative assembly, determining the time needed for a party to prove its majority, and which party must be called first do so, generally after a hung verdict in an election.

5.1 What happens in the case of disagreements?

There are no provisions laid down in the constitution for the manner in which the Governor and the state must engage publicly when there is a difference of

opinion. The management of differences has traditionally been guided by respect for each other's boundaries.

5.2 What courts have Said?

- In *Surya Narain Choudary vs Union of India* (1981), the Rajasthan High Court held that the pleasure of the president was not justiciable, the Governor had no security of tenure and can be removed at any time by the President withdrawing pleasure.
- In *BP Singhal vs Union of India* (2010), the supreme court elaborated on the pleasure doctrine. It upheld that "no limitations or restrictions are placed on the 'at pleasure' doctrine", but that it "does not dispense with the need for a cause for withdrawal of the pleasure".
- In its judgment, the Bench, while noting that the president can remove the Governor from office "at any time without assigning any reason and without giving any opportunity to show cause", the power to remove can't be exercised in an "arbitrary, capricious or unreasonable manner".

6. What various commissions have said?

- Over the years, several panels and commissions have recommended reforms in how Governors are appointed and how they function, such as the Administrative Reforms Commission of 1968, The Sarkaria commission of 1988, and the National Commission to review the working of the constitution, headed by the retired CJI M N Venkatchaliah, in 2001.
- The Sarkaria Commission had recommended that Governors are not sacked before completing their five-year tenure, except in "rare and compelling" circumstances. Recommendations have also been made for a provision to impeach the Governor by the Assembly. However, none of these have been implemented.

ARTICLE 142

1.What is Article 142?

Article 142 provides a unique power to the Supreme Court, to do “complete justice” between the parties, where at times law or statute may not provide a remedy. In those situations, the Court can extend itself to put a quietus to a dispute in a manner that would fit the facts of the case.

2. Article 142 in the constitution?

Article 142(1) states that “The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe”

3.The idea behind Article 142?

Article 142 of the Constitution of India provides a special and extraordinary power to the Supreme Court to do complete justice to the litigants who have suffered traversed illegality or injustice in the proceedings

4.Incorporating Article 142?

The necessity for incorporating such an article into the Constitution was spelt out in the Constituent Assembly. The framers of the Constitution felt that this provision is of utmost significance to those people who have to suffer due to the delay in getting their necessary reliefs due to the disadvantaged position of the judicial system. According to Shri Thakur Das Bhargava, natural justice is above law, and the Supreme Court will also be above law, in the sense that, it shall have full right to pass any order that it considers just. This gives almost unlimited powers to the Supreme Court. Therefore, the Supreme Court shall exercise these powers and will not be deterred from doing justice by the provision of any rule or law, executive practice or executive circular or regulation etc.

5. important instances where the Supreme Court has invoked its plenary powers under Article 142?

5.1.Manohar Lal Sharma v. Principal Secretary- the Supreme Court can deal with exceptional circumstances interfering with the larger interest of the public in order to fabricate trust in the rule of law.

5.2.A.R. Antulay v. R.S. Nayak– the Supreme Court held that any discretion which is given by the court should not be arbitrary or in any way be inconsistent with provisions of any statute laid down.

5.3.Laxmi Devi v. Satya Narayan- Supreme Court had ordered the accused, under Article 142, to award compensation to the victim with whom he had sexual intercourse with a promise to marry and had later retracted his promise. Also, the order made clear that the accused should not be convicted of rape.

5.4.Union Carbide Corporation v. Union of India– In Bhopal Gas Tragedy Case, the court ordered to award compensation to the victims and placed itself in a position above the Parliamentary laws.

5.5.Siddiq v. Mahant Suresh Das– popularly known as the Ayodhya dispute, the Supreme Court had exercised the powers mentioned under Article 142 of the Constitution. It first refused to make two divisions of the land and it entirely handed over 2.77 Acre of land to Hindus.

ELECTORAL BONDS

1.Context

The Supreme Court dismissed petitions seeking to stay the sale of fresh electoral bonds ahead of Assembly elections in West Bengal, Tamil Nadu, Kerala, Assam, and Puducherry

2.About Petition

It was filed by the Association for Democratic Reforms, which works for electoral transparency and accountability, along with Common Cause, another non-profit. The court admitted the plea and sought responses from the government and the Election Commission of India (EC).

The petition challenged the constitutionality of the electoral bonds scheme, as well as the petitioners, had asked the court to declare all political parties as public offices to bring them under the ambit of the Right to Information Act and compel political parties to disclose their income and expenditure.

3. Electoral Bonds

These were announced in the 2017 Union Budget

- Electoral bonds are interest-free bearer instruments used to donate money anonymously to political parties. A bearer instrument does not carry any information about the buyer or payee, and the holder of the instrument (which is the political party) is presumed to be its owner.
- The bonds are sold in multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore, and the State Bank of India is the only bank authorized to sell them.
- Donors can buy and subsequently donate bonds to a political party, which can encash the bonds through its verified account within 15 days.
- There is no limit on the number of bonds an individual or company can purchase. If a party hasn't encashed any bonds within 15 days, SBI deposits these into the Prime Minister's Relief Fund.
- A total of 12,924 electoral bonds worth Rs 6534.78 crore have been sold in 15 phases between March 2018 and January 2021.

4. Eligibility for the Bonds

Only those political parties that are registered under Section 29A of the Representation of the People Act, 1951, and which secured not less than 1% of votes polled in the last General Election to the House of the People or the Legislative Assembly of the State are eligible to receive Electoral Bonds.

5. Recent amendment

The Ministry of Finance on November 7 issued a notification for amending the scheme to provide “an additional period of 15 days” for their sale “in the year of general elections to the Legislative Assembly of States and Union Territories with Legislature

The bonds under this scheme are usually made available for purchase by any person for ten days each in January, April, July, and October when specified by

the Union government. The original scheme had provided for an additional period of thirty days, as specified by the government, in the year when Lok Sabha elections are held, while the amendment adds another 15 days.

Who can donate?

Individuals, groups of individuals, NGOs, religious and other trusts are permitted to donate via electoral bonds without disclosing their details

6. Election commission objections

The EC had objected to amendments in the Representation of the People Act that exempt political parties from disclosing donations through this route

EC had written, “In a situation where the contribution received through electoral bonds are not reported, on perusal of the contribution report of political parties, it cannot be ascertained whether the political party has taken any donation in violation of provision under Section 29(b) of the RP Act which prohibits the political parties from taking donations from government companies and foreign sources.”

7. Grounds of Challenge

1. Anonymity-Through an amendment to the Finance Act 2017, the Centre has exempted parties from disclosing donations received through electoral bonds. In other words, they need not disclose these details in their mandatory contribution reports to the Election Commission every year. This means voters will not know which individual, company, or organization has funded which party, and to what extent. Before the introduction of electoral bonds, parties had to disclose details of all donors who have contributed more than Rs 20,000. According to transparency activists, the change infringes on the citizens' Right to Know and makes the political class even more unaccountable
2. Taxpayer's Money- the printing of these bonds & SBI commission for facilitating the sale and purchase of the bonds is paid from the taxpayers' money by the central government

Popularity of Bonds

By virtue of the anonymity they offer to donors, electoral bonds have become the most popular route of donation. More than half the total income of national parties and the regional parties analyzed by ADR for the financial year 2018-19 came from electoral bonds donations

8. Advantages of Bonds

1. All electoral bonds issued are to be redeemed by a bank account that the Election Commission of India has disclosed; hence the malpractice is curbed
2. The widespread use of electoral bonds can help to hold back political parties that operate to simply collect funds from the public. It is because only registered parties attaining at least 1% of the votes in the general election can receive electoral funding.
3. Electoral bonds work with the government's goal to make election funding entirely safe and digitized.
4. All transactions of electoral bonds are carried out via cheques or digitally.

9. Disadvantages of Electoral Bonds

1. Some critics say that electoral bonds have been brought into operation with the primary purpose of choking the funding available to opposition parties.

ROLE OF GOVERNOR IN PUBLIC UNIVERSITIES

1. Context

Recently, the West Bengal government passed a bill to replace the Governor with the Chief Minister, as the Chancellor of 31 state public universities (Such as Calcutta University, and Jadavpur University). As per the All India Survey

on Higher education (2019-20), state public universities provide higher education to almost 85% of all students enrolled in higher education in India.

2. What is the role of the Chancellor in public universities?

- State public universities are established through laws passed by state legislatures. In most laws, the Governor has been designated as the chancellor of these universities.
- The chancellor functions as the head of public universities and appoints the Vice-Chancellor of the university. Further, the Chancellor can declare invalid, any university proceeding which is not as per existing laws.
- In some states such as Bihar, Gujarat, and Jharkhand the Chancellor has the power to conduct inspections in the university. The chancellor also presides over the convocation of the university and confirms proposals for conferring honorary degrees. This is different in Telangana, where the Chancellor is appointed by the state government.
- The Chancellor presides over the meetings of various university bodies (such as the court/senate of the university). The court/senate decides on matters of general policy related to the development of the university, such as: (i) establishing new university departments, (ii) conferring and withdrawing degrees and titles, and (iii) instituting fellowships.
- The West Bengal University Laws (Amendment) Bill, 2022 designates the Chief Minister of West Bengal as the Chancellor of the 31 public universities in the state.
- Further, the Chief Minister (instead of the Governor) will be the head of these universities and preside over the meetings of University bodies (Such as the Court/Senate).

3. Does the Governor have discretion in his capacity as Chancellor?

- The Sarkaria and Puunchi Commission also dealt with the role of the Governor in educational institutions. Both Commissions concurred that while discharging statutory functions, the Governor is not legally bounded by the aid and advice of the Council of Ministers.
- However, it may be advantageous for the Governor to consult the concerned Minister.
- The Sarkaria Commission recommended that state legislatures should avoid conferring statutory powers on the Governor, which were not envisaged by the constitution.

- The Puunchi Commission observed that the role of the Governor as the Chancellor may expose the office to controversies or public criticism. Hence, the role of the governor should be restricted to constitutional provisions only.

4. Recent Developments

- Recently, some states have taken steps to reduce the oversight of the Governor in-state public universities.
- In April 2022, the Tamil Nadu Legislative Assembly passed two Bills, to transfer the power of appointing the Vice-Chancellor (in public universities) from the Governor, to the state Government. As of June 8, 2022, these bills have not received the Governor's assent.
- In 2021, Maharashtra amended the process to appoint the Vice Chancellor of state public universities. Before the amendment, a search Committee forwarded a panel of a least five names to the Chancellor (who is the Governor).
- The Chancellor could then appoint one of the persons from the suggested panel as Vice-Chancellor, or ask for a fresh panel of names to be recommended.
- The 2021 amendment mandated the search Committee to first forward the panel names to the state government which would recommend a panel of two names (from the original panel) to the Chancellor.
- The Chancellor must appoint one of the two names from the panel as Vice-Chancellor within thirty days.
- As per the amendment, the Chancellor has no option of asking for a fresh panel of names to be recommended.
- The Chancellor must appoint one of the two names from the panel as Vice-Chancellor within thirty days. As per the amendment, the Chancellor has no option of asking for a fresh panel of names to be recommended.

NINTH SCHEDULE

1.Context

The Jharkhand Assembly on Friday (November 11) cleared two Bills, one increasing reservation in vacant government posts and services in the state to 77 percent, and the second to use land records with 1932 as the cut-off year to determine domicile status as the definition of 'local residents.

2. About Bill

- The first Bill, 'Jharkhand Reservation of Vacancies in Posts and Services (Amendment) Bill, 2022', raised reservation to 77 per cent.
- Local Persons Bill, 2022: 'Jharkhand Definition of Local Persons and for Extending the Consequential, Social, Cultural and Other Benefits to Such Local Persons Bill, 2022', is aimed at granting local residents "certain rights, benefits, and preferential treatment" over their land
- In their stake in the local development of rivers, lakes, and fisheries in local traditional and cultural and commercial enterprises in rights over agricultural indebtedness or availing agricultural loans in maintenance and protection of land records for their social security in employment in private and public sector and, for trade and commerce in the state

3. Why the need to include in Ninth Schedule

The 77 per cent reservation breaches the 50 per cent ceiling set by the Supreme Court in the landmark 1992 Indra Sawhney v Union of India verdict. However, placing legislation in the Ninth Schedule shields it from judicial scrutiny.

4.Ninth Schedule

- The Ninth Schedule contains a list of central and state laws which cannot be challenged in court. Currently, 284 such laws are shielded from judicial review. Most of the laws protected under the Schedule concern agriculture/land issues.
- The Schedule became a part of the Constitution in 1951 when the document was amended for the first time. It was created by the new Article 31B, which along with 31A was brought in by the government

to protect laws related to agrarian reform and to abolish the Zamindari system.

- The First Amendment added 13 laws to the Schedule.

5. Articles 31 A and 31 B

- While A. 31A extends protection to ‘classes’ of laws, A. 31B shields specific laws or enactments.
- Article 31B reads: “Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act
- Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

6. Cases where Reservation Breaches 50% Ceiling

The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and Appointments or Posts in the Services under the State) Act, 1993, reserves 69 per cent of the seats in colleges and jobs in the state government.

6.1. I R Coelho v State of Tamil Nadu

When the Tamil Nadu law was challenged in 2007 (I R Coelho v State of Tamil Nadu), the Supreme Court ruled in a unanimous nine-judge verdict that while laws placed under Ninth Schedule cannot be challenged on the grounds of violation of fundamental rights, they can be challenged on the ground of violating the basic structure of the Constitution.

The IR Coelho verdict said, "A law that abrogates or abridges rights guaranteed by Part III of the Constitution may violate the basic structure doctrine or it may not. If former is the consequence of the law, whether by amendment of any Article of Part III or by an insertion in the Ninth Schedule, such law will have to be invalidated in the exercise of judicial review power of the Court."

6.2.Scope of Judicial Review for laws placed under 9th Schedule

- The first amendment was brought by the parliament after the Kamleshwar case and with the insertion of article 31B along with the 9th schedule for giving effect to agrarian reforms.
- The provisions inserted were made to provide immunity to the laws inserted under them from judicial encroachment.
- After the first amendment, the major landmark case in which the question of immunity granted to parliament was presented before the court was the case of **Shankari Prasad**.
- It was asked whether Article 31B read with schedule 9 was unconstitutional by excluding the scope of judicial review.
- It was contended that excluding judicial scrutiny for such laws will amount to a violation of Article 13 (2)
- The Court rejected the petition by stating that “there is a chart clear demarcation between ordinary law and constitutional law, and so, the amendments made under Article 368 are not affected by the application of article 13 (2).
- In addition, the parliament under Article 368 is empowered to amend the fundamental rights also and in such instances judicial encroachment is impermissible.
- But, later in the Golaknath case, it was held that the parliament has no power to amend the fundamental rights including the provisions on personal property. The parliament aggrieved by the judgment in **Golaknath** passed the 24th amendment in 1971, which empowered it to amend any part of the Constitution including the fundamental rights.
- This stage i.e. the years following the 24th amendment may be considered as the years of a tussle on the issue of power and authority between the legislature and the Indian Judiciary which followed its course until the landmark judgment in Kesavananda Bharati (24 April 1973).
- This case put a check on the enormous power of the parliament through the introduction of basic structure doctrine and made the judiciary more powerful. This case is also regarded as the **saviour of Indian democracy**.

EWS RESERVATION

1.Context

The Supreme Court by a 3:2 majority has upheld the validity of the constitution (103rd amendment) Act, 2019, providing reservation up to 10% for Economically weaker sections (EWS) in education and employment among those groups that do not come under any community-based reservation.

2.Change in Concept

From a form of affirmative action in which membership of a social group was the main basis for extending a reservation, it moved towards using income and means as the basis for special provisions.

3.EWS Reservation

- Indra Sawhney 1992-a nine-judge bench had ruled that there can be no reservation solely based on economic criteria, as the constitution did not provide for it.
- The 103rd amendment introduced Article 15(6), an enabling provision for the state to make special provisions for "any economically weaker sections of citizens" other than those mentioned in the provisions two clauses, namely the "socially and educationally backward classes" and scheduled castes and scheduled Tribes.
- It also introduced a corresponding clause 6 in article 16 to enable reservation for "economically weaker sections" other than the SEBCs and SC/ST, in public employment and education.
- Article 15 which protects against discrimination on any ground, and article 16, which mandates equality of opportunity in Public employment, were thus changed to allow special provisions and reservations for the EWS category, subject to a maximum of 10%

4.Criteria For EWS

- Persons who are not covered under the scheme of reservation for SCs, STs, and OBCs and whose family has a gross annual income below Rs 8 (Rupees eight lakh only) are to be identified as EWSs for benefit of

reservation. Income shall also include income from all sources i.e. salary, agriculture, business, profession, etc. for the financial year before the year of application.

- Also, persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS, irrespective of the family income:
 - 5 acres of agricultural land and above;
 - The residential area of 1000 sq ft. and above;
 - Residential plot of 100 sq. yards and above in notified municipalities;
 - A residential, plot of 200 sq. yards and above in areas other than the notified municipalities.
- The property held by a "Family" in different locations or different places/cities would be clubbed while applying the land or property holding test to determine EWS status.

5. Main Grounds of Challenge

A substantive limitation is the principle that an amendment to the constitution cannot abrogate or destroy its basic structure. While there is no exhaustive list, concepts central to the constitution system such as secularism, federalism, independence of the judiciary, rule of law and equality before the law are considered its basic features.

The petitioners contended that the amendment violated the basic structure of the Constitution because it violated the equality code. The violation occurred-

(a) by the introduction of economic criterion when the reservation was only meant for groups that were socially and educationally backward due to historical disadvantages and not due to individual lack of means and by converting a scheme to overcome structural barriers for the advancement of social groups into an anti-poverty measure

(b) By excluding OBC/SC/ST candidates from the EWS category and

(c) by breaching the 50% ceiling on total reservations.

6. The rationale behind Upholding the EWS quota

- They held that there was nothing wrong in addressing economic weakness through reservation as an instrument of affirmative action.

- Reservation need not only be for socially and backward classes, but also cover any disadvantaged section.
- Classifying a section based on economic criterion alone was permissible under the constitution, and the EWS quota did not violate any essential feature of the constitution.
- The majority also ruled that the exclusion of the classes already enjoying reservation from the EWS category does not offend the equality principle.
- Unless the EWS segment was exclusive, the object of furthering economic justice cannot be achieved.
- Regarding the breach of the 50% limit, the majority view was that the ceiling itself was not inflexible or inviolable. Another point in favour of the extra 10% quota was that the 50% limit was applicable only to the existing reserved categories (OBC/S/ST).

EKLAVYA MODEL RESIDENTIAL SCHOOL

1. Context

The Narendra Modi-led government is pushing to set up 740 Eklavya Model Residential Schools (EMRS) for tribal students- one each in every sub-district that has at least a 20,000-odd Scheduled Tribe Population, which must be 50% of the total population in that area.

2. How the Eklavya Model Residential School emerged

- The EMRS model was first introduced in 1997-98 to provide equal education to tribal students with residential facilities in remote corners. The aim was to build schools at par with the Jawahar Navodaya Vidyalayas and Kendriya Vidyalayas.
- Until 2018-19, the scheme was overseen by the Ministry of Tribal Affairs with maximum control of identifying new schools, recruiting, management, and admission lying with state governments.

- While the Union government had sanctioned a certain number of preliminary EMRS, the guideline of the scheme noted that States and Union Territories would be responsible for seeking sanction of new schools as and when they needed it.
- The funds for these schools were to come from the grants under Article 275(1) and the guidelines mandated that unless states finished constructing the schools sanctioned by the Centre, they would not be entitled to funds for new ones.

3. Objectives of EMRS

- Comprehensive physical, mental, and socially relevant development of all students enrolled in every EMRS.
- Seek to empower students to be change agents, beginning in their school, in their homes, in their village, and finally in a larger context.
- Focus differentially on the educational support to be made available to those in Standards XI and XII, and those in standards VI to X, so that their distinctive needs can be met.
- Support the annual running expenses in a manner that offers reasonable remuneration to the staff and upkeep of the facilities.
- Support the construction of infrastructure that provides education, physical, environmental and cultural needs of students' life.

4. When was it revamped?

- The new guidelines gave the Union government more power to sanction schools and manage them. A National Education Society for Tribal students (NESTS) was set up and entrusted with the management of the state Education society for Tribal Students (SESTS), which would run the EMRS on the ground.
- The new guidelines set a target of setting up an EMRS in every tribal sub-district and introduced 'population criteria' for setting them up. The new guidelines also reduced the minimum land requirement from 20 acres to 15 acres.
- However, the Standing Committee in its report noted that a large number of schools were being delayed because the area (15acre) requirement and the population criteria were making identification and acquisition of land "more cumbersome", especially in hilly areas, leftwing extremism-affected areas, and the northeast.

- The Standing Committee noted that the population criteria ran the risk of depriving a "scattered tribal population" of the benefits of EMRS, "which are a means towards their educational empowerment".
- Senior NESTS officials admit that sometimes even when the population criteria have been fulfilled, 15-acre plots are not available.
- Despite, the setting up of the NESTS, there was a shortage of teachers. While the new guidelines allowed NESTS to suggest measures for teacher recruitment, they never mandated that states follow them.
- As of July this year, all functional EMRS had a teaching strength of just under 4,000 against the 11,340 recommended by NESTS.

5. Current Status

- The Tribal Affairs Ministry insists on maintaining the new criteria. As of November, a total of 688 schools have been sanctioned, of which 392 are functional. Of the 688, 230 have completed construction and 234 are under construction, with 32 schools still stuck due to land acquisition issues.
- Senior Ministry officials said they intend to achieve this target by the end of 2025-26.
- As for teacher recruitment, the government is at an "advanced stage" of an administrative overhaul, which will give more control of school management to NESTS.
- After approval by the Expenditure Department, all SESTS will be scrapped and regional offices will be set up under the control of NESTS, which will be in charge of recruitment. This process will take place for at least two years.

22ND LAW COMMISSION

1. Why in news?

The Centre on Monday (November 7) constituted the Law Commission of India with Justice (retd) Rituraj Awasthi, former Chief Justice of Karnataka High Court, at its head.

2. About Law commission

- The Law Ministry describes the Law Commission of India as a non-statutory body that is constituted by a notification of the Government of India, with definite terms of reference to carry out research in the field of law.
- The Commission makes recommendations to the Government (in the form of Reports) as per its terms of reference.
- The Law Commission was first constituted in 1955, and has so far submitted 277 reports. According to the Law Ministry's website, the "Law Commission of India provides excellent thought provoking and vital review of the laws in India".

