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# Marital Rape

## Context:

In May, 2022, a two-judge bench of the Delhi High Court gave a split ruling on marital rape, thus ensuring a future hearing in the Supreme Court. The legal battles will, of course, continue but this may nevertheless be a good moment to examine the issues that lie behind it.

## Analysis

### ■ Marital Rape: Against legal provisions

- **Doctrine of coverture:** Non-criminalising status of marital rape emanates from British rule, which was influenced by and derived from the doctrine of merging identity of women with her husband.
  - In 1860s, when IPC was drafted by the British government, married women were not considered as independent identity.
- **Violation of Right to Equality:** Article 14 of the constitution provides Right to equality, but the exception 2 to the section 375 of the IPC creates two different classes of women on the basis of marital status of the women.
  - Exemption creates the scope of victimization of married women and provides legal protection to the unmarried woman for the same act.
- **Violation of Article 21:** According to judicial interpretation, Protection of life and personal liberty includes right to life with dignity, right to health, right to privacy and right to safe environment etc.

### ■ Judicial interpretation on Marital Rape:

- **State of Kerala v/s Krishnappa:** Under this verdict Supreme Court held that sexual violence apart from being a dehumanizing act is a unlawful intrusion of the right to privacy and sanctity of a female.
  - Also, non-consensual intercourse amounts to physical and sexual violence.
- **Suchita Srivastava v/s Chandigarh Administration:** SC under this verdict equated right to make choices related to sexual activity with the right to privacy, liberty, dignity and bodily integrity under Article 21.
- **Justice Puttuswami v/s Union of India:** SC recognized right to privacy as the fundamental right to all the citizen
  - Right to Privacy includes decisional privacy of intimate relations.

#### Takeaway from recent verdict:

- Even though the **Delhi High court** has delivered a split verdict, its **intervention moves the needle in favour of doing away with the marital rape exemption in law.**
- Also, the **Supreme Court recently refused to stay the Karnataka High Court order** that for the first time **put a man on trial for marital rape.**
- The SC's refusal to stay the order indicates that the **higher judiciary is willing to carry out a serious examination of the colonial-era provision.**

### ■ Causes of marital rape

- **Domination:** Men feel themselves to be in charge and have a history of attempting to dominate women.

- **Illiteracy:** Illiteracy is the primary cause of many illegal and wrongful acts.
- **Absence of empowerment:** Women are unaware of their agency and still believe that serving their husband is their utmost duty.

### ■ Impact of Marital Rape on women

- **Infringes women rights:** It infringes a woman's right to protect her body.
- **Clinical Depression:** It destroys a woman's mental health; she gets traumatized day and night, for weeks and months.
- **Judged by society:** She is judged by society if she takes any step to protect herself or is seen to be a woman who disobeys her husband.

### ■ How marital rape can be tackled?

- **Women empowerment:** It becomes important for a woman to take ownership of herself and is empowered to raise her voice against any kind of action happening without her consent.
- **Stringent Legislation:** Many developed countries have criminalized marital rape. Strong legislative action is need of the hour.
- **Change in mindset:** Change in patriarchal mindset of the society is needed to bring a concrete change. The change should come from and within the society.

## Sedition in India

### Context:

The Supreme Court recently directed the Centre and states to keep in abeyance all pending trials, appeals, and proceedings with respect to the charge framed under Section 124A of the Indian Penal Code (IPC), till the central government completes the promised exercise to reconsider and re-examine the provision.

### ■ Present scenario

- Sedition was made a cognizable offence for the first time in history in India during the tenure of Prime Minister Indira Gandhi in 1973, that is, arrest without a warrant was now permissible.
- In 1962 the Supreme Court of India interpreted the section to apply only if there is, say, "incitement to violence" or "overthrowing a democratically elected government through violent means."
- As of 11th May 2022 this law has been put on temporary hold by Supreme Court of India citing re-examination.

### ■ Legal challenges to the existing provision for sedition

- As early as **1950**, the Supreme Court in **Romesh Thapar v State of Madras** held that "**criticism of the government exciting disaffection or bad feelings towards it**, is not to be regarded as a justifying ground for restricting the freedom of expression and of the press."
- Subsequently, **two high courts**— the Punjab and Haryana High Court in **Tara Singh Gopi Chand v. The State (1951)**, and the Allahabad High Court in **Ram Nandan v. State of Uttar Pradesh (1959)** — **declared that Section 124A** of the IPC was primarily a tool for colonial masters to quell discontent in the country and declared **the provision unconstitutional**.
- However, in 1962, the issue **came up before the Supreme Court in Kedarnath Singh v State of Bihar**.

### **Kedar Nath Singh versus State of Bihar (1962):**

- In Kedar Nath Singh versus State of Bihar (1962), the Supreme Court had made it clear that **'strong words used to express disapprobation of the measures of the Government with a view to their improvement or alteration by lawful means' did not amount to sedition.**

- This ruling puts the onus on law enforcers to come up with indisputable evidence of incitement to violence or disturbance of public peace.
- The court also issued seven "guidelines", underlining when critical speech cannot be qualified as sedition.