3.22nd Law commission

- The 22nd Commission has been constituted two and a half years after it was approved by the Union Cabinet on February 19, 2020, just before the outbreak of the Covid-19 pandemic.
- A petition had been moved in the Supreme Court subsequently against the delay in constituting the 22nd Commission.
- The Commission would have a tenure of three years from the date of publication of the Order of Constitution in the Official Gazette.
- The Commission shall, among other things, "identify laws which are no longer needed or relevant and can be immediately repealed
- Examine the existing laws in the light of Directive Principles of State Policy and suggest ways of improvement and reform and also suggest such legislations as might be necessary to implement the Directive Principles and to attain the objectives set out in the Preamble of the Constitution
- Revise the Central Acts of general importance so as to simplify them and remove anomalies, ambiguities and inequities

ASSAM MEGHALAYA BORDER DISPUTE

1. Context

Six people, including an Assam Forest Guard, were killed and several others injured during an alleged clash between the Assam Police and a mob, in an area bordering the West Karbi Anglong district of Assam and Mukroh village in Meghalaya's West Jaintia Hills. The Assam Police has claimed they opened fire in self-defence after a mob surrounded them when they were trying to intercept a truck allegedly smuggling timber.

2. Historical Background

During British rule, undivided Assam included present-day Nagaland, Arunachal Pradesh, Meghalaya, and Mizoram. Meghalaya was carved out in 1972; its boundaries were demarcated as per the Assam Reorganisation (Meghalaya) Act of 1969, but have held a different interpretation of the border since.

In 2011, the Meghalaya government had identified 12 areas of difference with Assam, spread over approximately 2,700 sq km.

3. Border Dispute

3.1 Assam Reorganisation Act 1969-Assam and Meghalaya share an 885 km border. In 1970, Meghalaya was carved out of Assam as an autonomous state. In 1972, Meghalaya became a full-fledged state following the Assam Reorganisation (Meghalaya) Act of 1969

This was the beginning of the border problem as the Meghalaya government found the Act unacceptable.

3.2 Land Dispute Points-As many as 12 land dispute points, along the border of these two states, have been a bone of contention. These include Langpih, Upper Tarabari, Gazang reserve forest, Hashim, Borduar, Boklapara, Nongwah, Matamur, Khanapara-Pilangkata, Deshdemoreah Block I and Block II, Khanduli and Retacherra. Six of these areas have found some type of resolution in recent times after a memorandum of understanding (MoU) was signed between the two states.

Among the 12 areas, Langpih in the West Garo Hills bordering the Kamrup district of Assam is a major flashpoint. Langpih was part of the Kamrup district during the British colonial period, but post-Independence, it became part of the Garo Hills and Meghalaya.

Meghalaya claims that the border problem in Langpih has been created by Assam, which has often set up police posts there



4. Conflict Resolution Attempts

4.1 Gopinath Bordoloi committee 1951-Bordoloi Committee's recommendation that Blocks I and II of Jaintia Hills (Meghalaya) be transferred to the Mikir Hill (Karbi Anglong) district of Assam, besides some areas from Meghalaya's Garo Hills to Goalpara district of Assam. The 1969 Act is based on these recommendations which Meghalaya rejects claiming these areas originally belong to the Khasi –Jaintia hills. On the other hand, Assam says Meghalaya does not have the requisite documents to prove these areas historically belonged to Meghalaya.

In 1983, a joint official committee was formed to address the border issues. The panel recommended that the Survey of India should re-delineate the border, teaming up with both states

4.2 Justice YV Chandrachud Panel 1985-In 1991, about 100 km of the border was demarcated with the help of the Survey of India, but Meghalaya cried foul

4.3 Boundary commission 2011-In 2011, the Meghalaya Assembly passed a resolution for the intervention of the Centre and the establishment of a boundary commission.

The Centre asked the two governments to appoint nodal officers to discuss the dispute. In 2019, Meghalaya urged the Supreme Court to direct the Centre to resolve the dispute but the petition was turned down.

4.4 Draft Resolution-On January 29 this year, Assam and Meghalaya signed a draft resolution. It was the first step towards resolving a 50-year-old dispute.

4.5 Memorandum of Understanding signed on March 29, a historic MoU was signed between Assam Chief Minister Himanta Biswa Sarma and his Meghalaya counterpart Conrad K Sangma in the presence of Home Minister Amit Shah in New Delhi.

The first phase saw the closure of six disputed sectors in which out of 36.79 sq km of the disputed area taken up for settlement in the first phase, Assam would get full control of 18.46 sq km and Meghalaya of 18.33 sq km.

The remaining six areas include villages in disputed blocks 1 and 2 transferred from the then United Khasi and Jaintia districts to Assam's Karbi Anglong district for administrative convenience in the 1950s.

On August 22 this year, the second phase of border talks was held with the two states deciding to form three regional committees to resolve issues regarding the remaining six disputed areas.

ELECTION COMMISSION OF INDIA

1. Appointment of Chief Election Commissioner, Election Commissioners

The CEC and ECs are appointed by the President to a tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as judges of the Supreme Court of India.

The Election Commission of India draws its authority from the Constitution itself. Under Article 324, the powers of “superintendence, direction and control of elections” is to be vested in an Election Commission.

2. Size of the Election Commission

- The Constitution does not fix the size of the Election Commission
- Article 324(2) says that “the Election Commission shall consist of the Chief Election Commissioner and a such number of other Election Commissioners if any, as the President may from time to time fix”.
- Earlier, the Election Commission of India consisted of just the Chief Election Commissioner
- However, on October 16, 1989, the Congress government of Prime Minister Rajiv Gandhi appointed two more Election Commissioners, making the Election Commission a multi-member body
- On January 2, 1990, the National Front government of Prime Minister VP Singh amended the rules, making the EC a single-member body again
- However, on October 1, 1993, the government of Prime Minister PV Narasimha Rao promulgated an Ordinance to provide for the appointment of two more Election Commissioners
- The EC has had three members ever since. The Ordinance was subsequently replaced by The Chief Election Commissioner and Other Election Commissioners (Conditions of Service) Amendment Act, 1993, which came into effect on January 4, 1994
- All three ECs have equal say in the decision making of the Commission

NATIONAL PENSION SYSTEM

Context

Systematic Lump Sum Withdrawal (SLW) will allow systematic payment of NPS corpus on a monthly, quarterly, half-yearly or annual basis for 75 years.

Pension Fund Regulatory and Development Authority (PFRDA)

- It is the statutory Authority established by an enactment of the Parliament, to regulate, promote and ensure orderly growth of the NPS.
- It works under the Department of Financial Services under the Ministry of Finance.

Functions

- It performs the function of appointing various intermediate agencies like pension Fund Managers, the Central Record Keeping Agency (CRA) etc.
- It develops, Promotes and regulates the pension industry under the NPS and also administers the APY.

National Pension System

- The Central Government introduced the National Pension System with effect from January 2004 (except for armed forces).
- In 2018 to streamline the NPS and Make it more attractive, the Union Cabinet approved changes in the scheme to benefit central government employees covered under NPS.
- It is being implemented and regulated by PFRDA.
- National Pension System Trust (NPST) established by PFRDA is the registered owner of all assets under NPS.

Structure

It is structured into two tiers:

Tier-I account

This is the non-withdrawable permanent retirement account into which the accumulations are deposited and invested as per the option of the subscriber.

Tier-II account

- This is a voluntary withdrawable account which is allowed only when there is an active Tier-I account in the name of the subscriber.
- The withdrawals are permitted from this account as per the needs of the subscriber as and when claimed.

Beneficiaries

- NPS was made available to all Citizens of India in May 2009.
- Any individual citizen of India (both resident and Non-resident) in the age group of 18-65 years can join NPS.
- OCI (Overseas Citizens of India) and PIO (Person of Indian Origin) cardholders and Hindu Undivided Family (HUFs) are not eligible for the opening of NPS accounts.

NPS Withdrawal Rules

- Under National Pension System rules, a subscriber is required to buy an annuity for at least 40 per cent of the total corpus while the remaining amount can be withdrawn as a lump sum in a single tranche or on an annual basis.
- Subscribers can even opt to buy an annuity with 100 per cent of the amount accumulated in his/her NPS account through years of investment.
- If the new proposal of "systematic Lump sum Withdrawal (SLW) by PFRDA is accepted then NPS subscribers will have more flexibility to optimise the use and returns from their retirement corpus.

PARLIAMENTARY COMMITTEES

1.BACKGROUND OF COMMITTEES

Seventeen Departmentally Related Standing Committees came into being in 1993, when Shivraj Patil was Speaker of Lok Sabha, to examine budgetary proposals and crucial government policies. The aim was to increase Parliamentary scrutiny and to give members more time and a wider role in examining important legislation

2.COMMITTEES OF PARLIAMENT

- Legislative business begins when a Bill is introduced in either House of Parliament
- Parliamentary Committees have their origins in the British Parliament. They draw their authority from Article 105, which deals with the privileges of MPs, and Article 118, which gives Parliament authority to make rules to regulate its procedure and conduct of business
- A Parliamentary Committee is a panel of MPs that are appointed or elected by the House or nominated by the Speaker and works under the direction of the Speaker. It presents its report to the House or the Speaker

INCREASED ROLE OF PARLIAMENTARY COMMITTEES

The political polarization and shrinking middle ground have been leading to increasingly rancorous and inconclusive debates in Parliament, as a result of which a great deal of legislative business ends up taking place in the Parliamentary Committees instead.

3. TYPES OF PARLIAMENTARY COMMITTEES

- Parliamentary Committees can be classified into Financial Committees, Departmentally Related Standing Committees, Other Parliamentary Standing Committees, and Ad hoc Committees.
- The **Financial Committees** include the **Estimates Committee**, **Public Accounts Committee**, and the **Committee on Public Undertakings**. These committees were constituted in 1950.
- **Ad hoc Committees** are appointed for a specific purpose. They cease to exist after they have completed the task assigned to them, and have submitted a report to the House. The principal Ad hoc Committees are the Select and Joint Committees on Bills. Committees like the Railway Convention Committee, Committee on Food Management and Security in Parliament House Complex, etc. also come under the category of Ad hoc Committees
- Parliament can also constitute a **Joint Parliamentary Committee (JPC)** with a special purpose, with members from both Houses, for detailed scrutiny of a subject or Bill. Also, either of the two Houses can set up a Select Committee with members from that House.
- JPCs and Select Committees are usually chaired by ruling party MPs and are disbanded after they have submitted their report

4. CONSTITUTION OF COMMITTEES

- There are 16 Departmentally Related Standing Committees for Lok Sabha and eight for Rajya Sabha; however, every Committee has members from both Houses. Lok Sabha and Rajya Sabha panels are headed by members of these respective Houses.
- Among the important Lok Sabha panels are- Agriculture; Coal; Defense; External Affairs; Finance; Communications & Information Technology; Labour; Petroleum & Natural Gas; and Railways.
- The important Rajya Sabha panels include Commerce; Education; Health & Family Welfare; Home Affairs; and Environment.

- There are other Standing Committees for each House, such as the Business Advisory Committee and the Privileges Committee.
- The Presiding Officer of each House nominates members to these panels. A Minister is not eligible for election or nomination to Financial Committees, and certain Departmentally Related Committees.
- Presiding Officers use their discretion to refer a matter to a Parliamentary Committee, but this is usually done in consultation with leaders of parties in the House.

The appointment of heads of the Committees is also done similarly.

- By convention, the main Opposition party gets the post of PAC chairman; it is currently with Congress. Chairmanship of some critical committees has been allocated to opposition parties in the past. However, this pattern has changed in the latest rejig.

The heads of the panels schedule their meetings.

- They play a clear role in preparing the agenda and the annual report and can make decisions in the interest of the efficient management of the Committee. The chairperson presides over the meetings and can decide who should be summoned before the panel
- The chairman should have the support of the majority of the members to summon a witness.
- MPs typically have one-year tenure on Parliamentary Committees. Usually, the composition of a Committee remains more or less the same in terms of representation of the various parties.

5.DISCUSSION AND DEBATES IN PARLIAMENTARY COMMITTEES

- a. Committees are small groups with relatively fewer demands on their time; in these meetings, every MP gets a chance and the time to contribute to the discussion.
- b. Committee meetings are independent of Parliament's calendar
- c. Parliament, whose proceedings are telecast live, and members' are often constrained to speak to their constituencies. As a result, many MPs concede that "real discussions" happen inside the Committees

- d. The Committees look into the demands for grants of Ministries/departments, examine Bills about them, consider their annual reports, and look into their long-term plans and report to Parliament

6.RECOMMENDATIONS OF THE COMMITTEES

Reports of Departmentally Related Standing Committees are recommendatory. They are not binding on the government, but they do carry significant weight.

These panels also examine policy issues in their respective Ministries and make suggestions to the government.

The government has to report back on whether these recommendations have been accepted. Based on this, the Committees table Action Taken Reports, detailing the status of the government's action on each recommendation.

BALAKRISHNAN COMMISSION

1. Why in news?

The **central government has notified a Commission** under former Chief Justice of India and former chairperson of the National Human Rights Commission (NHRC) K G Balakrishnan “**to examine the matter of according Scheduled Caste status to new persons, who claim to historically have belonged to the Scheduled Castes, but have converted to religions other than those mentioned in the Presidential Orders issued from time to time under Article 341 of the Constitution**”.

As of now, the benefits of reservation are available only to Dalit Hindus, Buddhists, and Sikhs. Several petitions are pending before the Supreme Court seeking reservation benefits for Dalits who converted to Christianity or Islam.

2. Key takeaways

2.1.Article 341:

1. The rationale behind giving reservations to Scheduled Castes was that these sections had suffered from the social evil of untouchability, which was practised among Hindus. Under Article 341 of the Constitution, the President may “specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall...be deemed to be Scheduled Castes”
2. The first order under this provision was issued in 1950 and covered only Hindus
3. Following demands from the Sikh community, an order was issued in 1956, including Sikhs of Dalit origin among the beneficiaries of the SC quota
4. In 1990, the government acceded to a similar demand from Buddhists of Dalit origin, and the order was revised to state: “No person who professes a religion different from the Hindu, the Sikh or the Buddhist religion shall be deemed to be a member of Scheduled Caste.”

2.2.Applicability of this religion-based bar

- The Department of Personnel and Training (DoPT) website states, “The rights of a person belonging to a Scheduled Tribe are independent of his/her religious faith.”
- Following the implementation of the Mandal Commission report, several Christian and Muslim communities have found a place in the Central and state lists of OBCs
- So, the religion-based bar does not apply to converted STs and OBCs as well

3. Efforts made to include Muslims and Christians of the Dalit region among SCs

- After 1990, several Private Member Bills were brought in Parliament for this purpose. In 1996, a government Bill called The Constitution (Scheduled Castes) Orders (Amendment) Bill was drafted, but given a divergence of opinions, the Bill was not introduced in Parliament
- The UPA government headed by Prime Minister Manmohan Singh set up two important panels: the National Commission for Religious and Linguistic Minorities, popularly known as the Ranganath Misra Commission, in October 2004; and a seven-member high-level committee headed by former Chief Justice of Delhi High Court

Rajinder Sachar to study the social, economic, and educational condition of Muslims in March 2005

- The Sachar Commission Report observed that the social and economic situation of Dalit Muslims and Dalit Christians did not improve after conversion.
- The Ranganath Misra Commission, which submitted its report in May 2007, recommended that SC status should be “completely de-linked from religion and Scheduled Castes [should be made] fully religion-neutral like Scheduled Tribes”
- The report was tabled in both Houses of Parliament on December 18, 2009, but its recommendation was not accepted given inadequate field data and corroboration with the actual situation on the ground.

COLLEGIUM SYSTEM

1. Context

A Meeting of the Supreme Court Collegium, comprising the Chief Justice of India (CJI), and four senior-most judges, which was called for September 30 but did not take place, was closed without further deliberation.

2. Collegium system

It is a system of appointment and transfer for judges of the supreme court and High courts in India. The system has come to prominence through judgments of the supreme court of India. It is neither a statutory nor a constitutional body. The Supreme court collegium is headed by the Chief Justice of India (CJI) and comprises four other senior-most judges of the court.

A high court collegium is led by its chief justice and the four senior-most judges of that court. Names recommended by a high court collegium first get approved by the CJI and the supreme court collegium then only go to the government. Judges of the higher judiciary are appointed only through the collegium system.

3. Evolution of the Collegium system in India

The constitution says a supreme court judge is appointed by the president in consultation with the Chief Justice of India.

3.1 First Judges Case (1981)

In the First Judges case, the court held that the consultation with the CJI should be full and effective.

3.2 Second Judges Case (1993)

The second judge's case introduced the Collegium system in 1993. It ruled that the CJI would have to consult a collegium of his two senior-most judges in the apex court on judicial appointments.

3.3 Third Judges Case (1998)

Supreme court on the president's reference (Article 143) expanded the Collegium to a five-member body, comprising the CJI and four of his senior-most colleagues.

3.4 National Judicial Appointments Commission (NJAC)

The government through the 99th constitutional amendment wanted to replace the collegium with the NJAC. The NJAC comprised 3 judges of SC, a central law minister, and 2 civil society experts. A person would not be recommended by NJAC if any 2 of its members did not accept such a recommendation making the appointment process more broad-based. However, it was struck down by the supreme court in 2015 in the Fourth judge's case.

3.5 Fourth Judges Case (2015)

In the fourth judge's case, 2015 the SC upheld the primacy of the collegium by striking down the NJAC law. The court's rationale was that the NJAC law offered politicians equal power in judicial appointments to constitutional courts which is against the provision of "separation of power" under the Basic structure of the constitution equal to Ultra vires of the constitution.

Thus the SC declared the collegium as part of the constitution's basic structure equal to the power that could not be removed even through a constitutional amendment. However, due to the widespread criticisms against the collegium, the judgment promised to consider necessary measures to improve the collegium system. For this purpose, the SC requires the government to submit the Memorandum of Procedure (MoP).

3.6 Memorandum of Procedure (MoP)

It is an agreement between the judiciary and the government which contains a set of guidelines for making appointments to the highest judiciary.

4. Issues with Collegium System

- **Extra-Constitutional or non-constitutional body:** Brought in force by judgments of the supreme court
- **Opacity:** Lack of transparency as meetings are held behind closed doors.
- **Nepotism:** There is a scope for Nepotism
- **No seat for Non-judge:** There is no seat in the Collegium system for any non-judge neither from the executive, the Bar, etc. This violates the principle of checks and balances.

5. Issues from the latest developments

Three questions may have arisen from the development :

- One is whether there ought to be a prescribed mode of decision-making, that is, through personal deliberations or by circulation, or by adopting both means as per convenience.
- The second is whether all members of the Collegium give their opinions in writing, or whether they convey reservations, if any, orally.
- The third related question that arises is whether all decisions ought to be unanimous and consensual. There is a view that a recommendation by the majority, with one or two expressing reservations, may give a good reason for the executive to reject the recommendation or seek reconsideration.

6. The mandate of the Collegium system

- Appointments and transfers of judges in the constitutional courts is a participatory consultative process between the Supreme court and the government. But there is a disturbing pattern of the government unilaterally delaying or segregating names recommended by the supreme court collegium.
- The Three Judges case establishes the primacy of the Collegium, led by the CJI, in making judicial appointments. 'Chief Justice of India' here means the collective opinion of the collegium.
- The executive element in the appointment process of judges to senior positions is reduced to the minimum so that any undue influence is eliminated. It was for this reason that the word 'consultation' instead of 'concurrence' was used in the Constitution.

7. Conclusion

India needs to restore the credibility of the higher judiciary by making the process of appointing judges transparent and democratic. Apart from reforming the collegium system, the quality of judges can also be improved through the implementation of All India Judicial Services (AIJS).

OFFICIAL LANGUAGE COMMITTEE

1. Context

The 11th volume of the Report of the official Language Committee submitted to the President of India on September 9, 2022, did not seem to evoke much interest in the media, Except for the Chief ministers of Tamilnadu and Kerela, no other political leader reacted to the recommendations made.

2. Official Language Committee

- The Committee of parliament on Official Languages was set up in 1976 under section 4 of the Official Languages Act, of 1963.
- Section 4 of the Act says "there shall be constituted a committee on Official language, on a resolution to that effect being moved in either House of Parliament with the previous sanction of the president and passed by the both Houses."
- Under the provision of the 1963 Act, the panel submits its report to the president, who "shall (then) cause the report to be laid before each House of Parliament, and sent to all the state Governments."
- The Committee is chaired by the Union Home Minister, and has, by the provisions of the 1963 Act, 30 members- 20 MPs from Lok sabha and 10 MPs from Rajya sabha. The mandate of the committee is to review the progress made in the use of Hindi for official purposes and to make recommendations to increase the use of Hindi in official communications. The first Report of the committee was submitted in 1987.

3. Committee Recommendations

- The committee has recommended replacing English as a medium of instruction in all technical and non-technical institutions with Hindi.
- While IITs, IIMs, and the All India Institute of Medical Sciences are considered technical institutions, Kendriya Vidyalayas and Navodaya Vidyalaya fall under the other category.
- Also, the committee has recommended the removal of English as one of the languages in examinations held for recruitment to the central services.
- It has been stated that the requisite knowledge of Hindi among candidates should also be ensured.

- These recommendations have made many states claim that it is an attempt to impose Hindi on non-Hindi-speaking people.

4. Fall out in Non-Hindi states

- India has two major groups of languages-the Indo-European language group and the Dravidian language group. Hindi belongs to the former and Tamil (More ancient than Sanskrit) belongs to the latter. All the prominent languages in the Dravidian group, i.e., Tamil, Telugu, Malayalam, and Kannada, have rich literature. However, it was English that brought the northern and southern regions together.
- The idea of the official language for the Union is a product of the freedom struggle which promoted Hindustani, a mixture of Hindi and Urdu. Later, when the constitution was framed, the idea of Hindustani was given up and Hindi in the Devanagari script was adopted as the sole official language.
- Candidates from the non-Hindi states, the south, in particular, will face a great disadvantage when compared to those whose mother tongue is Hindi. The result would be a gradual elimination of candidates from the all-India services. The Constitution makers anticipated this problem, which is why the Constitution provides in Article 344(3) that the commission on official language shall have "due regard to the just claims and interests of persons belonging to the non-Hindi speaking areas in regard to public services".