### ■ **Steps taken forward**

- The Supreme Court has agreed to hear fresh challenges against the provision after a batch of petitions were filed.
- 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 removal of the provision itself, it has now told the court that it is mulling a fresh review of the colonial law.
- The court's intervention is crucial because in case it strikes down the provision, it will have to overrule the **KedarNath ruling** and uphold the earlier rulings that were liberal on free speech.
- However, if the government decides to review the law, either by diluting the language or repealing it, it could still bring back the provision in a different form.

### ■ **Other interpretations**

- In August 2018, **the Law Commission of India** published a consultation paper recommending that it is time to re-think or repeal the Section 124A of the Indian Penal Code that deals with sedition.
- In its **39th Report (1968)**, **the Law Commission** had rejected the idea of repealing the section.
- In its **42nd Report (1971)**, the panel wanted the scope of the section to be expanded to cover the Constitution, the legislature and the judiciary, in addition to the government to be established by law, as institutions against which 'disaffection' should not be tolerated.
- In the recent **consultation paper on the sedition**, the Law Commission has suggested invoking 124A to only criminalize acts committed with the intention to disrupt public order or to overthrow the Government with violence and illegal means.

### ■ **Way forward**

- Numerous critics, students, former government employees including Indian Police Service and Indian Administrative Service officers, legal thinkers and judges, scholar, human rights and civil liberty advocates, journalists, and so on have commented against the sedition law, calling for it to be scrapped or undergo amendments.
- It should be amended as, Section 124A should be retained subject to **three conditions**:
- The first, that, the offender **must be in a position of authority**,
- Second, that, the **offending words must be understood in context**,
- And, third, they should have a **tendency to actually cause violence or disorder**.
- The following laws in India address the same aspects covered by the sedition law are;
- **Unlawful Activities Act**
- **Public Safety Acts (such as the JK PSA)**
- **National Security Act**

These laws can be used according to the offences.

## Religion and Conversions

### Context:

The Karnataka government has prepared an anti-conversion Bill which seem to be on similar law as introduced by the state of Uttar Pradesh. The proposed law aims at penalising people who convert or try to convert others by 'fraudulent means' or by marriage.

### ■ Constitutional Basis of Religion

- Right to freedom of faith is **not a conferred right but a natural entitlement** of every human being. In fact law does not assign it but it asserts, protect and insures its entitlement.
- Indian Society has nourished and nurtured almost all the established religion of the world like Hinduism, Islam, Christianity, Buddhism, Jainism, Sikhism etc. from its time immemorial.
- **Article 25 (1) states**, "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion".
- **Article 25 (2) says:** Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-
  - (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
  - (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion Explanation II In sub clause;
  - (c) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

### ■ Anti-conversion Laws

- The legislative history relating to the issue of conversion in India underscores the point that the authorities concerned were never favorably disposed towards conversion.
- While British India had no anti-conversion laws, many Princely States enacted anti-conversion legislation:
  - the Raigarh State Conversion Act 1936,
  - the Patna Freedom of Religion Act of 1942,
  - the Sarguja State Apostasy Act 1945 and
  - the Udaipur State Anti-Conversion Act 1946.
- Similar laws were enacted in Bikaner, Jodhpur, Kalahandi and Kota and many more were specifically against conversion to Christianity.
- In the post-independence era, Parliament took up for consideration in 1954 the Indian Conversion (Regulation and Registration) Bill and later in 1960 the Backward Communities (Religious Protection) Bill, both of which had to be dropped for lack of support.
  - The proposed Freedom of Religion Bill of 1979 was opposed by the Minorities Commission due to the Bill's evident bias.
- Some states also enacted anti-conversion laws time to time. These anti-conversion laws made forced conversion a cognizable offence under sections 295 A and 298 of the Indian Penal Code that stipulate that malice and deliberate intention to hurt the sentiments of others is a penal offence punishable by varying durations of imprisonment and fines.

- In 1967-68, Orissa and Madhya Pradesh enacted local laws called the Orissa Freedom of Religion Act 1967 and the Madhya Pradesh Dharma Swatantraya Adhiniyam 1968. Chattisgarh inherited the law when it was carved out of Madhya Pradesh.
- The Arunachal Pradesh Freedom of Religion Act, 1978 was enacted to prohibit the conversion from one religious faith to any other by use of force or inducement. As the state has not formulated rules, the law is yet to be implemented in the State.
- The Tamil Nadu Prohibition of Forcible Conversion of Religion Ordinance was promulgated by the Governor on October 5, 2002 and subsequently adopted by the State Assembly. However, this law was repealed in 2004.

### ■ Issues with such laws

The anti-conversion laws have been challenged on the ground that innocent persons were being booked under these Acts.