GOVERNORS AND THEIR ROLE

1. Context

Kerala Governor who is locked in a standoff with the elected government on a range of issues including appointments to the state-run Kerala University has threatened to sack ministers who "lowered the dignity" of his office.

2. Role of the Governor in the Parliamentary System

- The position, role, powers, and conditions of office of the Governor are described in Articles 153-161 of the Constitution. The Governor is the chief executive head of the state. But, like the president, he is a nominal executive head (titular or constitutional head).

- Being the head of the state's executive power, he acts on the advice of the council of ministers, barring some matters. The council of ministers, in turn, is responsible to the state legislature.
- Being appointed by the President, the governor acts as a vital link between the Union and the state governments. The governor appoints the Chief Minister and the Council of Ministers.
- The post was envisaged as being apolitical; however, the role of the Governor has been a contentious issue in Centre-State relations for decades.
- The Governor enjoys certain powers such as giving or withholding assent to a Bill passed by the state legislature or determining the time needed for a party to prove its majority or which party must be called first to do so, generally, after a hung Assembly-which have been weaponized by successive central governments against the political opposition.

3. Does Governor have the power to remove a Minister?

- **Article 164(1) says state "Ministers shall hold office during the pleasure of the Governor".**
- However, constitutional experts say the governor cannot remove a minister in their capacity without obtaining the sanction of Chief Minister or consulting with the latter.
- If a Governor removes a minister in their capacity, that will result in 'parallel governance'.
- Only when the Chief Minister allows it, then the Governor empowered to remove the minister.

4. What does the "Pleasure" of the Governor mean?

The pleasure of the Governor does not mean the Governor has the right to dismiss the Chief Minister or ministers at will.

The Governor can have his pleasure as long as the government enjoys a majority in the House. The Governor can withdraw his pleasure only when the government loses the majority but refuses to quit. Then he withdraws the pleasure and dismisses it.

5. Recommendations of various Commissions on Governors:

5.1 Sarkaria Commission (1983)

- The commission was set up to look into center-state relations. It has proposed various additional criteria for appointing someone to the Governorship.
- It proposed that the Governors be appointed after effective consultation with the state chief minister and the Vice President and Speaker of the Lok Sabha should be consulted by the PM before his/her selection.

5.2 National Commission to Review the working of the Constitution (2000)

- The commission recommended significant changes in the selection of Governors.
- The Commission suggested that the "Governor of a state should be appointed by the President, after consultation with the Chief Minister of the State".

5.3 Punchi Commission (2007)

- The Commission proposed that a committee comprising the Prime Minister, Home Minister, Vice President, Speaker, and the concerned Chief Minister should choose the Governor.
- It further recommended deleting the "Doctrine of Pleasure" from the constitution but backed the right of the Governor to sanction the prosecution of ministers against the advice of the state government.
- It also argued for a provision for the impeachment of the Governor by the state legislature.

6. Important Judgements w.r.t. appointment/removal of Council of Ministers:

6.1 Shamsher Singh & Anr vs State of Punjab (1974)

- The Supreme court held that the President and Governor shall exercise their formal constitutional powers only upon and by the advice of their Ministers except in a few well-known exceptional situations.
- The court also added that even in case the Prime Minister/Chief Minister ceases to command the majority in the House Or the government loses the majority but refuses to quit office Or for "the

dissolution of the House where an appeal to the country is necessitous".

- The Head of the state (President/Governor) should avoid getting involved in politics and must be advised by the Prime Minister(Chief Minister) who will eventually take responsibility for the step.

6.2 Nabam Rebia, Etc. vs Deputy Speaker And Ors (2016)

The Supreme court cited the observations of B R Ambedkar -

"The Governor under the constitution has no function which he can discharge by himself; no functions at all. While he has no functions, he has certain duties to perform, and I think the House will do well to bear in mind this distinction."

NDPS ACT

1.Context

While granting bail to a man arrested on June 1 for possessing 29 kg of bhang and 400 gm of ganja, since the ganja recovered was below commercial quantity, the accused was given bail on a personal bond of Rs 2 lakh, Karnataka High Court recently observed that nowhere in the Narcotic Drugs and Psychotropic Substances (NDPS) Act is bhang referred to as a prohibited drink or prohibited drug.

The single-judge bench relied on two earlier judgments. Madhukar vs. the state of Maharashtra, 2002 and Arjun Singh vs. the state of Haryana, 2004, where the courts had ruled that bhang is not ganja, and is therefore not covered under the NDPS Act.

2.Bhang

- It is edible preparation made from the leaves of the cannabis plant, often incorporated into drinks such as thandai and lassi, along with various foods.
- Bhang has been consumed in the Indian subcontinent for centuries and is frequently consumed during the festivals of Holi and Mahashivratri.
- Its widespread use caught the attention of Europeans.

3.About NDPS ACT

- Enacted in 1985, the NDPS Act is the main legislation that deals with drugs and their trafficking. Various provisions of the Act punish the production, manufacture, sale, possession, consumption, purchase, transport, and use of banned drugs, except for medical and scientific purposes.
- NDPS Act defines cannabis (hemp) as a narcotic drug based on the parts of the plant that come under its purview. The Act lists these parts as-
- Charas-the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish.
- Ganja- the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they are known or designated.
- Any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink, prepared therefrom
- The Act excludes seeds and leaves “when not accompanied by the tops. Bhang, which is made with the leaves of the plant, is not mentioned in the NDPS Act.
- As a special provision, the act states that the government may allow the cultivation of any cannabis plant for industrial purposes only of obtaining fibre or seed for horticultural purposes.

4.Criminal Liability

- Section 20 of the NDPS Act lays out the punishment for the production, manufacture, sale, purchase, import, and interstate export of cannabis, as defined in the Act. The prescribed punishment is based on the number of drugs seized.

- Contravention that involves a small quantity (100 g of charas /hashish or 1 kg of ganja)will result in rigorous imprisonment for a term that may extend to one year and /or a fine which may extend to Rs 10,000
- For a commercial quantity(1kg charas /hashish or 20 kg ganja), rigorous imprisonment of not less than 10 years, which may extend to 20 years, including a fine that is not less than Rs 1,00,000 but may extend to Rs 2,00,000
- Where the contravention involves a quantity less than commercial but greater than a small quantity, rigorous imprisonment up to 10 years is prescribed, along with affine which may extend to Rs 1,00,000.

SPECIAL MARRIAGE ACT, 1954

1.Context

The Supreme Court dismissed a writ petition challenging provisions of the Special Marriage Act, 1954 requiring couples to give a notice declaring their intent to marry 30 days before their marriage.

While the petition reads, "The impugned provisions by throwing the personal information of the individuals open to public scrutiny, seriously damage one's right to have control over her or his personal information and its accessibility. By making the personal details of the couple accessible to everyone, the very right of the couple to be the decision makers of their marriage is being hampered by the state.

2.Court on Petition

- The Supreme Court dismissed a writ petition challenging the constitutional validity of certain provisions of the SMA under which couples seek refuge for interfaith and inter-caste marriages.
- The writ petition has called these provisions violative of the right to privacy guaranteed under article 21 of the constitution as they require couples to give a notice 30 days before the date of marriage inviting objections from the public.
- The writ petition filed by counsels K.R.Sripathi and Anupama Sripathi has also said that the provisions contravene article 14 on the

prohibition of discrimination on grounds of religion, race, caste, and sex as well as article 15 on right to equality as these requirements are absent in personal laws.

- A Bench of Justices Dinesh Maheshwari and Bela M.Trivedi rejected the writ petition because the petitioner, a 35-year-old Athira Sujatha, was no longer an aggrieved party as she had already solemnized her marriage under SMA.
- Another writ Petition in Nandini Praveen vs. Union of India & others filed on similar grounds was admitted by the Supreme Court in 2020 and the government's reply is awaited.

3.Challenged Provisions

- Section 5 of the SMA requires couples getting married under it to give notice to the Marriage officer 30 days before the date of marriage.
- The writ seeks to strike down provisions that follow in section 6 to section 10
- Section 6-It requires such a notice to be then entered into the Marriage Notice Book maintained by the Marriage officer, which can be inspected by any person desirous of inspecting the same.
- These notices have to be also affixed at a conspicuous place in the office of the Marriage Officer so that anyone can object to the marriage.
- Section 7-It provides the process for objecting such as if either party has a living spouse, is incapable of giving consent due to "unsoundness of mind "or is suffering from a mental disorder resulting in the person being unfit for marriage or procreation.
- Section 8 –specifies the inquiry procedure to be followed after an objection has been submitted.

4.Provisions affect couple

- These public notices have been used by anti-social elements to harass couples getting married. In Athira's case, which got married in 2019 under SMA, her marriage notice containing her address was circulated on Facebook and WhatsApp calling on people to visit her parents and make them aware of her marriage.
- For many others who often marry without their parent's consent, this can be life-threatening.

- The Haryana government has laid down 16 prerequisites which ask couples to issue a notice in a newspaper and that such notices be sent to their parents
- In certain states, couples have to seek a no –objection certificate from their parents.
- The Maharashtra Department of Registration and stamps publicly shares the details of couples marrying under SMA on its website.
- Many also complain about the behaviour of the staff at the SDM’s office that often deletes or delays applications and dissuades couples from marrying under SMA and asks them to convert at an Arya Samaj temple.
- With as many as 11 states passing anti-conversion (or so-called love jihad) laws, parents and the state are now armed to punish and harass such couples.

AGE OF CONSENT

1.Context

Bande Rama vs. the State of Karnataka, the Karnataka High Court quashed criminal proceedings of rape and kidnapping under the Indian Penal Code and penetrative and aggravated penetrative sexual assault under the Protection of Children from Sexual Offences (POSCO) Act, 2012, which had been initiated based on a complaint of a 17-year-old girl’s father against her 20- year old partner.

The girl stated in court that the acts were consensual and she had married the accused after she had turned 18. The marriage was registered and a child was born to the couple.

2. POCSO Act

- Under the active consent of" child "is immaterial, and consensual sexual intercourse with or among adolescents is treated on a par with rape
- While boys/young men are charged with sexual offences, the girls are treated as victims and institutionalized in children's homes when they refuse to return to their parents or their parents refuse to accept them
- The only relief available is under section 482 of the criminal procedure code by urging the High court to quash the case by using inherent powers.
- **VIJAY LAKSHMI VS STATE REP (2021)**, the Madras High Court observed that punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act
- **RAJ KUMAR VS STATE OF HIMACHAL PRADESH (2021)**- Himachal Pradesh High court allowed a petition filed by the minor girl's father for quashing the trial against his son –in –law .court observed that "if criminal proceedings are allowed to continue, the same will adversely affect the married life of his daughter
- **SKHEMBORLANG SUITING VS STATE OF MEGHALAYA (2021)**-Meghalaya High Court quashed the case observing that an application of the act would “result in the breakdown of a happy family relationship.
- An analysis by Enfold proactive Health Trust of 1715 "romantic "cases under the POSCO Act decided between 2016-2020 by special courts in Assam, Maharashtra and west Bengal revealed that such cases constituted 24.3%of the total cases decided by the courts. The parents and relatives of the girls constituted 80.2% of the complainants. The victim and the accused were married to each other in only 46.5% of the cases.

3. Law reforms

- The high rate of acquittals shows that the law is not in sync with the social realities of adolescent relationships. The High courts have also acknowledged the disruptive impact of the criminal law in such cases.
- Sexual behaviour is normative during adolescence; blanket criminalization of such consensual sexual acts involving older

adolescents erodes their dignity, best interests, liberty, privacy, evolving autonomy, and development potential.

- It also impacts the delivery of justice as these cases constitute a large burden on our courts, and divert attention from investigation and prosecution of actual cases of child sexual abuse and exploitation.
- There is thus a compelling need for law reform to revise the age of consent.

SEDITION-SECTION 124A

1.Context

The Supreme Court directed the Centre and States to keep in abeyance all pending trials, appeals and proceedings concerning the charge framed under Section 124A of the Indian Penal Code (IPC).

2.Key points

- It deals with the offence of sedition, till the central government completes the promised exercise to reconsider and re-examine the provision.
- The central government had initially defended the colonial provision, but later told the apex court was reviewing it.

3.Sedition law

Section 124A defines sedition as "Whoever, by words, either spoken or written or by signs or by visible representation or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government established by law shall be punished with imprisonment for life to which fine may be added".

The provision also contains three explanations

1. The expression "**Disaffection**" includes disloyalty and all feelings of enmity.
2. Comments expressing disapprobation of the measures of the Government to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
3. Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

4.Origins of the Sedition law

- Although Thomas Macaulay drafted the Indian Penal Code had included the law on sedition, it was not added to the code enacted in 1860.
- Legal experts believe this omission was accidental.
- In 1890, sedition was included as an offence under section 124A IPC through the Special Act XVII.

5.Pre-independence cases

- The punishment prescribed then, transportation "**beyond the seas for the term of his or her natural life**" was amended to life imprisonment in 1955.
- The provision was extensively used to curb political dissent during the Independence movement.
- Several pre-independence cases involving Section 124A of the IPC are against celebrated freedom fighters, including Bal Gangadhar Tilak, Annie Besant, Shaukat and Mohammad Ali, Maulana Azad and Mahatma Gandhi.

It is during this time that the most notable trial on sedition Queen Empress v. Bal Gangadhar Tilak took place in 1898.

- Courts largely followed a literal interpretation of the provision holding that "the disapprobation must be '**compatible**' with a disposition to

render obedience to the lawful authority of the Government and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority."

The Constituent Assembly debated including sedition as an exception to the fundamental right to freedom of speech and expression, guaranteed in the Constitution, but several members vehemently disagreed and the word is not included in the document.

6. Legal challenges to IPC Section 124A

Romesh Thapar v. the State of Madras

- In 1950, the Supreme Court held that Criticism of the government exciting disaffection or bad feelings towards it.
- It is not to be regarded as a justifying ground for restricting the freedom of expression and the press unless it is such as to undermine the security of or tend to overthrow the state.
- **Justice Patanjali Shastri cited the Constituent Assembly's deliberate omission of the word sedition from the Constitution for the liberal reading of the law.**

The Punjab and Haryana High Court in Tara Singh Gopi Chand v. The State (1951) and the Allahabad High Court in Ram Nandan v. The State of Uttar Pradesh (1959) declared that section 124 A of the IPC was Primarily a tool for the colonial master to quell discontent in the country and declared the provision unconstitutional.

The Kedar Nath ruling on sedition

- In 1962, the issue came up before the Supreme Court in Kedarnath Singh v. the State of Bihar.

- A five-judge Constitution Bench overruled the earlier rulings of the high courts and upheld the Constitutional validity of IPC Section 124A.
- The Court attempted to restrict its scope for misuse.
- The Court held that unless accompanied by incitement or a call for violence, criticism of the government cannot be labelled sedition.
- The ruling restricted sedition only in so far as seditious speech tended to incite "**public disorder**" a phrase Section 124A itself does not contain but was read into it by the Court.

Balwant Singh v. State of Punjab (1955)

- The ruling reiterated that the real intent of the speech must be taken into account before labelling it seditious.
- The petitioners were accused of sedition for raising slogans of "**Khalistan Zindabad, Raj Karega Khalsa, Hinduan Nun Punjab Chon Kadh Ke Chhadange, Hun Mauka Aya Hai Raj Kayam Kar**" (Hindus will leave Punjab and we will rule) etc. in a public space.

Dr Vinayak Binayak Sen v. The State of Chhattisgarh (2011)

The Court also held that a person can be convicted for sedition even if she is not the author of the seditious speech but has merely circulated it.

Arun Jaitley v. the State of Uttar Pradesh (2016)

The Allahabad High Court held that criticism of the judiciary or a court ruling former Union Minister Arun Jaitley in a blog post had criticised the Supreme Court's 2016 ruling declaring the National Judicial Appointments Commission unconstitutional would not amount to sedition.

Vinod Dua v Union of India (2021)

The Supreme Court quashed FIRs with charges of sedition against the journalist for criticising Prime Minister Narendra Modi's handling of the Covid-19 crisis and cautioned against unlawful application of the provision.

7.Guidelines

- The court also issued seven "**guidelines**", underlining when critical speech cannot be qualified as sedition.

In its guidelines on using the new, restrictive definition of sedition law, the court said not all speech with "**disaffection**", "**hatred**", or "**contempt**" against the state, but only speech that is likely to incite "**public disorder**" would qualify as sedition.

- "**Public disorder**" has been considered a necessary ingredient for the commission of sedition.
- The court has held that mere sloganeering unaccompanied by any threat to public order would not qualify as sedition.

8.Law Commission reports

- Successive reports of the Law Commission of India and even the Supreme Court, have underlined the rampant misuse of the sedition law.
- The Kedar Nath Guidelines and a textual deviation in law put the onus on the police who register a case to distinguish between legitimate speech from seditious speech.

9.Fresh challenges

- The Supreme Court has agreed to hear a fresh challenge against the provision after a batch of petitions was filed by Journalists, Kishore Chandra Wangkhemcha, Kanhaiya Lal Shukla and Trinamool Congress MP Mahua Moitra, among others.
- This would involve a seven-judge bench considering whether the Kedar Nath Ruling was correctly decided.
- Although the government initially defended the provision arguing that "**isolated incidents of misuse**" do not necessitate the removal of the provision itself, it has now told the court that it is mulling a fresh review of the colonial law.

- The petitioners have argued that the restricted Kedar Nath definition of sedition can be addressed through several other laws, including stringent anti-terror laws such as the Unlawful Activities Prevention Act.

The court's intervention is crucial because in case it strikes down the provision, it will have to overrule the Kedar Nath ruling and uphold the earlier rulings that were liberal on free speech.

- If the government decides to review the law, either by diluting the language or repealing it could still bring back the provision in a different form.

10. Sedition laws in other countries

Country	Sedition law
United Kingdom	The sedition law was officially repealed under Section 73 of the Coroners and Justice Act, 2009, citing a chilling effect on freedom of speech and expression. The common law on sedition is traced to the Statute of Westminster, 1275, When the King was considered the holder of Divine Right was termed "arcane" and "from a bygone era when freedom of expression was not seen as the right it is today."
United States	Sedition is a federal felony under the Federal Criminal Code, Section 2384 and is now being used against rioters involved in the January 6 attack on the Capitol.

	Despite the First Amendment that forbids any restrictions on free speech, Conspiracy to interfere directly with the operation of the government and not just speech is considered sedition.
Australia and Singapore	Australia repealed its sedition law in 2010 and last year, Singapore also repealed the law citing that several new legislations can sufficiently address the actual need for sedition law without its chilling effects.

ESSENTIAL MEDICINE LIST

1.CONTEXT

The national list of Essential Medicines 2022 was released with 384 drugs in its across 27 categories.

while 34 new drugs are on the list,26 drugs from NLEM 2015, including common gastrointestinal medicines Ranitidine and Sucralfate, have been dropped.

ESSENTIAL MEDICINES REGULATED BY National Pharmaceutical Pricing Authority.

IN

Four major anti-cancer drugs, hydrochloride, HCI trihydrate, lenalidomide, and leuprolide acetate as well as psychotherapeutic drugs, nicotine replacement therapy, and anti-parasitic drugs like ivermectin, mupirocin (topical antibiotic), and meropenem (antibiotic)are on the list.

- It also includes four drugs that are still under patent –**bedaquiline and delamanid**, used in the treatment of multiple drug-resistant **tuberculosis**, **dolutegravir** used to treat human

immunodeficiency virus (HIV) infection, and daclatasvir used in treating viral infections such as Hepatitis C.

- Endocrine medicines and contraceptives like **fludrocortisone, ormeloxifene, insulin glargine, and teneligliptin (for diabetes control)** have also been added to the list.
- **Montelukast**, acting on the **respiratory tract**, the **ophthalmological drug latanoprost**, and **cardiovascular medicines dabigatran and tenecteplase** are on the list too.

2.OMISSION

It includes gastrointestinal drugs ranitidine, sucralfate, white petrolatum (for treating skin conditions), atenolol, and methyldopa (for high blood pressure).

- NLEM includes four patented medicines for which companies have had robust access mechanisms in place for India.
- The Organization of pharmaceutical Producers of India (OPPI) is concerned with this inclusion of the four patented drugs and the implication it has on value for innovation.

3. GROUNDS OF DRUG INCLUSION

- For inclusion in NLEM, the drugs have to be useful in treating diseases that are a public health problem in India.
- They have to be licensed /approved by the Drugs Controller General (DCGI), have proven efficacy and have a safety profile based on scientific evidence that is comparatively cost-effective and aligned with the current treatment guidelines.
- They have to be recommended under the National Health Programs of India (for instance, ivermectin is part of the Accelerated Plan for Elimination of Lymphatic Filariasis,2018).
- When more than one medicine is available from the same therapeutic class, a prototype that is the best-suited medicine of that class is included.
- Besides this, the price of the total treatment is considered and not the unit price of a medicine.
- Fixed dose combinations are usually not included.

4.GROUNDS OF DRUG ELIMINATION

- A medicine is deleted from the list if it is banned in India.
- If there are reports of concerns on the safety profile and if a medicine with better and is cheaper available.
- If the disease, for which a particular medicine is recommended, is no longer a national health concern the drug is taken off the list.
- In the case of antimicrobials –if the resistance pattern has rendered an antimicrobial ineffective, it is removed from the NLEM.

5.PURPOSE OF LIST

- To promote rational use of medicines considering three important aspects which are cost, safety, and efficacy.

It helps in optimum utilization of healthcare resources and budget, drug procurement policies, health insurance, improving prescribing habits, medical education and training, and drafting pharmaceutical policies.

6.NATIONAL LIST OF ESSENTIAL MEDICINE (NLEM)

- It is a dynamic document and is revised regularly considering the changing public health priorities as well as advancements in pharmaceutical Knowledge.
- It was first formulated in 1996 and was revised thrice in 2003, 2011 and 2015 before 2022.
- In NLEM medicine is categorized based on the level of the healthcare system as primary, secondary, and tertiary.
- The NLEM independent standing National Committee on Medicines (SNCM) was constituted by the Union Health Ministry in 2018.
- After a detailed consultation with experts and stakeholders, the committee revised the NLEM, 2015 and submitted its report on NLEM, 2022 to the Health Ministry.
- The government accepted the recommendations of the committee and adopted the list.

7.National Pharmaceutical Pricing Authority (NPPA)

- NPPA is an organization of the Government of India which was established, inter alia, to fix/ revise the prices of controlled bulk drugs and formulations and to enforce prices and availability of the

medicines in the country, under the Drugs (Prices Control) Order, 1995.

- The organization is also entrusted with the task of recovering amounts overcharged by manufacturers for the controlled drugs from the consumers.
- It also monitors the prices of decontrolled drugs to keep them at reasonable levels.

Functions of NPPA

- To implement and enforce the provisions of the Drugs (Prices Control) Order following the powers delegated to it.
- To deal with all legal matters arising out of the decisions of the Authority;
- To monitor the availability of drugs, identify shortages, if any, and take remedial steps;
- To collect/ maintain data on production, exports, and imports, market share of individual companies, the profitability of companies, etc, for bulk drugs and formulations;
- To undertake and/ or sponsor relevant studies in respect of the pricing of drugs/ pharmaceuticals;
- To recruit/ appoint the officers and other staff members of the Authority, as per rules and procedures laid down by the Government;
- To render advice to the Central Government on changes/ revisions in the drug policy;
- To assist the Central Government in parliamentary matters relating to drug pricing.

8.Organization of Pharmaceutical Producers of India (OPPI)

It was established in 1965 and represents the research-based pharmaceutical companies in India.

CBI AND ITS UNEASY HISTORY

1. Background

- CBI was set up in 1963 under a resolution of MHA (Ministry of Home Affairs) on recommendations of the Santhanam Committee.

- The Special Police Establishment setup in 1941 was also merged with the CBI
- As CBI is neither a constitutional body nor statutory and it derives its powers from Delhi Special Police Establishment Act, 1946.
- It plays a crucial role in the prevention of corruption and maintaining Impartiality, and integrity in the administration.

2. Questioning the credibility of CBI

- Multiple corruption scandals in 2013 the Supreme Court made an observation about the Central Bureau of Investigation (CBI) that has stuck to the agency ever since.
- A Bench headed by Justice R M Lodha described the CBI as **“a caged parrot speaking in its master’s voice”**.
- The observation was made in the context of government interference in the functioning of the CBI in its investigation of the **coal blocks allocation cases**. The apex court has since criticized the CBI for its **“actions and inactions”** on several occasions, and **flagged fundamental problems with the functioning of the agency**.
- **“When it comes to the CBI, it possessed immense trust of the public in its initial phase. ...But with time, like every other institution of repute, the CBI has also come under deep public scrutiny. Its actions and inactions have raised questions regarding its credibility in some cases,”** Justice Ramana had said.
- In 2019, then CJI Ranjan Gogoi questioned the role of the CBI in **“politically sensitive”** cases and said that it reflected **“a deep mismatch between institutional aspirations”** and **“governing politics”**.
- **“The SC judgment and the CVC Act (of 2003) have been progressively diluted by various governments over the years. The advent of Lokpal diluted it even more. The current situation is that central agencies such as CVC, CBI, and ED have become completely defunct. Apart from following instructions from the government, they are doing nothing. And it is happening blatantly. The entire struggle for independence of CBI and ED is being defeated,”**

3. Role of various instances in maintaining the credibility of law enforcement agencies

- The struggle to free elite law-enforcement agencies such as the CBI and Enforcement Directorate (ED) from the stranglehold of governments and political parties has been ongoing since the 1990s. The landmark 1997 Vineet Narain judgment of the Supreme Court (Vineet Narain & Others vs Union Of India & Anr) dealt with this issue in detail.
- The Supreme Court fixed the tenure of the CBI Director at two years, gave statutory status to the Central Vigilance Commission (CVC), and stipulated that a panel headed by the CVC and including top secretaries to the Union government would draw up a panel from which the Director of the ED would be selected.
- The Lokpal Act, 2013, laid down that the CBI Director should be chosen, unanimously or by majority vote, by a search committee headed by the Prime Minister and also comprising the Leader of Opposition and the CJI or his representative, from a list of candidates drawn up by the Home Ministry and examined by the Department of Personnel and Training.

4. Structural constraints of CBI

- The CBI has been stymied both by the legal structure within which it functions and by the changes made by governments in the Rules governing it. Over the years, these have progressively made the agency subservient to the Union government.
- To prosecute any MLA, state minister, or MP, the CBI needs sanction from the Speaker of the state Assembly (in case of MLAs) or the Governor (for state ministers). In the case of an MP, the sanction is sought from the Speaker of Lok Sabha or Vice Chairman of Rajya Sabha. Since all these sanctioning authorities have links to the ruling dispensation, Opposition parties feel they are unfairly targeted.
- **In the Narada Sting Operation case**, the CBI charge-sheeted Firhad Hakim, Subrata Mukherjee, Madan Mitra, and Sovan Chatterjee — all ministers in the TMC-led West Bengal government at the time of the offence — after getting sanction from the Governor. However, other MLAs and MPs have not been charge-sheeted, including TMC-turned-BJP leader Suvendu Adhikari, for lack of sanction from the West Bengal Assembly Speaker and Lok Sabha Speaker. Adhikari was an MP when the sting operation was conducted.
- In 2012, CBI sought sanction to prosecute former **Maharashtra Chief Minister Ashok Chavan in the Adarsh Cooperative Housing case**,

which was denied in 2013 by then Governor K Sankaranarayanan. In February 2016, after the Narendra Modi government came to power and a new Governor, C Vidyasagar Rao was appointed, the sanction came through.

- The Rajiv Gandhi government, through what is known as the “single directive”, introduced a provision in The Delhi Special Police Establishment (DSPE) Act, 1946, (from which the CBI derives its powers) which **barred the CBI from investigating officials of joint secretary level and above without permission from the government.**
- This was struck down by Vineet Narain but was reintroduced after the 1999 Lok Sabha election. After it was struck down again by the **Supreme Court in 2014**, the current government introduced Section 17A into the Prevention of Corruption Act through an amendment. This amendment went far ahead of reintroducing the “single directive”, and **barred the CBI from probing any public servant without the consent of the concerned government.**
- **“It’s very clear that the agency has no freedom to probe anyone on its own. It is the government, at the Union or in states, or the court, which will decide who will be investigated,”**

5. Is CBI used to meet political ends

- The work of the agency has been further constrained by the increasingly hostile relations between the Center and the state governments. As many as nine states have withdrawn general consent to the CBI. Most of these are Opposition-ruled states, which have alleged that the CBI is being used by the Center to target the Opposition. In March this year, Meghalaya, where the BJP is in a coalition government, withdrew general consent.
- Since CBI needs the consent of a state to probe offences in the state’s jurisdiction, general consent is given to the agency so that consent is not required for every individual case. Withdrawal of consent means CBI cannot investigate even a central government employee stationed in a state without the consent of the state government.

6. The prime functions associated with CBI

- CBI investigates very severe cases from all over the country.
- Investigating cases of corruption.
- Investigating cases relating to infringement of fiscal and economic laws.
- Investigating cases related to bribery and misconduct of Central government employees.
- Investigation of corruption-related cases, economic offences and cases of conventional crime.
- Investigation of conventional crimes like murder, kidnapping, rape etc.
- The CBI acts as the “National Central Bureau” of Interpol in India.

DEATH PENALTY

1.CONTEXT

The Supreme Court has repeatedly expressed concern over how trial courts and High Courts have carried out sentencing with very little relevant information

The Bench headed by Justice Lalit agreed to comprehensively examine procedures in death penalty cases to ensure that judges who have to choose between life imprisonment and the death sentence have comprehensive sentencing information.

2.EXAMINING DEATH PENALTY SENTENCES

The court is undertaking an exercise to reform the procedures by which information necessary in a death penalty case is brought before courts

While the death penalty has been held to be constitutional, how it has been administered has triggered accusations of unfairness and arbitrariness.

3.CHOOSING BETWEEN A LIFE SENTENCE AND A DEATH SENTENCE

1) In Bachan Singh’s case a framework was developed to choose between life imprisonment and the death penalty

The legislature in the Criminal Procedure Code had made it clear that life imprisonment would be the default punishment and judges would need to give “special reasons” if they wanted to impose the death sentence.

2) Rarest of rare” framework- the Supreme Court said that judges must consider both aggravating and mitigating factors concerning the crime and the accused when deciding if the death penalty is to be imposed

4.The Bachan Singh framework

One of the main concerns has been the crime-centred approach to sentencing, often in violation of the mandate in Bachan Singh that factors relating to both the crime and the accused have to be considered. There has been widespread concern that the imposition of death sentences has been arbitrary.

A study by Project 39A looking at 15 years of death penalty sentencing in trial courts has shown that the Bachan Singh framework has broken down, with judges attributing to it multiple and inconsistent meanings. A study of the 595 death sentences imposed in the last five years shows that this concern is intensifying

5.REASONS FOR FRAMEWORK REMAIN UNIMPLEMENTED

1) The framework did not have any mechanisms to ensure the actual collection of such information and its presentation before judges.

- This has resulted in a situation where there is barely any meaningful information about the accused that enters the sentencing process.
- It is an empirical reality that the vast majority of death row prisoners are economically vulnerable and very often receive poor legal representation.
- As a result, they do not have access to professionals and expert’s with the necessary training and skill sets to undertake the complex exercise of collecting mitigation information.

2) Sentencing judges have often dismissed the consideration of mitigating factors depending on their perception of the crime despite there being no basis in the law for dismissing the relevance of such factors.

- It points to a deeper gap, that there has been no real guidance on how judges must go about assigning weight to aggravate and mitigating factors, and how they should approach weighing one factor against another

6. STAGES OF CRIMINAL TRIAL

A criminal trial has two stages — the guilt stage and the sentencing stage. Sentencing happens after the accused has been found guilty of the crime; this is the stage where punishment is determined. Therefore, anything presented or said during sentencing cannot be used to reverse or change the finding of guilt.

It is a fundamental tenet of criminal law that sentencing must be individualized, i.e., in the process of determining punishment, the judge must take into account the individual circumstances of the accused

7. MITIGATION

Mitigating circumstances are facts that appear to mitigate the seriousness or penalty of a felony by rendering the actions of the criminal more reasonable or less guilty.

The idea of mitigation is to give practical application to considerations of culpability and deservedness that are crucial to the moral idea of punishment.

8. INFORMATION COLLECTION

The Supreme Court has recognized that it is important to collect this complex interplay of information sentencing is to be done properly. The judgments of Santa Singh (1976) and Mohd Mannan (2019) have recognized the interdisciplinary nature of such an exercise, and that it requires professionals other than lawyers to collect such information

The American Bar Association's 2003 Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty recognizes the role of a mitigation specialist with a clearly defined role that goes beyond what lawyers can do

The criminal justice system needs to do all it can to ensure that systems are created for procedural fairness

9. CONCERNS

Justice Harry Blackmun who served on the United States Supreme Court for 24 years (1970-94) started out being a strong votary of the death penalty and was part of the decisions to restore the death penalty in the US.

For most of his time on the Bench, Justice Blackmun tried to bring in procedural reforms to make the American death penalty system fairer.

But ultimately, in his last year in the court, he declared that efforts to reform the death penalty had failed and that it was impossible to achieve the required fairness.

SC LIVE STREAMING

1.Context

The Supreme Court in a full court decided to live to stream its proceedings in crucial Constitution Bench cases that will be heard from September 27.

The decision comes nearly four years after a plea was made in the interest of transparency.

2.History of the case

- On August 26, on the day of former Chief Justice of India (CJI) N V Ramana's retirement, the Supreme Court streamed its proceedings live.
- But the first steps towards the decision were taken in 2018 when a three-judge Bench comprising then CJI Dipak Misra, Justice A M Khanwilkar and Justice D Y Chandraud agreed to hear public interest litigation seeking live streaming of judicial proceedings on matters of constitutional importance.

3.Pilot project

- The petitioners who cited the principle of open access to justice included Senior Advocate Indira Jaising.
- In March 2018, the Supreme Court issued notice to Attorney General of India K K Venugopal seeking his views on the issue.
- In his response to the court, Venugopal recommended introducing live streaming as a pilot project in Court No 1, Which is the CJI's court No.1, which is the CJIs court and only in Constitution Bench cases.
- The success of this project will determine whether or not live streaming should be introduced in all courts pan India.
- The A-G cited de-congestion of courts and improving physical access to courts for litigants who have to otherwise travel long distances to come to the SC in Support of his recommendation.

4.Guidelines

- The Supreme Court approved a set of guidelines suggested by the A-G, which included allowing transcripts and archiving the proceedings.
- However, the A-G suggested that the court must retain the power to withhold broadcasting and also not permit it in cases involving:
 1. Matrimonial matters
 2. Matters involving the interests of juveniles or the protection and safety of the private life of young offenders.
 3. Matters of National security
 4. To ensure that victims, witnesses or defendants can depose truthfully and without any fear. Special protection must be given to vulnerable or intimidated witnesses. It may provide for face distortion of the witness if she/ he consents to the broadcast anonymously,
 5. To protect confidential or sensitive information, including all matters relating to sexual assault and rape
 6. Matters where publicity would be antithetical to the administration of justice and
 7. Cases which may provoke sentiments and arouse passion and provoke enmity among communities.

5.Live streaming in HCs

Following the SC's decision, Gujarat High Court began live streaming its proceedings in July 2021.

Currently, the Jharkhand, Karnataka, Madhya Pradesh, Orissa and Patna

High Courts live to stream their proceedings. Allahabad High Court is learnt to be considering doing the same.

Live streaming in different Countries

United States of America

While the US Supreme Court has rejected pleas for the broadcast of its proceedings, it has since 1955 allowed audio recording and transcripts of oral arguments.

Australia

Live or delayed broadcasting is allowed but the practices and norms differ across courts

Brazil

- Since 2002, live video and audio broadcast of court proceedings, including the deliberations and voting process undertaken by the judges in court is allowed.
- A public television channel, TV Justica and a radio Channel, Radio Justica were set up to broadcast video and audio.
- Separately, dedicated Youtube channels hold discussions and commentaries on the judicial system, apart from broadcasting proceedings live.

Canada

Proceedings are broadcast live on Cable Parliamentary Affairs Channel, accompanied by explanations of each case and the overall processes and powers of the court.

South Africa

Since 2017, the Supreme Court of South Africa has allowed the media to broadcast court proceedings in criminal matters, as an extension of the right to freedom of expression.

United Kingdom

- In 2005, the law was amended to remove contempt of court charges for recording proceedings of the Supreme Court.
- Proceedings are broadcast live with a one-minute delay on the court's website, but coverage can be withdrawn in sensitive appeals.

6.Concerns

- Broadcasting court proceedings is a step in the direction of transparency and greater access to the justice system, but there are concerns around the impact of live streaming both on judges and the people watching the proceedings.
- Video clips of proceedings from Indian courts are already on YouTube and other social media platforms with sensational titles and little context, such as "High Court Super angry on army officer".
- There are fears that irresponsible or motivated use of content could spread disinformation among the public.

A 2018 Paper by Felipe Lopez titled "Television and Judicial Behavior: Lessons from the Brazilian Supreme Court" studied the Brazilian Supreme Court and concluded that justices behave like politicians when given free television time, they act to maximise their exposure.

- Some studies investigated the effects of the behaviour of politicians on the introduction of C-SPAN in the US House of Representatives and the US Senate, which concluded that the broadcast of proceedings corresponded with a growth in the frequency of filibustering.

7. Positive concerns

However, sometimes positive systemic corrections have been made possible due to the broadcast of court proceedings.

A 2017 study by researchers at Northwestern University of archives of the audio proceedings of the US Supreme Court showed that "Judicial interactions at oral argument are highly gendered, with women being interrupted at disproportionate rates by their male colleagues, as well as by male advocates".

The gendered disruptions identified by the study had been addressed and now Justices ask questions according to seniority instead of interrupting randomly.

ATTORNEY GENERAL OF INDIA (AGI)

1. Attorney General for India

- The Constitution of India places the post of the A-G on a special footing. The A-G is the Government of India's first law officer and has the right of audience in all courts of the country. The Attorney General (AG) of India is a part of the Union Executive.
- **Article 76** of the Constitution provides for the office of AG of India.

2. Appointment, eligibility, term of office and duties

- **Appointment and Eligibility:** AG is appointed by the President on the advice of the government.
- **Under Article 76(1)**, the A-G is appointed by the President from among persons who are qualified to be appointed a Judge of the Supreme Court
- **Article 76(4)** says "the Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine."
- Simply put, A-G must be a person who is qualified to be appointed a judge of the Supreme Court
- He or she must be a citizen of India and must have been a judge of some high court for five years or an advocate of some high court for ten years or an eminent jurist, in the opinion of the President.

3. Term of the Office: (Not fixed by the Constitution)

Procedures and grounds for the removal of AG are not stated in the Constitution.

A-G holds office during the pleasure of the President (may be removed by the President at any time).

4. Duties:

- **Article 76(2)** of the Constitution says "it shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President".

- The A-G is also supposed to “discharge the functions conferred on him by or under this Constitution or any other law for the time being in force”.
- A-G advises the Government of India (GoI) upon such legal matters, which are referred to her/him by the President.
- A-G perform such other duties of a legal character that are assigned to her/him by the President.
- A-G appears on behalf of the GoI in all cases in the Supreme Court or in any case in any High Court in which the GoI is concerned.
- A-G represents the GoI in any reference made by the President to the Supreme Court under Article 143 (Power of the President to consult the Supreme Court) of the Constitution.

5. What else you should know about the A-G?

- Under **Article 88**, the “Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member”.
- However, he or she doesn’t have the right to vote in the House.
- The A-G for India is not, like the A-G for England and Wales and the A-G of the United States, a member of the Cabinet.
- A-G enjoys all the privileges and immunities that are available to a member of Parliament.
- A-G does not fall in the category of government servants, A-G is not debarred from private legal practice. However, A-G should not advise or hold a brief against the GoI.
- The remuneration of the Attorney General of India is not fixed by the Constitution. He receives such remuneration as the President may determine.
- The post of the A-G has been occupied by some of the finest jurists in India’s history. The first two incumbents of the post were the legendary M C Setalvad and C K Daphtary.

Solicitor General of India and Advocate General of India

- Solicitor General of India and Additional Solicitor General of India assist the AG in fulfilment of the official responsibilities.
- The corresponding Office for Attorney General in the states is Advocate General (Article 165).

- The Advocate General is appointed by the Governor of the State, who must be a person qualified to be appointed a judge of a High Court.
- He/she must be a citizen of India and must have held a judicial office for a period of ten years or been an advocate of a high court for ten years.
- The Constitution does not fix the term of office of the Advocate General and it does not contain the procedure and grounds for his/her removal.
- The Advocate General holds office during the pleasure of the Governor of the State, which means that he/she may be removed by the Governor at any time.

6.A-G and the Constitutional Assembly Debate

- In our system, the AG is supposed to discharge the high constitutional office independent of the political executive that appoints him. Many eminent lawyers have discharged this office with great distinction.
- During the Constituent Assembly debates, **K T Shah** had moved an amendment to draft Article 63 (that became Article 76) proposing that the salary of the AG be determined by law. Salaries of all ministers as well as MPs are determined by law
- Shah wanted the AG's salary to be protected by legislation because he wanted to ensure that his salary is not altered to his detriment during the time he holds office. The amendment did not carry, but it gives us food for thought.

UAPA TRIBUNALS

1.Context

The Popular Front of India (PFI), declared an "**unlawful association**" under the Unlawful Activities Prevention Act (UAPA) by the Centre, will now have the option to present its case before a tribunal that must confirm the government notification for the ban to continue.

2.UAPA Tribunal

- The UAPA provides for a tribunal under an HC judge to be constituted by the government for its bans to have long-term legal sanctity.
- Orders to declare an organisation as "**unlawful**" are issued by the Centre under Section 3 of the UAPA.
- The provision says that no such notification shall have effect until the tribunal has, by an order made under Section 4, confirmed the declaration made therein and the order is published in the Official Gazette.
- Thus, a government order won't come into effect until the tribunal has confirmed it.
- However, in exceptional circumstances, the notification can come into effect immediately once the reasons for it are recorded in writing.
- The tribunal can endorse or reject it.

3.Procedure

- According to Section 4 of the UAPA, after the Centre declares an organisation "**Unlawful**", its notification must reach the tribunal within 30 days to adjudicate "**whether or not there is a sufficient cause**" for the move.
- After this, the tribunal asks the association, by notice in writing to show cause within 30 days why it should not be declared unlawful.
- This done, the tribunal holds an inquiry and decides the matter within six months.

4.Constitution of tribunal

- The tribunal consists of only one person, who has to be a High Court Judge.
- If a vacancy occurs in the tribunal, the Centre appoints another judge and the proceedings continue from the stage at which the vacancy is filled.
- The Centre is to provide to the tribunal such staff as necessary.
- All expenses incurred for a tribunal are borne out of the Consolidated Fund of India.

5.Its powers

- The tribunal has the power to regulate its procedure, including the place for its sittings.

- Thus it can hold hearings in different states for allegations about them.
 - To make inquiries, the tribunal has the same powers as vested in a civil court under the Code of Civil Procedure, 1908.
1. These can be exercised in summoning and examining a witness on oath;
 2. Production of any document or other object producible as evidence;
 3. The reception of evidence on affidavits;
 4. The requisitioning of any public record from any court or office and
 5. The issuing of any commission for the examination of witnesses.
 6. All proceedings before the Tribunal are deemed to be judicial proceedings.

6. Its record

- Government notifications, with a few exceptions as in the case of SIMI, have largely been confirmed by the tribunals.
- In SIMI's case, a tribunal briefly lifted the ban on it in 2008.
- Almost all extensions of bans too, such as against Zakir Naik, Sikhs for Justice, or the JKLF, have been confirmed.
- Proceedings of the tribunal have been criticised for being somewhat opaque.
- The UAPA permits public non-disclosure of information on bans given the sensitivity involved.
- It has been said that often, the government gives evidence under a sealed cover, leaving no opportunity for an organisation to defend itself.

PRADHAN MANTRI GARIB KALYAN ANNA YOJANA

1. CONTEXT

PM decided to extend the PM –GKAY for another three months until Dec 2022. In the seventh phase of the scheme, 122 lakh metric tonnes of food grains will be distributed to over 80 crore beneficiaries across the country.

2.PROVISIONS OF SCHEME

- Under this government provides free food grains -5 kg per person per month, to eligible beneficiaries of the National Food Security Act (NFSA) 2013, this is over and above their monthly entitlement under the NFSA.
- The scheme was started as one of the components of the government's Rs 1.7 lakh crore Covid relief package announced by the Finance Minister on March 26, 2020, two days after the country went into national lockdown following the outbreak.

3.EXTENSIONS OF THE SCHEME

- Initially, the scheme was for only three months – April to June 2020
- On July 8, 2020 it was extended for another five months –July to November 2020
- The third phase was approved for two months –May and June 2021
- Subsequently, the scheme was extended for another five months –from July to Nov 2021, this fourth phase of PM –GKAY was supposed to end in Nov because of the ebbing of the second wave, but on Nov 24, 2021, the government decided to continue it till the end of March 2022.
- In March this year, the Union cabinet chaired by Modi approved the sixth phase of this until September.

4.GRAIN DISBURSEMENT

The government said it had spent approximately Rs 2.60 lakh crore so far and another Rs 80,000 crore will be spent over the next 6 months till September 2022, taking the total expenditure under PM-GKAY to nearly Rs 3.40 lakh crore.

5.NFSA ENTITLEMENT

- There are two categories of beneficiary households under the NFSA – Antyodaya Anna Yojana (AAY) households, and Priority Households (PHs).
- Each AAY household is entitled to 35 kg of food grains every month irrespective of the number of members in the household.

- PHs are entitled to receive food grains according to the number of members in the family.
- Each member is entitled to receive 5 kg of food grains every month under the NFSA.
- Under food security law, rice is provided to beneficiaries at the highly subsidized rate of Rs 3 per kg, wheat at Rs 2 per kg, and coarse grains at Re 1 per kg.

6. COVERAGE UNDER NFSA

- In 2013 UPA government aims to ensure “access to adequate quantity of quality food at affordable prices “to 50% of the urban and 75% of the rural population of the country.
- The overall national coverage of the NFSA is about 67.5%
- Section 9 of the NFSA states that the number of persons to be covered in rural and urban areas of a state shall be calculated based on population estimates as per the census of which relevant figures have been published.
- The latest published census figures are from 2011 and based on that about 81.35 crore people can be covered under NFSA.

DEMOGRAPHIC DIVIDEND

1. Context:

The UN report, world population prospects 2022 forecasts that the world's population will touch eight billion this year and rise to 9.8 billion in 2050. India's population will surpass China by 2023 and continue to surge.

India is getting a demographic dividend that will last nearly 30 years.

2. INDIA'S POTENTIAL WORKFORCE

Consulting firms are optimistic about India's future

DELOITTE INSIGHTS:

India's potential workforce to rise from 885 million to 1.08 billion people over the next two decades from today and remain above a billion people for half a century betting that these new workers will be much better trained and educated

than their existing counterparts ..Next 50 years will therefore be an Indian summer that redraws the face of global economic power.

MCKINSEY & COMPANY'S report-India at Turning Point, believes the “trends such as digitization and automation, shifting supply chains, urbanization, rising incomes and demographic shifts, and a greater focus on sustainability, health and safety are accelerating to create \$2.5 trillion of economic value in 2030 and support 112 million jobs, or about 30% of the non-farm workforce in 2030.

THE ECONOMIST is also optimistic. In its May 14, 2022 issue it said- As the pandemic recedes, four pillars are visible that will support growth in the next decade, the forging of the single national market, an expansion of industry owing to the renewable energy shift and a move in supply chains away from China, continued pre-eminence in IT and a high tech welfare safety net for the hundreds of millions left behind by all this.

The following are bullish about India-

FINANCIAL TIMES-Demographics: Indian workers are not ready to seize the baton, and believe that India's bad infrastructure and poorly skilled workforce will impede its growth.

RAND Corporation's report, China and India, 2025, A comparative Assessment, commissioned by the U.S Secretary of Defense endorses this view. As well AS Organization for Economic Co-operation and Development (OECD) remain bullish about India.

3.INDIA's POSITIVE ASPECTS

It is still a young country and in a much better position to transform itself compared to China in 1970.

- The IT technologies now available in India, and most importantly the Internet run have matured exponentially. Many things right from video conferencing to instantaneous payments and satellite imaging are getting better and cheaper by the day.
- Thanks to COVID -19 pandemic, we know these can revolutionize learning and transform Indian society at an astonishingly low cost, unimaginable through much of China's economic liberalization.

- India's administrative systems manage to deliver and its infrastructure is in far better shape today than it was for China at the start of its reforms. Nor did India impose the equivalent of China's one-child policy that has seen China suffer the consequences of a prematurely ageing society with a skewed gender ratio.

4. DEEP DIVIDE IN CHINA

India does not have a Hukou system which in China tethers rural folk to rural parts creating a deep divide between small and prosperous urban China and a much larger, very deprived rural China.

As Scott Rozelle at Stanford University's centre on China's Economy and Institutions writes in his book co-authored with Natalie Hell, *Invisible China – How the Urban-Rural Divide Threatens China's Rise*, Thanks to the Hukou system disincentivising migration to urban areas, only about 36% of China's overall population is urban and fully 64% is rural.

The huge divide between urban and rural China according to Rozelle, is almost unbridgeable.

To bring the best out of the demographic dividend, India needs to invest massively in quality schools and higher education as well as health care-sectors it has neglected for decades-across India on an unprecedented scale, literally in trillions of rupees between now and 2050 when it would have reached the apogee of population growth.

PRIVATE MEMBER BILL

1. Context

- YSR Congress Party member V. Vijaya Sai Reddy moved a Constitution Amendment Bill on Friday in the Rajya Sabha.
- In search of the provision of express legislative competence to the State Legislatures to set up one or extra capitals inside their territories.

2.The procedure of Bills in the Parliament

- The fundamental function of Parliament is to make laws.
- All legislative proposals have to be delivered in the structure of Bills earlier than Parliament.
- A Bill is a statute in the draft and can't come to be regulated until it has acquired the approval of each of the House of Parliament and the assent of the President of India.
- The method of law-making starts with the introduction of a Bill in both houses of Parliament.
- A bill can be brought both using a Minister and is known as Government Bill.
- If a Bill is brought by a member other than Minister is said to be a Private Member's Bill.

3.Reading of the Bills

A Bill undergoes three readings in every House, i.e., the Lok Sabha and the Rajya Sabha earlier than it is submitted to the President for assent.

First Reading

The First Reading refers to

- i. Movement for going away to introduce a Bill in the House on the adoption of which the Bills are introduced.
- ii. In the case of a Bill originated in and exceeded via the different House, the laying on the Table of the House of the Bill, as surpassed with the aid of the different House.

Second Reading

The Second Reading consists of two stages.

- The "**First Stage**" constitutes dialogue on the concepts of the Bill and its provisions normally on any of the following motions.
 - The Bill be taken into consideration
 - The Bill be referred to a Select Committee of the House or
 - The Bill be referred to a Joint Committee of the Houses with the concurrence of the different House or
 - The Bill be circulated for the reason of eliciting opinion thereon.
-
- The "**Second Stage**" constitutes the clause by using clause consideration of the Bills, as delivered in the House or as suggested by using a Select or Joint Committee, as the case may additionally be.
 - In the case of a Bill handed through Rajya Sabha and transmitted to Lok Sabha, it is first laid on the Table of Lok Sabha with the aid of the Secretary-General, Lok Sabha.

In this case, the Second Reading refers to the action

- i. The bill was surpassed with the aid of Rajya Sabha, be taken into consideration or
- ii. The Bill be referred to a Select Committee (if the Bill has now not already been referred to a Joint Committee of the Houses).

Third Reading

- It refers to the dialogue on the movement that the Bill or the Bill, as amended be passed.
- The almost comparable system is accompanied in Rajya Sabha in appreciation of Bills brought in that House.
- After a Bill has been eventually exceeded with the aid of the Houses of Parliament.
- It is submitted to the President for his assent.
- After a Bill has acquired the assent of the President, it turns into the regulation of the land.

4. Reference of Bills to Departmentally Related Standing Committees

- The year 1993 opened the way for new technology in the records of the Indian Parliament when Departmentally Related Standing Committees had been constituted.
- The quantity of Standing Committees has now been improved from 17 to 24.
- While eight committees work below the path of the Chairman of Rajya Sabha, Sixteen Committees work below the course of the Speaker of the Lok Sabha.
- One of the essential features of these Committees is to observe such Bills added in either House as are referred to them using the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may additionally be and make a document thereon.
- The reviews of the Standing Committees have persuasive value.
- In case the Government accepts any of the recommendations of the Committee, it may bring forward official amendments at the consideration stage of the Bill or may withdraw the Bill reported by the Standing Committee and bring forward a new Bill after incorporating the recommendations of the Standing Committee.

5. Bills Before a Select or Joint Committee

- If a Bill is referred to a Select or a Joint Committee, it considers the Bill clause-by-clause just as the House does.
- Amendments can be moved to the various clauses by the members of the Committee.
- After the report of the Select or Joint Committee has been presented to the House, the member-in-charge of the Bill usually moves the motion for consideration of the Bill, as reported by the Select or Joint Committee, as the case may be.
- A Money Bill or a Financial Bill containing any of the provisions calculated to make a Bill a Money Bill, however, cannot be referred to a Joint Committee of the Houses.

6. Restriction on the introduction of Certain categories of Bills in Rajya Sabha

- A Bill may be introduced in either House of Parliament. However, a Money Bill can not be introduced in Rajya Sabha.
- It can only be introduced in Lok Sabha with the prior recommendation of the President for the introduction.
- If any question arises about whether a Bill is a Money Bill or not, the decision of the Speaker thereon is final.
- Rajya Sabha is required to return a Money Bill passed and transmitted by Lok Sabha within 14 days from the date of its receipt.
- Rajya Sabha may return a Money Bill transmitted to it with or without recommendations.
- It is open to Lok Sabha to accept or reject all or any of the recommendations of Rajya Sabha.

If Rajya Sabha does not return a Money Bill within the prescribed period of 14 days, the Bill is deemed to have been passed by both Houses of Parliament at the expiry of the said period of 14 days in the form in which it was passed by Lok Sabha.

- Like Money Bills, Bills which, inter alia, contain provisions for any of the matters attracting sub-clauses (a) to (f) of clause (1) of article 110 can also not be introduced in Rajya Sabha.
- They can be introduced only in Lok Sabha on the recommendation of the President. However, other restrictions regarding Money Bills do not apply to such Bills.

7. Constitution Amendment Bills

- The Constitution vests in Parliament the power to amend the Constitution.

- Constitution Amendment Bills can be introduced in either house of Parliament.
- While motions for the introduction of Constitution Amendment Bills are adopted by a simple majority, a majority of the total membership of the House and a majority of not less than two-thirds of the members present and voting is required for the adoption of effective clauses and motions for consideration and passing of these Bills.
- Constitution Amendment Bills affecting vital issues as enlisted in the proviso to Article 368(2) of the Constitution after having been passed by the Houses of Parliament have also to be ratified by not less than one-half of the State Legislatures.

8. Joint Sitting

Article 108 (1) of the Constitution provides that when a Bill (Other than a Money Bill or a Bill seeking to amend the Constitution) Passed by one House is rejected by the Other House or the Houses have finally disagreed as to the amendments made in the Bill or more than six months lapse from the date of the receipt of the Bill by the other House without the Bill being passed by it, the President may unless the Bill has lapsed because of dissolution of Lok Sabha, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a Joint Sitting.

- The President has made the Houses of Parliament (Joint Sittings and Communications) Rules in terms of clauses (3) of Article 118 of the Constitution to regulate the procedure concerning Joint Sitting of Houses.
- So far, there have been three occasions when Bills were considered and passed in a Joint Sitting of the Houses of Parliament.

Assent to Bills

- After a Bill has been passed by both the Houses of Parliament, it is presented to the President for his assent.
- The President may either assent to the Bill, withhold his assent or return the Bill, if it is not a Money Bill, with a message for reconsideration of the Bill or any specified provision thereof or for considering the desirability of introducing any such amendments as he may recommend in his message.
- The President may either give or withhold his assent to a Money Bill.
- A Money Bill can not be returned to the House by the President for reconsideration.
- Also, the President is bound to give his assent to the Constitution Amendment Bill Passed by Parliament by the Prescribed special majority and where necessary, ratified by the requisite number of State Legislatures.

9. Difference between Private Member Bill and Public Bill

Private Member Bill	Public Bill
It can be introduced by any member of the Parliament other than the Minister.	It can be introduced by the Minister.
Lesser chance of approval	Greater chance of approval
Rejection of the bill is no impact on the government's position.	Expression of want of parliamentary confidence in the government may lead to its resignation.
The Notice period for introduction is one month.	The Notice period for introduction is seven days.
The member who is introducing it will only draft the Bill.	Drafting of the Bill is concerned Department in consultation with the law department.

It Reflects the Stand of the Opposition party on Public matters.	It reflects the policies of the government (Ruling party).
It can only be introduced and debated on Fridays.	It can be introduced and debated on any day.

PESA ACT

1. Background

- The 73rd constitutional amendment was made in 1992 to promote local self-governance in rural India.
- This amendment gave shape to a three-tier Panchayati Raj Institution that was made into law.
- But its application to the scheduled and tribal areas under Article 243(M) was restricted.
- The provisions of **Part IX of the constitution relating to the Panchayats do not apply to the Fifth Schedule areas.**
- The Fifth Schedule designates tribal majority areas in ten tribal minority states within peninsular India including, **Andhra Pradesh, Telangana, Gujarat, Jharkhand, Chhattisgarh**
- The Sixth Schedule designates such tribal majority areas in north-eastern states, including Assam, Meghalaya, Mizoram, and Tripura. Of these, Meghalaya and Mizoram are tribal-majority states.
- It was after the Bhuria Committee recommendations in 1995 that PESA Act 1996 came into existence.
- The Parliament enacted the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) to extend Part IX of the Constitution with certain modifications and exceptions to the Scheduled V areas.

- However, the Parliament may extend these provisions to such areas, subject to such exceptions and modifications as it may specify. Under this provision, the Parliament enacted the “Provisions of the Panchayats (Extension to the Scheduled Areas) Act”, 1996, popularly known as the PESA Act or the Extension Act. At present (2019), ten states have Fifth Schedule Areas.
- It ensured tribal self-rule for people living in scheduled areas of India.

2. The special provisions enjoyed by areas of the 5th Schedule

- The Governor of each State having Scheduled Areas (SA) shall annually, or whenever so required by the President, make a report to the President regarding the administration of Scheduled Areas in that State.
 - The Union Government shall have executive powers to give directions to the States as to the administration of the Scheduled Areas.
 - Para 4 of the Fifth Schedule provides for the establishment of a Tribes Advisory Council (TAC) in any State having Scheduled Areas. If the President so directs, there will be established a TAC in a State having Scheduled tribes but not Scheduled Areas therein, consisting of not more than twenty members of whom, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State. If the number of representatives of the STs in the Legislative Assembly of the State is less than the number of seats in the TAC to be filled by such representatives, the remaining seats shall be filled by other members of those Tribes.
 - The TAC shall advise on such matters about the welfare and the advancement of the STs in the State as may be referred to them by the Governor.
- **The Governor may make rules prescribing or regulating**
 - the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and the officers and servants thereof,
 - the conduct of its meetings and its procedure in general; and

- all other incidental matters.
- The Governor may, by public notification, direct that any particular Act of Parliament or the Legislature of the State shall or shall not apply to a SA or any part thereof in the State, subject to such exceptions and modifications, as specified. The Governor may make regulations for the peace and good government of any area in the State which is for the time being SA. Such regulations may
 - prohibit or restrict the transfer of land by or among members of the Scheduled tribes in such area;
 - regulate the allotment of land to members of the STs in such area;
 - regulate the carrying on of business as money-lender by persons who lend money to members of the STs in such area.
- In making such regulations, the Governor may repeal or amend any Act of Parliament or of Legislature of the State or any existing law after obtaining the assent of the President.
- No regulations shall be made unless the Governor, in case a TAC exists, consults such TAC.

3. Objectives of PESA

- To extend the provisions of Part IX of the Constitution relating to the panchayats to the scheduled areas with certain modifications
- To provide self-rule for the bulk of the tribal population
- To have village governance with participatory democracy and to make the gram sabha a nucleus of all activities
- To evolve a suitable administrative framework consistent with traditional practices
- To safeguard and preserve the traditions and customs of tribal communities
- To empower panchayats at the appropriate levels with specific powers conducive to tribal requirements
- To prevent panchayats at the higher level from assuming the powers and authority of panchayats at the lower level of the gram sabha

4. The prominent powers enjoyed by Tribal groups under PESA

- **Developmental:** consultation before the land acquisition, prevent land alienation, power to enforce prohibition, prior approval of all developmental projects and control over tribal sub-plan, power to issue utilization certificate for developmental expenditure, selection of beneficiaries of poverty alleviation and other schemes of individual benefits, control over institutions and functionaries of social sectors.
- **Dispute resolution as per traditional laws and customs:** the collective resolution of disputes based on customs, traditional laws and religious beliefs of tribal areas.
- **Ownership and management of natural resources:** maintaining ownership of local tribal communities over water resources, common lands, minor forest produce, minor minerals, etc. as well as effective implementation and monitoring of related laws.

5. Working on PESA at Grassroot

- It recognises the right of tribal communities, who are residents of the Scheduled Areas, to govern themselves through **their systems of self-government, and also acknowledges their traditional rights over natural resources.**
- The Act empowers Gram Sabhas to play a key role in approving **development plans and controlling all social sectors.**
- This includes the processes and personnel who implement policies, exercising control over **minor (non-timber) forest resources, minor water bodies and minor minerals, managing local markets, preventing land alienation and regulating intoxicants among other things.**
- State governments are expected to amend their respective Panchayati Raj Acts without **making any law that would be inconsistent with the mandate of PESA.**
- **Ten states** — Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Telangana — **have notified Fifth Schedule areas that cover (partially or fully) several districts in each of these states.**

- After the PESA Act was enacted, the central Ministry of Panchayati Raj circulated the model PESA Rules. So far, **six states have notified these Rules, including Gujarat.**

6. Importance of PESA

- PESA rules enable the residents of scheduled areas to strengthen their village-level bodies by transferring power from the **government to the gram sabha, a body of all the registered voters of the village.**
- The powers of gram sabhas include maintenance of cultural identity and tradition, control over schemes affecting the **tribals, and control over natural resources within the area of a village.**
- The PESA Act thus enables gram sabhas to maintain a safety net over their rights and surroundings against external or internal conflicts.
- Without proper rules, its implementation is not possible as it is an exercise in **decentralizing the power from institutionalized structures, back to the village residents.**
- The laws, once formed, will give gram sabhas the power to take decisions **not only over their customs and traditionally managed resources but also on the minerals being excavated from their areas.**
- The rules state that the gram sabha will have to be kept informed by any agencies working in their village and that the **gram sabha has the power to approve or stop the work being done within the village limits.**
- The rules also give power to the gram sabhas over the management of resources over **jal, jangal, zameen** (water, forest and land), the three major demands of tribals; **minor forest produce; mines and minerals; markets; and human resources.**
- The gram sabha would have the powers to monitor and prohibit the manufacturing, transport, sale and **consumption of intoxicants within their village limits.**
- It also must maintain peace and resolve conflicts arising in the village, while protecting **tribal customs and traditions, and encouraging customs like ghotul.**

7. Challenges associated with PESA Act

- The act has now been termed “**toothless**” with the erosion of its spirit.
- Till now 40 per cent of States have not formulated necessary rules regarding PESA which highlights the apathetic attitude of the state governments towards it.
 - Four states (Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha) have not even framed the rules for the implementation of the act yet.
 - Not a single state has currently amended the Panchayat Raj Act as required as per PESA.
 - Even in the states where the rules were formulated, they performed quite poorly in ensuring their implementation.
- After enacting PESA, the Union Government brought several other legislations and included many provisions of PESA into these laws, shadowing its purpose and significance.
 - For instance, the Land Acquisition Act, 2013 empowered Gram Sabhas immensely.
 - Similarly, the Forest Right Act, 2006 has provisions of PESA and now when people need to protect their rights and resources, they look up to these laws.
- Violations of the self-governance aspects of the Gram Sabhas concerning customary resources, minor forest produce, minor minerals, minor water bodies, selection of beneficiaries, sanction of projects and control over local institutions continue.
 - Currently, no Gram Sabha can function without going through revenue officers at various levels and in a majority of cases, required sanctions are denied by inordinate delays or outright refusals.
 - No stretch of common property can in any way be rightfully owned and controlled by any village, community, group, or people.
 - And the gram sabha’s power to accord such ownership is never recognised.
- While the constitution of Gram Sabhas was made mandatory in states, the powers and functions of the Gram Sabhas have been left to the discretion of the state legislatures. As a result, different states have developed powers and functions for this body differently.
 - From the land acquired and the clearing of villages for the Statue of Unity in Gujarat, where 121 villages were notified of the project in a blatant disregard for PESA.

- Another example was the criminalisation of the Pothalgadi movement, wherein Adivasis erected stone slabs to demarcate the area of their villages.
- PESA laws of maintenance of autonomy and tribal culture remained obscure.
 - The infringement of the provisions of PESA outlined with it a disregard for the rights of forest-dwellers, mostly tribal communities which constitute around nine per cent of India's population.
- Violations of the Act and its dilution highlight a pattern of developments which show the Centre and states' lack of commitment towards strengthening gram sabhas.
 - Instead there has been a push for corporate entry and control of resources, making it easier to surpass gram sabha consent.
- The biggest challenge is the degradation of the spirit of PESA as the formulation of rules did not take place for varied reasons giving rise to increased conflict.
 - The traditional Gram Sabhas and the State structured Panchayats conflict with one another.

8. Hindrances in implementation of the PESA Act

- Difficulties in implementing PESA can be broadly categorized into two:

Legal difficulties and Political difficulties.

- **Legal difficulties** are related to the definition of the village, gaps and inconsistencies between the Central and the State Acts, clash between PESA and pre-existing laws, lack of clarity about customary practices and cultural identity, etc.
- **Political problems**, on the other hand, include lack of political will, ignorance about PESA among different segments, fragmentation of well-knit tribal society because of electoral competition, etc.

PARDONING THE POWER OF THE STATE

1. Background

- The Code of Criminal Procedure, 1898 has devoted a full chapter on the topic of execution, suspension, remission, and commutation of sentences
- **The Criminal Procedure Code, 1973 (CRPC)** empowers the govt to suspend or remit a sentence or commute the sentence awarded to him by any court relating to any offense, and therefore the acceptable government might with or while not condition suspend or remit the sentence and while not the consent of the person sentenced however the powers don't seem to be absolute there's a precise restriction obligatory upon elbow grease these powers underneath section 43A.
- The legal provisions that empower the govt for elbow grease the powers relating to, suspension, commutation, and remission square measure underneath Sections 432, 433.
 - **Suspension**- Suspension means to require or withdraw the sentence for the nonce. it's the temporary postponement of the sentence.
 - **Remission** -Remission implies reducing the amount of a sentence while not ever-changing its character.
 - **Commutation**-Commutation denotes the substitution of a type of penalization for a lighter one.
- Execution of sentences implies that the court shall cause any order to be carried into result by the issuance of a warrant or taking such alternative steps as is also necessary.

2. Constitutional and legal backing of Remission

- The law on remissions Under Articles 72 and 161 of the Constitution, the President and Governors have the power to pardon, and suspend, remit, or commute a sentence passed by the courts.

- Also, since prisons are state subject, state governments have powers under Section 432 of the Code of Criminal Procedure (CrPC) to remit sentences.

3. Restrictions on Remission

- Section 433A of the CrPC puts certain restrictions on these powers of remission: “Where a sentence of imprisonment for life is imposed on conviction of a person for an offense for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under Section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.”

4. The grounds on which remissions are entertained

- States set up a Sentence Review Board to exercise the powers under Section 432 of the CrPC.
- The Supreme Court has held that states cannot exercise the power of remission arbitrarily, and must follow due process.
- While the policy varies from state to state, broadly the grounds for remission considered by the Board are the same.
- Seriousness Of The Crime, the status of the co-accused, and conduct in jail are the factors considered for granting remission.
- **In Laxman Naskar v. Union of India (2000)** the SC laid down five grounds on which remission is considered:
 - Whether the offense is an individual act of crime that does not affect society;
 - Whether There is a chance of the crime being repeated in the future;
 - Whether the convict has lost the potential to commit a crime;
 - Whether any purpose is being served in keeping the convict in prison; and
 - Socio-economic conditions of the convict’s family.
- Jail manuals contain rules that allow certain days of remission in every month for the good behavior of convicts.

- For those serving fixed sentences, the remission days are accounted for while releasing the convict.
- However, convicts serving life sentences are entitled to seek remission only after serving a minimum of 14 years.
- This rule has often led to uncertainty on whether “life sentence” means 14 years or a sentence unto death, prompting courts in recent times to clarify that “life means the remainder of one's life”.
- Data from Prison Statistics, 2020 show that 61% of convicts in jail are serving life sentences.

5. JUDICIAL OPINION

5.1.G.V. Ramanjah V superintendent Central Jail:

- Word acceptable Government has been outlined by Supreme Court of Asian country that visible of Entries thirty-six and ninety-three of the Union list within the seventh schedule of the constitution Currency notes and Banknotes to that the offenses underneath 489 to 489-D of the Indian legal code relate square measure matters that square measure completely at intervals the legislative ability of the Union law-makers. so Union Government is that the acceptable Government about offenses underneath the sections.

5.2.Ramprasad Gupta v. State of geographic region

- While selecting a legal document petition is difficult the suspension order of sentence gone the regime in the exercise of powers underneath Section 432(1) of the atomic number 24. P.C, a bench of Ranjit additional & V.L. Achliya J.J. smitten down the order gone the govt and directed the respondents to surrender before the involved jail authorities. within the gift case, the respondent cops were guilty of murder under the pretext of a police encounter by the Sessions Court.

5.3.K.M Nanavati V State of Bombay:

- It was controlled the governor will grant full pardon at any time throughout the pendency of the case within the Supreme Court within the exercise of mercy jurisdiction. Such a pardon when the defendant person has been guilty by the court has the result of utterly absolving him from all punishments or disqualifications attached to a conviction for a criminal offense. That power is unconditional within the Head of the chief as a result the judiciary has no such Mercy jurisdiction.
- But the suspension of the sentence for the amount once the Supreme Court is in seizing of the case might be granted by that court itself. If in respect of constant amount the govt conjointly could suspend the sentence, it'd mean that each the judiciary and therefore the government would be functioning within the same field at a constant time resulting in the likelihood of conflict of jurisdiction.

5.4.State Govt. of NCT of Delhi v. Prem Raj:

- Section 432 of the Code of Criminal Procedure empowers the govt to remit sentences, the fact remains that remission of penalization assumes that the conviction is correct and solely reduces the penalization partially or in whole. Remission of the sentence doesn't mean a final decision AND an aggrieved party has each right to vindicate himself or herself that his or her conviction isn't property in law.

AADHAR VOTER ID LINKAGE

1. Why in News?

- Reports have surfaced online of instances where block-level officers have asked individuals to link their Aadhaar with their Voter IDs, failing which their Voter IDs could be cancelled. This comes in the

aftermath of the Election Commission's (EC) campaign to promote the linkage of Voter ID and Aadhaar

2. Background

- Aadhaar, India's program to provide a unique identification number for every resident, is the largest biometric identification program in the world.
- The program also aims to achieve social inclusion and more efficient public and private service delivery.
- Aadhaar has also started to be used for several public purposes, such as digitizing government subsidy flows (G2P [government-to-person] payments); financial services; recording attendance for government employees to reduce absenteeism; and issuance of passports, voter identity cards, and other forms of ID.

3. Contemporary scenario

- Recently, the Election Commission of India (ECI) announced that the Ministry of Law & Justice, is considering the integration of Aadhaar and Voter ID information.
- The idea is to remove errors from electoral rolls and to allow migrant workers to vote in elections away from their homes.
- It claims that such a unified database will eliminate duplication of entries between Aadhaar and ECI
- The exact reasons for this proposed integration are still unclear, and the justifications given by the government are ambiguous, from removing duplicates from the electoral roll to letting migrants vote, without any robust policy proposal mentioned.

4. About Election Laws (Amendment) Bill, 2021

5. Operational Difficulties of the linkage

- Aadhaar is only a proof of residence and not a proof of citizenship. Therefore, verifying voter identity against this will only help in tackling duplication but will not restrain voters who aren't citizens of India from voting.
- Aadhaar based biometric authentication had a 12% error rate. This led the Supreme Court to hold in Puttaswamy that a person would not be denied benefits in the case of Aadhaar-based authentication. This concern is also reflected in the previous experiences of using Aadhaar to clean electoral rolls.
 - A similar exercise undertaken in 2015 in Andhra and Telangana led to the disenfranchisement of around 30 lakh voters before the Supreme Court stalled the process of linkage.
- Civil society has highlighted that linking of the two databases of electoral rolls and Aadhaar could lead to the linkage of Aadhaar's **“demographic”** information with **voter ID information, and lead to violation of the right to privacy and surveillance measures by the state.**

6. Other Concerns

6.1. Legal and Privacy Concerns

- The proposal fails to specify the extent of data sharing between the two databases. As the integration of two databases can result in **targeted political advertising, and also disenfranchisement**.
- There have been examples of targeted surveillance using **Aadhaar information and demographic data**. In **Andhra Pradesh, 5.167 million families'** locations could be tracked on a website run by the state government, **using religion and caste as search criteria which can easily result in caste and religion-based politics**

6.2. Ethical dimension regarding the usability of the data

- The prominent data in the wrong hands could be used to target specific groups and strip many of the right to vote

6.3. Scope of Fraud

- The scope for electoral fraud is widespread, not reduced by linking the EPIC database with the unverifiable UIDAI database. UIDAI in multiple court cases has admitted that it has no information about the enrolment operator, agency, or even their location while enrolling someone in Aadhaar, raising questions about dubious enrolment practices.

6.4. The cyber safety of the data

- Aadhaar is prone to leaks and therefore can undermine the sanctity of the electoral roll as UIDAI and MEITY, for the first time admitted to false Aadhaar cards and cyber security being a problem in a written answer to Parliament during the 2020 monsoon session.

6.5. Political lobbying and threat by ruling party to donate to election fund

- EPIC cards issued using an unverifiable Aadhaar card could result in massive fraud, rather than securing the integrity of the electoral roll. The scope for abuse by **political groups is extremely high if the**

linkage proposed between EPIC and Aadhaar matches the PAN-Aadhaar integration.

7. Opinion of International Institutions

- Reports by the World Bank and European Union on integrating social and electoral registries have argued strongly against such integration because of the scope for abuse and the complications in verifying data.
- The evidence shows that an integrated ID card will disenfranchise voters due to a lack of documentation, undermining the very purpose of this integration.
- In an attempt to clean up electoral rolls, this exercise has the potential to disenfranchise existing voters.

8. Need of the Hour

- If India passes a Personal Data Protection Bill and decides to press ahead with voter integration, it might be worth examining South Korea's data protection and voting regime since it mandates data minimisation. as South Korea has enabled limited forms of e-voting and other e-governance frameworks while ensuring **strong data protection laws to facilitate this push.**
- Moreover, for a government agency to share data across the government, the explicit consent of the individual in question must be obtained, and even then, the principle of data minimisation is to be followed.
- Sharing of limited demographic information is shared across the ECI and UIDAI to ensure that the privacy of voters is maintained, if the Personal Data Protection Bill has such limiting provisions

9. Conclusion

- In 2019, Justice B.N. Srikrishna, Chairman of the Committee that drafted the Personal Data Protection Bill, called the ECI's proposal to link the two databases "most dangerous," arguing that "if [the government] can collate the data, [it] can profile human beings." this note has already explained the ease with which governments can

profile their citizens, as seen in Telangana and Andhra Pradesh, without robust legal hurdles to prevent the misuse and abuse of personal data.

- In this note, we have examined the implications of the potential integration of Aadhaar and Election Cards.
- On balance, we argue against this move, in its proposed form.
- While we acknowledge that the move seems likely, given the government's desire to push forward with this proposal and its majorities in Parliament, the exercise raises serious questions about the privacy of voters, and by extension, the sanctity of the electoral roll, undermining the very justification for the integration. On balance, the proposed amendment in its current form does not address the right to privacy that is guaranteed to individual citizens and does not address the technological mechanism through which integration would take place.
- Data minimisation with electronic signatures might be a way to ensure that individual data is not abused by the government, but given previous attempts at integrating social registries with Aadhaar, it seems unlikely.
- Given the lack of clarity on the mechanism of this proposed integration, we would recommend that UIDAI and the ECI reconsider this proposal until clear safeguards to protect individual privacy are made clear, until the databases are further secured to prevent potential leaks, and processes and mechanisms to prevent disenfranchisement of voters during this exercise are developed.

GST COUNCIL

1. About

- The Constitution (**122 Amendment**) Bill, 2016, for the introduction of GST in the country was accorded assent by the President after it was ratified by 18 states.
- After the assent to the bill it became law and was notified as to the Constitution (**101 Amendment**) Act, 2016.

- The Constitution (101 Amendment) Act, 2016 adds **Article 279A** to the Constitution.
- As per Article 279A (1) of the amended Constitution, GST Council has to be constituted by the President within 60 days of the commencement of Article 279A

2. Composition of GST Council

As per Article 279A of the amended Constitution, the GST Council will be a joint forum of the Centre and the States. It shall consist of the following :

- Union Finance Minister (Chairperson)
- The Union Minister of State (MoS) in charge of Revenue of finance (Member)
- The Minister In-charge of taxation or finance or any other Minister nominated by each State Government (Members)

3. Functions of GST Council

As per Article 279A (4), the Council will make recommendations to the Union and the States on important issues related to GST, like

- Taxes, cesses, and surcharges to be subsumed under the GST;
- Goods and services which may be subject to, or exempt from GST;
- The threshold limit of turnover for application of GST;
- Rates of GST;
- Model GST laws, principles of levy, apportionment of IGST and principles related to the place of supply;
- Special provisions concerning the eight north eastern states, Himachal Pradesh, Jammu and Kashmir, and Uttarakhand; and
- Other related matters.
- GST rates will include the floor rates with bands, special rates for raising additional resources during natural disasters/ calamities, special provisions for certain States, etc.

ANTI-DEFECTION LAW

1. Background

- The anti-defection law in India, technically the Tenth Schedule to the Indian Constitution, was enacted to address the perceived **problem of instability** caused by democratically elected legislators in India's Parliamentary System of Government shifting allegiance from the parties they supported at the time of the election or disobeying their parties' **decisions at critical times such as during voting on an important resolution.**
- It aims to **curb Aaya Ram and Gaya Ram politics**
- It lays down the process by which legislators may be disqualified on grounds of defection by the Presiding Officer of a legislature based on a petition by any other member of the House.
- The **52nd Amendment Act of 1985** provided for the disqualification of the members of Parliament and the state legislatures on the ground of defection from one political party to another.
- Later, the 91st Amendment Act of 2003 made one change in the provisions of the Tenth Schedule. It omitted an exception provision i.e., disqualification on the ground of defection not to apply in case of a split.

2. Instances of Defection

- A legislator is **deemed to have defected** if he either voluntarily gives up the membership of **his party or disobeys the directives of the party leadership on a vote.**
- This implies that a **legislator defying (abstaining or voting against) the party whip on any issue can lose his membership of the House)**
- **The law applies to both Parliament and state assemblies.**
- **Exceptions under the law:** Legislators may change their party without the risk of disqualification in certain circumstances

3. Evaluation of Anti-Defection

- The Tenth Schedule of the Constitution (which embodies the anti-defection law) is designed to prevent the evil or mischief of political defections motivated by the lure of office or material benefits or other similar considerations.
- It is intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections.
- Rajiv Gandhi, the then Hon'ble Prime Minister, described it as the '**first step towards cleaning-up public life**'.
- Prevents **horse-trading** of hostile representatives.

4. Recent instances of defection

- Between 2011 and 2021 almost three dozen MLAs who had either been elected on the ticket of the Congress or the Left parties had joined the Trinamool and **not a single MLA had been disqualified**.
- Telangana in 2016, its legislative assembly, the speaker had to deal with the defection of 12 of the 15 TDP MLAs in the 119-member assembly
- Manipur in 2017 which involves disqualification of a Congress legislator who joined the Ruling BJP right after the 2017 Assembly elections.
- The Congress had asked the Manipur Speaker to disqualify him and the Speaker failed to act and kept the petition pending.
- In Andhra Pradesh, 23 opposition party's MLAs had defected over some time to the ruling party in the last three years, putting a question mark on the role of the speaker.
- The Supreme Court had to intervene in the **Karnataka MLAs' disqualification case** where it held that a Speaker who cannot stay aloof from the pressures and wishes of his political party does not deserve to occupy his chair.

5. Supreme court stand on Anti-Defection

- Supreme Court has expressed concerns and had ruled that the High Court can direct Speakers to **rule on disqualification petitions if they do not do this within a reasonable time**
- **Supreme Court, in the Kihoto Hollohan case 1992** ruled that Speakers while deciding petitions under the anti-defection law, exercised judicial powers akin to a tribunal and hence their decisions **would be subject to the scrutiny of HCs and the SC.**
- The Supreme Court in the Karnataka rebel MLAs case had said, **“Speaker’s political affiliations cannot come in the way of adjudication (of disqualification petitions)”**.

6. Concerns with Office of Hon’ble speakers on Anti-Defection Law

- **Delay in speakers decision**
 - Due to the inordinate delay in deciding the disqualification matter pending before the Speaker, often instances have been observed where legislators who have defected from their parties, continue to be members of the House as seen in the case of Manipur
- **Speakers office**
 - With no security in the continuity of office, the Speaker is dependent on his or her political party for re-election.
 - This makes the Speaker susceptible to pulls and pressures from her/his political party in the conduct of the proceedings of the Lok Sabha, rather than their morals.
- **Paradox of the office**
 - Disqualification petitions entrusted to a Speaker as a quasi-judicial authority are not a rational and logical act when such a Speaker continues to belong to a particular political party.

7. Criticism faced by Anti-Defection Law

- anti-defection law affecting the ability of legislators to make decisions
- It does not make a differentiation between dissent and defection.
- Decision of the Presiding Officer is subject to judicial review.
- It curbs the legislator’s right to dissent and freedom of conscience.

- It puts party hegemony on a pedestal and sanctions tyranny of the party in the name of the party discipline'
- Its distinction between individual defection and group defection is irrational. In other words, 'it banned only retail defections and legalised wholesale defections'
- It does not provide for the expulsion of a legislator from his party for his activities outside the legislature.
- Its discrimination between an independent member and a nominated member is illogical. If the former joins a party, he is disqualified while the latter is allowed to do the same.
- It's vesting of decision-making authority in the presiding officer is criticised on two grounds.
 - **Firstly**, he may not exercise this authority impartially and objectively due to political exigencies.
 - **Secondly**, he lacks the legal knowledge and experience to adjudicate the cases

8. Way Forward

- **Second Administrative Reforms Commission's Report titled 'Ethics in Governance'** and various other expert committees have recommended that the issue of disqualification of members on grounds of defection should be decided by the President/Governor on the advice of the Election Commission.
- **Issues regarding the neutrality of the Speaker should be resolved by following other models/examples of parliamentary democracy like Britain.**

VICE PRESIDENT OF INDIA

1. About

- The Vice-President occupies the second-highest office in the country.
- He is accorded a rank next to the President in the official warrant of precedence.

- This office is modelled on the lines of the American Vice-President.

2. Election to the office of Vice President

The Vice-President, like the president, is elected not directly by the people but by the method of indirect election.

He is elected by the members of an electoral college consisting of the members of both Houses of Parliament.

Thus, this electoral college is different from the electoral college for the election of the President in the following two respects:

- It consists of both elected and nominated members of the Parliament (in the case of the president, only elected members).
- It does not include the members of the state legislative assemblies (in the case of the President, the elected members of the state legislative assemblies are included).

But, the manner of election is the same in both cases.

Thus, the Vice-President's election, like that of the President's election, is held by the system of proportional representation using the single transferable vote and the voting is by secret ballot.

All doubts and disputes in connection with the election of the VicePresident are inquired into and decided by the Supreme Court whose decision is final. The election of a person as Vice-President cannot be challenged on the ground that the electoral college was incomplete (i.e., the existence of any vacancy among the members of the electoral college).

If the election of a person as VicePresident is declared void by the Supreme Court, acts done by him before the date of such declaration of the Supreme Court are not invalidated (i.e., they continue to remain in force).

3. Qualifications

To be eligible for election as Vice-President, a person should fulfil the following qualifications:

- He should be a citizen of India.
- He should have completed 35 years of age.
- He should be qualified for election as a member of the Rajya Sabha.
- He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority.
- But, a sitting President or Vice-President of the Union, the governor of any state and a minister for the Union or any state is not deemed to hold any office of profit and hence qualified for being a candidate for Vice-President.
- Further, the nomination of a candidate for election to the office of Vice-President must be subscribed by at least 20 electors as proposers and 20 electors as seconders.
- Every candidate has to make a security deposit of ₹15,000 in the Reserve Bank of India

4. Oath or Affirmation

Before entering his office, the VicePresident has to make and subscribe to an oath or affirmation. In his oath, the VicePresident swears:

- to bear true faith and allegiance to the Constitution of India; and
- to faithfully discharge the duties of his office.

The oath of office to the Vice-President is administered by the President or some person appointed on that behalf by him.

5. Conditions of Office

The Constitution lays down the following two conditions of the Vice-President's office:

- He should not be a member of either House of Parliament or a House of the state legislature. If any such person is elected Vice-President, he is deemed to have vacated his seat in that House on the date on which he enters his office as Vice-President.
- He should not hold any other office of profit.

6. Powers and Functions

The functions of the Vice-President are two-fold:

- He acts as the ex-officio Chairman of Rajya Sabha. In this capacity, his powers and functions are similar to those of the Speaker of Lok Sabha. In this respect, he resembles the American vice president who also acts as the Chairman of the Senate—the Upper House of the American legislature.
- He acts as President when a vacancy occurs in the office of the President due to his resignation, impeachment, death or otherwise
- He can act as President only for a maximum period of six months within which a new President has to be elected.
- Further, when the sitting President is unable to discharge his functions due to absence, illness or any other cause, the Vice-President discharges his functions until the President resumes his office

SUB CATEGORISING OBCs

1.Context:

Justice Rohini's commission constituted on 2 October 2017 for sub-categorization of OBCs now has until January 31 next year to submit its report. The Central government has extended the period of the Commission

2.WHAT IS THE SUB-CATEGORISATION OF OBC?

- The idea is to create sub-categories within the larger group of OBCs for reservation.
- OBCs are granted 27% reservation in jobs and education under the central government.

- For OBCs, debate arises out of the perception that only a few affluent communities among the over 2600 included in the central list of OBCs have secured a major part of the 27% reservation.
- The argument for creating subcategories within OBCs is that it would ensure equitable distribution of representation among all OBC communities.

3.WHAT IS THE COMMISSION BRIEF?

- It was set up with three terms of reference-
- To examine the extent of inequitable distribution of benefits of reservation among the castes or communities included in the broad category of OBCs concerning such classes included in the central list
- To work out the mechanism, criteria, norms and parameters in a scientific approach for sub-categorization within such OBCs
- To take up the exercise of identifying the respective castes or communities or sub-castes or synonyms in the central list of OBCs and classifying them into their respective subcategories.
- To study the various entries in the central list of OBCs and recommend corrections of any repetitions, ambiguities, inconsistencies and errors of spelling or transcriptions
- At the time it was set up the commission was given 12 weeks to submit its report but has been since then given 10 extensions

4.PROGRESS MADE SO FAR

- Among the challenges it has faced one has been the absence of data for the population of various communities to compare with their representation in jobs and admissions.
- On August 31, 2018, then Home Minister Rajnath Singh announced that in census 2021, data on OBCs will also be collected but since then the government has been silent on this, whereas the group of OBCs have been demanding enumeration of OBCs in the census.

5.COMMISSION'S FINDINGS SO FAR

- In 2018, the commission analyzed the data of 1.3 lakh central jobs given under the OBC quota over the preceding five years and OBC admissions to central higher education institutions, including

universities, IITs, NITs, IIMs and AIIMS, over the preceding three years.

- The findings were that 97% of all jobs and education seats have gone to just 25% of all sub-castes classified as OBCs, 24.95% of these jobs and seats have gone to just 10 OB communities, 983 OBC communities -37% of the total have zero representation in jobs and educational institutions, 994 OBC sub-castes have a total representation of only 2.68% in recruitment and admissions.

6. WHAT IS THE EXTENT OF OB RECRUITMENT IN CENTRAL JOBS?

- The total number of group A to group C employees was 5.12 lakh, of these 17.70% are SC, 6.72% ST, 20.26% OBC and 0.02% EWS.
- IN group A, the highest tier among these, the representation of SCs is just 12.86%, STs are 5.64% and OBCs are 16.88%. Reservation for these communities is 15%, 7.5%, 27% respectively.
- The data over 43 departments and government offices including Cabinet secretariat, UPSC and Election commission, but excluding the largest central government employers such as Railways and Department of posts.
- Among the secretaries and special secretaries only six belong to SCs and STs and no data regarding OBCs is maintained.
- Out of 91 Additional secretaries, the number of officers belonging to SC/ST and OBC communities is 10 and 4 respectively and out of 245 joint secretaries, the number of officers belonging to SC/ST and OBC communities is 26 and 29 respectively in various Ministries/Departments under Central Staffing Scheme.

ELECTION COMMISSION - PARTY SYMBOLS

1. Empowerment of Election Commission to allot political symbols

- The Election Symbols (Reservation and Allotment) Order, 1968 empowers the ECI to recognise political parties and allot symbols

- The EC is also the only authority to decide issues on a dispute or a merger. The Supreme Court upheld its validity in **Sadiq Ali and another vs. ECI in 1971**

2. The Prominence of Election Symbol

- A standardized symbol assigned to a political party is known as an electoral or election symbol.
- They are displayed on Electronic Voting Machines (EVMs), where the voter selects the symbol and votes for the affiliated party, and are utilised by parties during their campaigning.
- They were created to let illiterate people vote by allowing them to vote without having to read the name of the party.
- The reservation, allotment and regulation of electoral symbols should be done through a statute of Parliament, namely the Symbol Order, in the 1960s.
- In response to this suggestion, the ECI stated that the recognition of political parties, as well as the allotment of symbols, is governed by the rules of the Election Symbols (Reservation and Allotment) Order, 1968.
- The Election Commission registers political parties for election purposes and recognises them as national or state parties based on their poll results. The other parties are simply labelled as "registered-unrecognized."
- Their right to specific rights, such as the allocation of party insignia, the supply of time for political broadcasts on television and radio stations, and access to electoral rolls, is determined by their recognition.
- Every state party and every national party is given a symbol that is exclusive for their use throughout the states and the country.

3. Allocation of Symbol

- The party/candidate has to provide a list of three symbols from the EC's free symbols list at the time of filing nomination papers.
- Among them, one symbol is allotted to the party/candidate on a first-come-first-serve basis.
- When a recognised political party splits, the Election Commission decides on assigning the symbol.

4. Election Symbols (Reservation and Allotment) Order of 1968:

- It is an order to provide for specification, reservation, choice and allotment of symbols for the recognition of political parties.
- It applies to both parliamentary and assembly elections.
- As per the order a symbol shall be allotted to a contesting candidate by the provisions of this Order and different symbols shall be allotted to different contesting candidates at an election in the same constituency.
- **Classification of Symbols:** There are two types of symbols i.e reserved and free.
 - A reserved symbol is a symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party.
 - A free symbol is a symbol other than a reserved symbol.
- **Classification of Political Parties:** These are either recognised political parties or unrecognised political parties.
 - A recognised political party shall either be a National Party or a State party, the rest are unrecognised parties.
- **Choice of symbols by candidates of National and State Parties and allotment thereof:**
 - A national party candidate has to mandatorily use its party symbol.
 - A state party candidate has to mandatorily use its party symbol.
 - No other person is allowed to use a national or state party symbol or national party symbol irrespective of whether that party contesting or not.
- It also gives EC power to suspend or withdraw recognition of a recognised political party for its failure to observe the Model Code of Conduct or follow lawful directions and instructions of the Commission.

5. Election commission's power in such a dispute

- **On the question of a split in a political party outside the legislature, Para 15 of the Symbols Order, 1968, states:** “When the [Election] Commission is satisfied... that there are rival sections or groups of a recognised political party each of whom claims to be that

party the Commission may, after taking into account all the available facts and circumstances of the case and hearing [their] representatives and the decision of the Commission shall be binding on all such rival sections or groups.”

- This applies to disputes in recognised national and state parties.
- For split in registered but unrecognized parties, the EC usually advises the warring factions to resolve their **differences internally or to approach the court.**

6. Procedure of Election Commission in Dealing disputes before 1968

- Before 1968, the EC issued notifications and executive orders under the Conduct of Election Rules, 1961.
- The most high-profile split of a party before 1968 was that of the Communist Party of India in 1964.
- A breakaway group approached the EC in December 1964, urging it to recognise it as CPI(Marxist).
- They provided a list of MPs and MLAs of Andhra Pradesh, Kerala and West Bengal who supported them.
- The ECI recognised the faction as CPI(M) after it found that the votes secured by the MPs and MLAs supporting the breakaway group added up to more than **4% in the 3 states.** (One of the Conditions to get represented as a state political party)

7. Other methodologies used by Election Commission over symbol disputes

- In almost all disputes decided by the EC so far, a clear majority of party delegates, office bearers, MPs and MLAs have supported one of the factions.
- Whenever the EC could not test the strength of rival groups based on support within the party organization (because of disputes regarding the list of office-bearers), it fell back on testing the majority only among elected MPs and MLAs

8. Provisions related to the Group which does not get a party symbol

- The EC then did not recognise the new parties as either state or national parties.
- It felt that merely having MPs and MLAs was not enough, as the elected representatives had fought and won polls on tickets of their parent (undivided) parties.
- The EC introduced a new rule under which the splinter group of the party — other than the group that got the party symbol — had to register itself as a separate party, and could lay claim to national or state party status only based on its performance in the state or central elections after registration.

NALSA

1. Background

- **"The soul of India breathes in rural areas or villages"**
- **Article 39A of the Constitution of India** spells out the paradigm for ensuring justice to all.
- The Constitutional vision of '**Equal Justice and Free Legal Aid**' is imperative for a nation whose millions of people are living in abject poverty.
- In consonance with the said vision, **Legal Services Authorities Act, 1987** was passed by the Parliament of India.
- The Act came into force in the year **1995**.
- "An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity"
- The Legal Services Institutions which have come into existence under the Act are constantly working to achieve the objective of ensuring '**Equal Justice and Free Legal Aid**' and **strive to overcome the barriers such as legal illiteracy, complex judicial processes, etc.**

so that millions of marginalized people are afforded access to justice in the true sense of the term.

- The Constitution of India makes it obligatory to ensure equality before the law and a legal system which promotes justice on a basis of equal opportunity for all. The Legal Services Institutions must ensure that easier access to justice is made available to the poor, downtrodden and weaker sections of society.
- The aim is **to ensure that opportunities for securing justice are not denied to any citizen by reasons of economic or other disabilities.**
- ‘Nyaya Deep’ is the official newsletter of NALSA.

2. Evolution of legal aid movement in India

- The first legal aid movement appears to have started in **France in 1851** when a law was passed to provide **legal assistance to the poor.**
- **Article 39A of the Indian Constitution** assures underprivileged and weaker sections of society free legal help as well as **fair justice for all.**
- The State must also ensure equality before the law and a judicial system that promotes justice on an equal footing for all citizens, according to **Articles 14 and 22(1) of the Constitution.**
- Since 1952, the Indian Government has addressed the issue of legal aid for the underprivileged **at several conferences of law ministers and law commissions.**
- **The Government issued rules for legal aid schemes in 1960** and plans were proposed by **Legal Aid Boards, Societies, and Law Departments in several states.**
- Under the Chairmanship of Justice P.N. Bhagwati, then a Judge of the Supreme Court of India, a national committee was formed in 1980 to oversee and regulate legal assistance programs across the country.
- **The Committee was renamed CILAS (Committee for the Implementation of Legal Aid Schemes)** and was given the responsibility of overseeing legal aid activities across the country.
- Later, the Legal Services Authorities Act was enacted by Parliament in 1987 and came into force on November 9, 1995, to create a **nationwide uniform network for delivering free and competent legal services to the weaker parts of society on an equal footing.**

3. About National Legal Service Authority

- **The National Legal Services Authority (NALSA)** has been constituted under the **Legal Services Authorities Act, 1987** to provide free Legal Services to the weaker sections of the society and to organize **Lok Adalats for amicable settlement of disputes.**
- NALSA is located in New Delhi. In every State, the State Legal Services Authority has been constituted to give effect to the policies and directions of the NALSA and give free legal services to the people and conduct Lok Adalats in the State. The State Legal Services Authority is headed by **Hon'ble the Chief Justice of the respective High Court who is the Patron-in-Chief of the State Legal Services Authority.**
- In every District, District Legal Services Authority has been constituted to implement Legal Services Programmes in the District. The District Legal Services Authority is situated in the District Courts Complex in every District and is chaired by the District Judge of the respective district.

4. Provisions of free legal aid may include

- Payment of court fees, process fees and all **other charges payable or** incurred in connection with any **legal proceedings;**
- Providing Advocate in legal proceedings;
- Obtaining and supplying **certified copies of orders and other documents in legal proceedings.**
- Preparation of appeal, and paper book including printing and translation of documents in legal proceedings.
- Rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal.
- Giving advice on any legal matter

5. Functions of NALSA

- Spreading legal literacy and awareness through **Information Education Communication (IEC) approach**
- Undertaking **social justice litigations.**
- To organize Lok Adalats for **amicable settlement of disputes.**
- **Providing free and competent legal aid** to the poor and weaker sections of society.

- To promote deliverable justice based on equal opportunity.
- **Victim compensation.**

6. Challenges associated

- **Less number of people benefited:** According to the India Justice Report 2019, just 15 million people have benefited from legal aid services since 1995, even though over 80% of the country's 1.25 billion inhabitants are eligible.
- **Improperly Trained Advocates:** The India Justice Report 2019 pointed out that lawyers are not trained well enough to provide satisfactory solutions to the people.
- **Inefficient Use of Finance:** The lack of optimal financial management and responsibilities, inadequate performance monitoring, and absence of mechanisms to gauge customer satisfaction hamper the functioning of Legal Aid Services to a great extent.
- **Uneven organizational practices:** In 2018, there were 664 district legal services authorities (DLSAs) and 2,254 sub-divisional/taluka legal services committees established across districts. Tripura, West Bengal, Telangana, Chhattisgarh, Gujarat, and Uttar Pradesh, on the other hand, have yet to create DLSAs in all of their judicial districts.
- **Inadequate Women Representation:** Amongst panel lawyers, the gender breakdown is much less encouraging, with only 18 per cent of them being women.

7. Innovative steps were taken by NALSA to ensure justice

- “Designing Innovative Solutions for Holistic Access to Justice in India” has been launched with the aim to strengthen pre-litigation advice and consultation through
 - **Tele-Law:** Reaching the Unreached;
 - Ensure pan - India dispensation framework to deliver Pro Bono legal Services through **Nyaya Bandhu (Pro Bono Legal Services) programme;**
 - Facilitate disposal of 15-year-old pending cases at the district level through its **Nyaya Mitra** programme and empower

citizens through Pan India legal literacy and legal awareness programme.

- The Scheme embeds the use of technology and developing contextualized IEC (Information, Education and Communication) material in regional/local dialects to support its intervention and to achieve easy accessibility of legal services to the poor and weakest sections of the society.

SUSPENSION OF PARLIAMENTARIANS

1. Background

- The reason for their suspension was their unprecedented acts of misconduct, contemptuous, unruly and violent behaviour and intentional attacks.
- MPs are required to adhere to certain rules of parliamentary etiquette.

2. Procedure for suspension of MPs

- The presiding officer of each House can direct an MP to withdraw from the legislative chamber for grossly disorderly conduct. The MP then has to remain absent from the proceedings of the House for the remainder of the day.
- The presiding officers can also “name” an MP for “persistently and wilfully obstructing the business” of the House. In such a case, usually, the Parliamentary Affairs Minister moves a motion for suspending the offending MP from the service of the House. The suspension can last until the end of the session.
- In 2001, the Lok Sabha rule was amended to give the Speaker one additional power. A new rule, 374A, empowers the Speaker to automatically suspend an MP for a maximum of five days for disrupting the business of the House.

3. Disruptions in legislature leading to disqualification

Over the years, the presiding officers of legislatures and political leaders have discussed and identified four broad reasons leading to disorder in legislatures.

- One reason is the lack of time available to MPs for raising important matters;
- Second is the “unresponsive attitude of the government and retaliatory posture by Treasury benches”.
- Third is the deliberate disruption by parties for political publicity purposes,
- Fourth is the absence of prompt action against MPs disrupting parliamentary proceedings.

4. Background of Suspension

- The first instance occurred in 1963.
 - A few Lok Sabha MPs first interrupted President Sarvapalli Radhakrishnan and then walked out while he was delivering the joint address to both Houses. Lok Sabha ended up reprimanding these MPs.
- In 1989, 63 MPs were suspended from Lok Sabha on the discussion of the Thakar Commission report.
- More recently in 2010, 7 MPs were suspended from Rajya Sabha for snatching the women’s reservation bill from the minister. Since then, MPs have raised slogans, used pepper spray in the House and displayed placards.

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4. Jurisdiction of Supreme Court in this matter

- Article 122 of the Constitution says parliamentary proceedings cannot be questioned before the court: “No officer or member of Parliament in whom powers are vested by or under this Constitution For Regulating Procedure or the conduct of business, or for maintaining order, in Parliament shall be subject the jurisdiction of any court in respect of the of the exercise by him of those powers”.
- In some cases, however, courts have intervened in the procedural functioning of legislatures.

- For example, the Maharashtra Legislative Assembly passed a resolution in its 2021 Monsoon Session suspending 12 BJP MLAs for a year.
- The Matter Came Before The Supreme Court, which held that the resolution was ineffective in law beyond the remainder of the monsoon Session.

5. Role of Presiding officer in suspension

- Presiding officers are the custodians of Parliament, and their role is to be a non-partisan implementers of the rules.
- In 14th Lok Sabha (2004-09), during the tenure of Speaker of Lok Sabha was continuously getting disrupted by Opposition MPs.
- They asked him to convey their grievances against the government and the Treasury benches to the Prime Minister.
- Speaking in Lok Sabha, Then Speaker opined, **“I feel it will be an Unwarranted Exercise of power of the Speaker if he meddles into the political affairs or the political formulations of any Party or Group of Parties, and seeks to intervene.”** He also said such an action would be **“an intrusion by the Speaker into an arena, which should be left to the political parties to decide and resolve”**.

REMISSION

Why in News

- To commemorate the 75th year of Independence, MHA issued a set of guidelines to the States and the Union Territories on the grant of special remission to prisoners.

1. Background

- Remission is the complete ending of a sentence at a reduced point.

- Remission is distinct from both furlough and parole in that it is a reduction in sentence as opposed to a break from prison life.

2. Constitutional Provisions

- Both the President and the Governor have been vested with sovereign power of pardon by the Constitution.
- **Under Article 72**, the President can grant pardons, reprieves, respites or remissions of punishment or suspend, remit or commute the sentence of any person.
- This can be done for any person convicted of any offence in all cases where:
 - the punishment or sentence is by a court-martial, in all cases where the punishment or
 - sentence is for an offence under any law relating to the Union government's executive power, and in all cases of death sentences.
- **Under Article 161**, a Governor can grant pardons, reprieves, respites or remissions of punishment, or suspend, remit or commute the sentence.
- This can be done for anyone convicted under any law on a matter which comes under the State's executive power.

3. Statutory backing for the remission

- The Code of Criminal Procedure (CrPC) provides for remission of prison sentences, which means the whole or a part of the sentence may be cancelled.
- Under Section 432, the 'appropriate government' may suspend or remit a sentence, in whole or in part, with or without conditions.
- Under Section 433, any sentence may be commuted to a lesser one by the appropriate government.
- This power is available to State governments so that they may order the release of prisoners before they complete their prison terms.

The statutory power of remission Vs. The constitutional power of remission

- The power of remission under the CrPC is different from the constitutional power enjoyed by the President and the Governor.
- Under the CrPC, the government acts by itself.
- Under Article 72 and Article 161, the respective governments advise the President/Governor to suspend, remit or commute sentences.
- Despite the fact that it is ultimately the decision of the government, in either case, the Supreme Court has made it clear that the two are different sources of power.
- In *Maru Ram etc. vs Union of India* (1980), the SC said: Section 432 and Section 433 of the CrPC are not a manifestation of Articles 72 and 161 of the Constitution but a separate, though similar, power.

4. Remission as a matter of Right

- **The Remission system has been defined under the Prison Act, 1894** to be a set of rules formulated for the time being in force regulating the award of marks to, and the consequent shortening of sentence of, prisoners in Jail.
- **It was observed in the Kehar Singh vs. Union of India (1989) case that Courts** cannot deny a prisoner the benefit to be considered for the remission of sentence.
- By denying, the prisoner would have to live in the prison till his/her last breath without there **being a ray of hope to be free again.**
- This would not just be against the principles of reformation but will also push the convict into a dark hole without there being a semblance of light at the end of the tunnel.
- **The Supreme Court also in the case of State of Haryana vs. Mahender Singh (2007) observed that:**
 - even though no convict has a fundamental right to remission, the State in the exercise of its executive power of remission must consider each individual case keeping in view the relevant factors.
 - Further, the Court was also of the view that a right to be considered for remission must be held to be a legal one.
 - This is by keeping in view the constitutional safeguards for a convict covered under **Articles 20 and 21 of the Constitution.**

5. Special remission would be granted

- As part of the Azadi Ka Amrit Mahotsav celebrations, a special remission would be granted to a certain category of prisoners.
- These prisoners would be released in three phases — August 15, 2022, January 26, 2023, and August 15, 2023.

6. Prisoners to qualify for premature release under the scheme

- **The prisoners who would qualify for premature release under the scheme are:**
 - women and transgender convicts of ages 50 and above and male convicts of 60 and above
 - These convicts must have completed 50% of their total sentence period without counting the period of general remission earned.

7. Other eligible prisoners

- physically challenged or disabled convicts with 70% disability and more who have completed 50% of their total sentence period,
- terminally ill convicted prisoners who have completed two-thirds (66%) of their total sentence and
- poor or indigent prisoners who have completed their sentence but are still in jail due to non-payment of fine imposed on them by waiving off the fine.

8. Other categories of prisoners eligible for the remission

- Persons who committed an offence at a young age (18-21) and with no other criminal involvement or case against them and who have completed 50% of their sentence period would also be eligible.

9. Prisoners excluded from the scheme

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- Persons convicted with death sentence or where the death sentence has been commuted to life imprisonment or
- persons convicted for an offence for which punishment of death has been specified as one of the punishments.
- Persons convicted with a sentence of life imprisonment, convicts involved in terrorist activities or

Persons convicted under:

- **Terrorist and Disruptive (Prevention) Act, 1985,**
- **Prevention of Terrorist Act, 2002,**
- **Unlawful Activities (Prevention) Act, 1967,**
- **Explosives Act, 1908,**
- **National Security Act, 1982,**
- **Official Secrets Act, 1923, and Anti-Hijacking Act, 2016.**

10. Committee to examine the cases of eligible persons

- The States and the UTs were told to constitute a State-level screening committee to examine the cases of eligible persons.
- This committee would comprise the **Home Secretary, Law Secretary, Director or Inspector-General of Prisons.**

National language

1.Context

Remarks by a Hindi actor to effect that Hindi is the national language of India sparked controversy.

Under Article 343 of the constitution, the official language of the Union shall be Hindi in the Devanagari script.

2.Constituent Assembly Debates

- The Constituent Assembly was hardly divided on the question, with members from states that did not speak Hindi at first opposing the declaration of Hindi as a national language.
- Supporters of Hindi were insistent that English was the language of slavery and that it should be eliminated as early as possible.
- Opponents were against English being done away with, fearing that it may lead to Hindi domination in regions that did not speak the language.
- There were demands to make Sanskrit the official language, while some argued in favour of Hindustani, There were differences of opinion over the script too.
- When the opinion veered towards accepting Hindi, supporters of the language wanted the Devanagari script to be adopted both for words and numerals.
- The Arabic form is used and understood throughout the world instead of Hindi numerals.
- The official language issue was hotly debated in the constituent assembly, and the provisions relating to it were formulated only after a compromise that English shall continue to be used for 15 years.
- After 15 years, Parliament may by law decide on the use of English and the use of the Devanagari form of numbers for specified purposes.

3.Eighth Schedule

Eight Schedule contains a list of languages in the country.

There were 14 languages in the schedule, but now there are 22 languages.

Article 344(1) provides for the formation of a Commission by the President.

Which should have a Chairman and members representing these scheduled languages.

Its recommendations for the progressive use of Hindi for Official purposes of the Union and for restricting the use of English.

Article 351, says the Union government must promote the spread of Hindi so that it becomes

"a medium of expression for all elements of the composite culture of India".

It also assimilates elements of forms and expressions from Hindustani and languages listed in the Eighth Schedule.

4.1965 protest

- The Official Languages Act 1963 was passed in anticipation of the expiry of the 15 years. It came into force on Jan 26 1965.
- Jawaharlal Nehru had given an assurance in 1959 that English would remain in official use and as the language of communication between the Centre and the states.
- The Act did not incorporate this assurance, causing worry in some states as the January 1965 deadline.
- LB Sastri restates the government's commitment to move towards making Hindi the Official language for all purposes.
- In Tamil Nadu, the prospect of the use of Hindi as a medium of examination for recruitment to the union public services created an alarm.
- Hindi would be imposed in such a way that the future employment prospects of those who do not speak Hindi will be bleak.
- In January 1965, The Protest broke out and turned violent, more than 60 people died in police firing.
- The Official Language Rules were Framed in 1976. It was made clear that the Rules apply to the whole of India, except Tamil Nadu.

5.Three Language Formula

- The Centre's education policy documents speak of teaching three languages- Hindi, English and one regional language in the Hindi-Speaking States and Hindi, English and the Official regional language in other states.
- In states where Hindi is the official language, a third language is rarely taught as a compulsory subject.
- Tamil Nadu has been steadfastly opposing the three-language formula and sticks to teaching Tamil and English.

AFSPA

1.Context: AFSPA repealed in several areas across three North-Eastern States

2.Border Dispute:

North-eastern states are now coming out of the clutches of extremism and neglect. The Central Government with the Consent of the States decided to remove the AFSPA and expedite the work to reduce **disturbed areas**

After decades of Insurgency, the Indian Government decided to de-escalate the disturbed areas under the Armed Forces Special Powers Act (AFSPA) in Nagaland, Assam, and Manipur improving the security situation in the Northeast

Disturbed Zones

Disturbed areas are those in which the use of military force is required in order to maintain peace.

3. Any area can be declared as Disturbed areas under section 3 of the AFSPA

It might be due to differences and disputes of members or persons of different religious, social, linguistic, or regional groups, castes, or communities.

The agreement was signed by Assam Chief Minister and Meghalaya Chief Minister. Now, approximately 70% of the border is dispute free

4. Where and When AFSPA repealed

- The disturbed area notification under AFSPA was completely removed from Tripura in 2015 and from Meghalaya in 2018
- Assam has had disturbed area notification since 1990, Now the situation has improved in many areas, so 23 districts are completely and 1 District partially has been exempted from AFSPA in 2022
- Disturbed area declaration has been in effect throughout Manipur since 2004, 15 Police stations have been excluded from AFSPA in 2022
- The disturbed area notification has been removed from 15 police stations in Nagaland
- In 2015, AFSPA was in force in three districts of Arunachal Pradesh, 16 Police stations and 9 districts were under AFSPA. Now it is in 3 districts and two police stations.

Food Safety and Standards Authority of India (FSSAI)

1. About

- The Food Safety and Standards Authority of India (FSSAI) is an autonomous statutory body established under the Food Safety and Standards Act, 2006 (FSS Act).
- The Ministry of Health & Family Welfare, Government of India is the administrative Ministry of FSSAI.

- **FSS Act, 2006 consolidates various acts & orders that had earlier handled food-related issues in various Ministries and Departments, such as**
 - Prevention of Food Adulteration Act, 1954
 - Fruit Products Order, 1955
 - Meat Food Products Order, 1973
 - Vegetable Oil Products (Control) Order, 1947
 - Edible Oils Packaging (Regulation) Order 1988
 - Milk and Milk Products Order, 1992
- These were repealed after the commencement of the FSS Act, 2006.
- FSSAI was consequently established in 2008 but work within the Food Authority effectively began in 2011 after its Rules and key Regulations were notified.

2. Role of FSSAI

3. Functions

- Framing of regulations to lay down the standards and guidelines of food safety.

- Granting FSSAI food safety license and certification for food businesses.
- Laying down procedures and guidelines for laboratories in food businesses.

4. Initiatives by FSSAI to ensure food quality

- **Heart Attack Rewind:** Heart Attack Rewind is an initiative by FSSAI to eliminate trans-fat from India by the year 2022. This initiative campaigned across India.
- **FSSAI- CHIFSS:** It being a collaboration between FSSAI and CII-HUL, it aims to promote collaborations between Industry, Scientific Community, and Academia for food safety.
- **Swasth Bharat Yatra:** It is a pan-India movement called 'Eat Right India', which was aimed to create consumer awareness about eating safe and nutritious food.

5. Way forward

- There should be frequent appointments of Food consultants to ensure safety levels.
- The food consultants should conduct audits to check whether the food industry is complying with the food standards or not.
- The government should communicate with both the customers and the manufacturers to assure common understanding and for minimizing the misconceptions.

6. Conclusion

- The food control safety measure is the requirement to bridge the gap between safe food and adulterated food.
- The food industry needs standards that are more flexible and which are also efficient in producing and marketing food and thus ultimately serving the consumers with a protective sheet. FSSAI's role in food quality is important for smooth functioning.

Sedition Law

1. Context

Supreme Court is hearing the piles of challenging the constitutional validity of the sedition charge under Section 124A of the Indian Penal Code.

2. About Sedition Law

- It was Drafted by British historian-politician Thomas Babington Macaulay in 1837.
- It was defined as an act by "**whoever, by words, either spoken or written or by signs or by visible representation or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government established by law in India**".
- It was included in section 124 A of the Indian Penal Code in 1870 by the British.
- To suppress the writings and speeches of Mahatma Gandhi, Lokmanya Tilak and Jogendra Chandra Bose.
- **The United Kingdom abolished this law in 2010.**
- Sedition is a **non-bailable offence**, punishable with **imprisonment from three years up to life, along with a fine.**
- The person charged under this law is also **barred from a government job** and their **passport is seized** by the government.

3. Constituent Assembly, 1935

Opposed the inclusion of sedition as a **restriction on freedom of speech and expression.**

It saw the provision as a **shadow of colonial times** that should not see the light of the day in free India.

The offence remained under Section 124A of the IPC.

4. Law Commission Report (2018)

- In a democracy, singing from the same songbook is not a benchmark of patriotism.
- People should be at liberty to show their affection towards their country in their way.
- One might indulge in constructive criticism or debates, pointing out the loopholes in the policy of the Government.
- Expressions used in such thoughts might be harsh and unpleasant to some, but that does not render the actions to be branded seditious.
- **The Commission suggests that section 124A should be used** only in cases where the intention behind any act is to **disrupt public order** or to overthrow the government with **violence and illegal means**.
- 'Right to Offend' qualified as hate speech must also be scrutinised.
- Striking a balance between sedition and the right to freedom of speech and installing safeguards against misuse of it.

5. Parliament Instances against the bill

CPI MP D Raja introduced a private member Bill in Rajya Sabha proposing that section 124A of IPC should be deleted but failed to pass in 2011.

In 2015 Congress MP Shashi Tharoor introduced a private member Bill in Lok Sabha to amend section 124A of IPC to term only those actions or words that directly result in the use of violence or incitement to violence as "Seditious".

6. Supreme Court Stance

- In July 2021, Chief Justice of India N.V. Ramana observed "Is this law necessary after 75 years of Independence?"
- He said this addressing Attorney General K.K. Venugopal and Solicitor General Tushar Mehta, appearing for the Centre.
- He added that the conviction rate is very low and there is a misuse of power by executive agencies.

- In the **1962 Kedar Nath Case**, the **Supreme Court upheld the constitutionality of section 124A of IPC**.
- It comes under Chapter VI relating to offences against the state.

Any act within the meaning of Section 124 A which have the effect of subverting the government by bringing that government into contempt or hatred or creating disaffection against it would be within the penal statute.

7. Sedition Cases in the Country

- As per the 2020 National Crime Records Bureau (NCRB) report, 70 sedition cases were filed in 2018 not a single person was convicted.
- 93 cases were filed in 2019 only two were convicted and 73 cases were filed and no one was convicted in 2020.
- Manipur filed the highest number of sedition cases (15) in 2020, followed by Assam (12), Karnataka (9), Uttar Pradesh (7), Haryana (6) and Delhi (5).

8. Some recent notable cases

- Against Environmental activist Disha Ravi for sharing a Toolkit for a global online campaign supporting the farmer's protest.
- Against activists Umar Khalid, Sharjeel Imam, Devangan Kalita, Natasha Narwal, Asif Iqbal Tanha, Gulfsha Khatoon, Ishrat Jahan, Safoora Zargar and Meeran Haider for alleged inflammatory remarks at anti-CAA meetings and premeditated conspiracy to create riots in Delhi in February 2020.
- Against Journalist Siddique Kapan for proceeding toward Hathras, where a 19-year-old Dalit woman was gang-raped and alleged links with the Popular Front of India.
- Activists Sudha Bharadwaj, Vernon Gonsalves, Varavara Rao, Hany Babu, Anand Teltumbde, Shoma Sen, Gautam Navlakha, Surendra Gadling, Late Father Stan Swamy, Arun Ferreira, Rona Wilson, Mahesh Raut and Sudhir Dhawale for speeches at an Elgaar Parishad meeting ahead of the violence in Bhima Koregaon on the occasion of the bicentennial anniversary of the 1818 battle.

The Places of Worship (special provisions) act 1991

1.Context

The Supreme Court directed the district magistrate of Varanasi to ensure the protection of the area at the Gyanvapi mosque complex where a Shivling is said to have been found during the survey there.

A Saket court adjourned the hearing of the civil suit for restoration of alleged Hindu and Jain temple complexes within the Qutub Minar Complex in South Delhi.

2.Incidents related to the Act Gyanvapi mosque

- Sections 3 and 4 of the Places of Worship Act, 1991 mandated that “you cannot tinker with any place of worship which has been existing and where worship has been performed as on August 15, 1947”.
- Lawyers for the Gyanvapi mosque administration argue that it is an attempt to change the status of the place of worship and violates the Act.
- The Vishwa Hindu Parishad states that the places of Worship Act do not apply to the Gyanvapi issue, as there was no change to the religious structure since 1947.

Qutub Minar

- Hindu and Jain devotees claim that the Quwwat-Ul-Islam Mosque was allegedly built by demolishing 27 Hindu and Jain temples predating it and using the materials from the ruined structures.
- The images of Hindu gods were still on the structures in the Qutub Minar complex.

- The Archaeological Survey of India(ASI) had told the court that it is neither planning to remove any structure from within the complex nor does it intend to do so.
- Claiming that the information was from the ASI, the suit said, “There existed huge and lofty Hindu and Jain temples.

3.About the Act

- The law was enacted to freeze the status of all places of worship in the country as of August 15, 1947.
- An exception was made to keep the Babri Masjid-Ramjanmabhoomi dispute due to litigation.
- The Act says that no person shall convert any place of worship of any religious denomination into one of a different denomination or section.
- It prohibits any legal proceedings from being instituted regarding the character of a place of worship and declares that all suits and appeals are pending before any court or authority.
- The conversion of the character of a place of worship shall abate.

4.Exemptions

- It will not apply to ancient and historical monuments and archaeological sites and remains that are covered by the Ancient Monuments and Archaeological Sites and Remains Act, 1958.
- It will not apply to any suit that has been finally settled or disposed of, any dispute that has been settled by parties before the Act came into force.
- The conversion of any place that took place by acquiescence.
- Its purview is the place of worship commonly referred to at the time as Ram.

Anyone contravening the prohibition on converting the status of a place of worship is liable to be imprisoned for up to three years and a fine.

Those abetting or participating in a criminal conspiracy to commit this offence will also get the same punishment.

5. Supreme Court Verdict

- In its final verdict on the Ayodhya dispute, the Supreme Court observed that the Act "Imposes a non-derogable obligation towards enforcing our commitment to secularism".
- Non-retrogression is a foundational feature of the fundamental constitutional principles, of which secularism is a core component".
- Historical wrongs cannot be remedied by the people taking the law into their own hands.
- Parliament has mandated in no uncertain terms that history and its wrongs shall not be used as instruments to oppress the present and the future.

The Indian Antarctic Bill 2022

The Indian Antarctic Bill, 2022 was introduced in Lok Sabha on April 1, 2022, this bill seeks to give effect to the Antarctic treaty

1. Antarctic Treaty: This is a Convention on Conservation of Antarctic Marine Living Resources and a protocol on environment Protection
India is a signatory to this treaty which came into effect on June 23, 1961.
It has 59 signatory countries out of which 29 have Consultative status which means they will have voting rights. the treaty parties meet every year at Antarctic Treaty Consultative Meeting

2. Key Features of this bill

- The Provisions of the bill will apply to any person, vessel or aircraft that is part of an Indian expedition to Antarctica under a permit issued under this bill
- Areas of Antarctica are:
 1. Continent of Antarctica including its ice shelves and all the areas of the continental shelf adjacent to it
 2. All islands, seas and airspace south 60 degrees latitude

- Central government will establish a Committee on Antarctica and its Environment Protection and the committee will be chaired by the Ministry of Earth Sciences

3.The necessity of the Bill:

Antarctica is a no man's land, India is making a law for its research stations. to have accountability if any unlawful activities happen

The Treaty made it mandatory for all the 54 Signatories to specific laws governing territories on which their stations are located

India has organised 37 Expeditions to Antarctica. the major thrust areas of the Indian Antarctic Programme are Climate Processes and links to climate change, environmental processes and Polar technology

Unlawful Activities (Protection) Act (UAPA)

Unlawful Activities (Protection) Act (UAPA)1967 has amended in 2019. this Act provides a special procedure to deal with terrorist activities, Among other things

1. Under this act Central government may designate it as a terrorist organisation if it

i-Commits or participate in any acts of terrorism

ii-Prepares for terrorism

iii-Promotes Terrorism

iv-Otherwise involved in Terrorism

The bill additionally empowers the government to designate individuals as Terrorist on the similar grounds

2. Under this Act, Investigating officer to take prior permission from the Director-General of Police to Seize the Property That may be connected with Terrorism

3. This Investigation will be carried out by the Officer in NIA whose rank is Deputy Superintendent of police

4. The Act defines terrorist acts to include acts committed within the scope of any of the treaties listed in a schedule to the act. the schedule lists Nine Treaties including the following

i-Suppression of Terrorist Bombings 1997.

ii-Convention Against taking Hostages.

iii-International Convention for Suppression of Acts of Nuclear Terrorism.

Protection of children from sexual offences (POSCO)

1.Context:

People from tribal districts of Kerala and Tamil Nadu have been arrested once they admit pregnant girls into hospitals for the delivery Under **POSCO Act**.

Protection of children from sexual offences is landmark legislation which was enacted in 2012, it is to protect children from sexual offences.

One provision in this law mandates hospitals to report jurisdictional police stations when girls below 18 admitted for delivery.

Upon receipt of such reports polices are mandated to file a complaint (FIR) against the person who is responsible for the pregnancy.

2. Key Points:

- Law fails to make room for consensual relationships or validated marriages in some communities
- Most tribal people do not keep their birth certificates, most people get married when they attain certain age and usually have children before they reach the legal age of marriage
- Tribal boys are being arrested in the hospitals when they admit pregnant wives for delivery
- Hindu laws are products of unification and codification of the customs of the majority people who follow Hinduism, but they are not inclusive or universal
- Tribal communities follow diverse practices, some of which are for survival and adoption, polyandry is practised by the gallons in Arunachal Pradesh, where brothers can't afford the high bride price to marry the same women
- Many tribal communities in the Nilgiris usually get girls married off early when they hit puberty
- Many tribal people don't aware of the existence of such a law or the correct age for the marriage
- Till date, 50 such cases have been filed against the tribal boys in Nilgiri district, youth are being in judicial custody often don't know the reasons for their arrest
- Tribal people have made substantial headway in education because of the targeted awareness campaigns, similar campaigns have to be done in the POSCO Act too
- Because of this rising issue in the Wayanad district of Kerala, the Kerala government made a short film to create an awareness

3.About POSCO Act:

- It was enacted to protect the children from sexual offences, harassment, and pornography for safeguarding the well-being of children
- Act defines a **child as** -"any person whose age is below 18 years age" and it's gender-neutral
- It defines different forms of sexual abuse, including penetrative or non-penetrative assault, as well as sexual harassment and pornography
- It deems sexual assault will be "**aggravated**" under certain circumstances, such as an abused child is mentally ill or when abuse is

committed by a person in a position of trust or authority like a family member, police officer, teacher, or doctor

- This act assigns policemen as a child protector in the Investigation Process
- Under section 45, powers to make rules are vested with Central Government
- Section 42A of the Act provides any inconsistencies with provisions of any other law, POSCO will override such provisions
- Section 29 of the Act says when the person is prosecuted for committing an offence of sexual assault against a minor, the special court saying "shall presume" the accused guilty

National Education Policy (NEP)

1.Context: University Grants Commission (UGC) has issued guidelines to allow Students to pursue two academic programmes simultaneously at higher education institutes recognised by it or statutory councils or the government of India

According to UGC notification guidelines will come into effect from 13th April 2022 based on which universities can now devise mechanisms through their statutory bodies to allow students to opt for two courses simultaneously. The guidelines will be applicable for academic programmes other than PhD. The gross enrolment ratio (GER) for higher studies is 27% according to all India surveys of higher education (AISHE) 2019-20. NEP has set targets to reach 50% by 2035

Key Takeaways from National Education Policy

2.School education

- Universalization of education from preschool to secondary level with 100% Gross enrolment ratio (GER) in school education **by 2030**
- Bring back 2 crores out of school children back to school through an Open schooling system
- The current 10+2 system is replaced with a 5+3+3+4 curricular structure corresponding to ages 3-8, 8-11, 11-14 and 14-18 years respectively
- It will have 12 years of schooling with three years of Anganwadi/ preschool
- Class 10 and 12 exams made easier which tests-core competencies rather than memorizing facts, with all students allowed to take twice
- School governance is to change and a new accreditation framework and an independent authority to regulate both public and private schools
- Vocational education to start from 6th class with internships
- Teaching up to at least Grade 5 to be in mother tongue/regional language
- A new and comprehensive national curriculum framework for teacher Education (NCFTE) 2021, will be formulated by the national council for Teacher Education (NCTE) in consultation with the National Council of Educational Research and Training (NCERT)

3.Higher Education

- Gross enrolment ratio (GER) in higher education to be raised to 50% by the year 2035
- Undergraduate education with a flexible curriculum can be of 3 or 4 years with multiple exit options
- MPhil courses will be discontinued
- Academic bank of credits are to be established to facilitate the transfer of credit
- Multidisciplinary education and research universities (MERU) which are on par with IITs, IIM's are to be set up
- The National research foundation will be created as an apex body for fostering a strong research culture
- Higher education commission of India (HECI) will be set up for an entire higher education as a single umbrella body **excluding Medical and legal education.**
- **HECI** will have four independent Arms i.e. National Higher education regulatory council (NHERC), General education council (GEC),

Higher education grants council (HEGC), National Accreditation Council (NAC).

4.Extra Points:

- Currently India is spending 4.6% of GDP on education
- It Aims to increase up to 6% of public spending on education
- National educational technology forum (NETF) has been created for the **exchange of ideas**
- Aim for setting up Foreign universities set up in India
- **Right to education (RTE) Act, 2009** aims to provide primary education to all children aged 6- 14 age group as a **Fundamental right- the right to education**

ONE NATION ONE LANGUAGE

Why in News?

Hindi debate about making Hindi a national language grows multifold.

1. Background

- The concept of '**One Nation & One Language**' is not new for India as this concept brought our freedom fighters, one nation and one language is not an unprecedented concept in our country.
- It is true that our country has one language but **it would be wrong that forcefully impose that language on another.**
- Under **Article 19(a) of the Constitution of India** says that every **citizen has the right to freedom of speech and expression.**
- It means all the citizens have the right to express their views, thoughts, and **opinions freely by words of mouth, painting, writing or any other mode.**

- There are so many languages in our country that are spoken by the people.
- However, if the Hindi language is made a **national language then it will be very difficult for people to adopt it.**
- It is true that we can not force anyone to speak one language because **every state has its own language like Bhojpuri, Rajasthani, Punjabi, Marwari etc.**

2. Can Hindi be imposed as a national language?

- If we see, as an example, the way in which nationalism came to Europe. We need to understand this thing clearly, in India nationalism does not depend on one language and one state because India is made up of so many languages. When we are forced to use one language then it will be an exclusion of the people, and our country, our government is talking about inclusion, not exclusion.
- For example, if any other language is spoken in a particular state and if we make Hindi a national language, then those people will feel excluded and also they feel they are not part of the majority.
- This is true, if we make Hindi a national language, then there will be an exclusion in a way. And one thing is also important, we can never bind a citizen with one language because everyone has the right to freedom of free speech and expression which is given by the Constitution of India so that's why no one can compel others to speak a particular language.
- We can never communicate with India in the Hindi language. If we force people to speak a language, in the end, the result will be that the state will be separated.
- Therefore, Hindi itself is a language which has been constructed for many languages but Hindi as a national language does not work out for India. The reason is that, if you give Hindi as a position of national language then it might divide people, especially there might be the division between south and north people.
- There is no need to impose Hindi as the national language because a fight will arise between the people.

3. Need to create a National Language

- **Common Identity for India:** As India is a country of different languages, one common language would reflect the identity of India in the world.
- **Unity among the people of India:** Hindi is the most widely spoken language in India, the common Hindi language will unite people from different parts of the country.
- **Glory in the multilingual nation:** The people of this nation of different states are sometimes not able to communicate with each other, just because of the diversity in languages. Adopting a common national language helps them communicate with other linguistic groups.
- **National Language:** Indians can't accept a foreign language as a national language. As Hindi has already been accepted as the Official language, imposition can provide its national status.

4. Associated Constitutional Provisions

- **Constitution on the Hindi Language:** Part XVII of the Indian Constitution deals with the Official Language. Article 351 says that it is the duty of the Union to encourage the spread of the Hindi language so that it may serve as a medium of communication.
- **Article 343(1):** As per the article, the official language of the Union shall be Hindi in the Devanagari script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.
- **Article 343 (2):** The article mentioned that Hindi shall be the official language, but for a period of fifteen years from the commencement of this Constitution.
- **Language Act:** Hindi was voted as the official language by a single vote in the constituent assembly and it added, English would continue to be used as an associate official language for 15 years.

5. Challenges associated with one nation one language

- There are various problems with one nation and one language because India has various languages and each state has a different type of

culture. Thinking back, whether it is right to make Hindi a national language or not.

- The imposition of the Hindi language will not unite the people but separate them. By doing this not a single person will suffer but all will suffer. It is important you must consult the people before making a new law or new scheme. No one will accept such laws which create divisions among the people. And forcing language is also not acceptable, especially in a southern state that will not accept the Hindi imposition. The Hindi language is not the mother tongue of a majority of Indians.
- Therefore, every state has its own language and why would anyone leave their language, when everyone has the right to freedom of free speech under the Indian Constitution. The idea of one language is still being questioned. There are many people who know Hindi and understand Hindi but at the time of giving a presentation, his opinion, and his views are not comfortable with it.
- Recently a draft has been prepared in which it is said that the state where the Hindi language is spoken and the state where the Hindi language is not spoken will be compulsory to teach the Hindi language like Tamil Nadu completely oppose and said that we can't study the Hindi language as a compulsory language. There is flexibility in the draft students have the option to choose the language.

6. Conclusion and way forward

- India is a country of different languages which are spoken by the people and every language has its own importance and this is the identity of our country.
- Article 29 of the Constitution of India states that any class of citizens who have their own specific language, script and culture will have the right to protect it.
- And it is absolutely not possible that we force a language on people, because everyone has a right which is given by the Constitution.
- Yet if something like happens, then the right of the individual will be violated.



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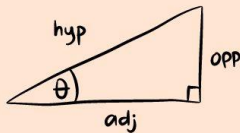
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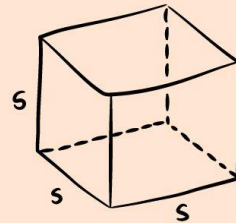
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