- **Patriarchal dominance:** It is widely presumed that such conversions involve 'coercion' or 'deceit', and hence, Hindu women ought to be 'protected' from the danger of conversion.
- **Targeting minorities:** These laws target Muslims and quoted instances of such inter-faith couples having been harassed by militant activists and state government authorities.
- **Freedom of Conscience:** Women, it is clear, are being treated in a paternalistic way which assumes that they need protection at the cost of their right to make reasoned decisions about changing faith or choosing a friend or life partner.

### ■ Judicial Review of Anti-conversion Laws:

- The Orissa Freedom of Religion Act, 1967 and the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968 went through several levels of judicial scrutiny. Orissa High Court declared the Act passed by the Orissa Assembly ultra vires to the Constitution, as it infringed upon the Right guaranteed by Article 25.
- The ruling cited Entry 97 of the Union List under the Seventh Schedule of the Constitution and stated that the state legislature had no 'legislative competence' to enact such a law on matters concerning religion. Madhya Pradesh High Court upheld the Madhya Pradesh Freedom of Religion Act.
- The Supreme Court, in 1977, heard appeals against these two verdicts in *Rev. Stainislaus vs State of Madhya Pradesh and Others*. The five member Bench considered the literal meaning of the word 'propagate' and upheld the two Acts. In this case, the court made a clear distinction between the right to propagate one's religion or faith and the right to convert. The former is guaranteed by Article 25 of Constitution. Conversion enjoys no such protection.
- The court's words are worth noting: "The freedom of religion enshrined in Article 25 is not guaranteed in respect of one religion only but covers all religions alike which can be properly enjoyed by a person if he exercises his right in a manner commensurate with the like freedom of persons following other religion. What is freedom for one is freedom for the other in equal measure and there can, therefore, be no such thing as a fundamental right to convert any person to one's own religion."

## Freedom of religion & 'attire'

### Context:

Owing to entry ban of students who were wearing hijab, the debated over the hijab and issues of freedom of religion and attire has risen in the southern Indian state of Karnataka.

### ■ What does the latest order of Karnataka Government say?

- Uniforms prescribed by the local college development council should be followed by students of government Pre-University colleges.
- Where no uniform is prescribed for Pre-University students, the order mandates that unity amongst students must be ensured.
- All public schools have to strictly abide by the uniform policy mandated by the government and the private schools can have uniforms as decided by their councils.

### ■ Where does the state government get its power to mandate uniform?

- According to Section 7 (2) (g) (v) of the **Karnataka Education Act, 1983**, the state government can prescribe rules for curricula to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities to renounce practices derogatory to the dignity of women.
- State government has powers under **Section 133 (2) of the Education Act, 2002** to issue directions to educational institutions for implementing provisions of the law according to needs of the state.

### ■ What does the Indian Constitution say about freedom of religion?

- **Article 25** guarantees the freedom of conscience, the freedom to profess, practice and propagate religion to all citizens.

### ■ What is the reason given by the Government of Karnataka to support ban on Hizab?

- Wearing hizab, according to the Department of Education, Government of Karnataka- is affecting equality and uniformity amongst students in the education institutions.

### ■ Judiciary's stand on the issue-

- The Supreme Court of India has put forward the Doctrine of Essentiality in **Shirur Matt case of 1954**.
- The SC in the above case stated that the term religion in the Constitution of India included all those rituals and practices that are integral to a particular religion. Such rituals and practises are to be considered essential for the religion.
- The SC in the above case decreed that protection of such essential rituals and practices is the duty of Supreme Court of India.
- Supreme Court in this case did not define what all are the essential practices and rituals but reserved with judiciary the right to decide about the same as per the facts and circumstances of each case.
- In **Amna Bint Basheer vs Central Board of Secondary Education**, the Kerala High Court held that wearing Hizab is an essential religious custom in Islam. But it also refrained from striking down the dress code prescribed by the CSBE for students.
- In **2018, in the Kerala High Court in Fathima Tasneem vs State of Kerala** held that the collective right of institution will have precedence over the individual right of the petitioner.
- In the above case two girls had filed petition after their school declined to allow them to wear headscarf.

## Custodial torture

### Context:

- Haryana human rights panel recommends Rs 25,000 compensation in custodial torture case to the victim.
- The police are empowered by the state to enforce laws and maintain public order. They do not have the right to take the law in their hands.

### Analysis

#### ■ What is custodial torture?

- Custodial torture is a form of torture that generally happens when a person alleged of any crime is under the custody of law enforcement officials.
- Law commission in 2017 has proposed anti-torture law still the government has not taken any action in this regard.
- The Supreme Court has held that Custodial torture is a naked violation of human dignity and degradation which destroys, to a very large extent human personality.

#### ■ Steps to curb the custodial violence in India

- Strict implementation of existing laws and guidelines
- Reforms in Police administration
- Investigation and Punishment in cases of Custodial torture
- Enhancing the role of media

#### ■ Supreme Court's stand

- In the landmark case of **K. Basu v. State of West Bengal**, the Supreme Court of India observed in this widely publicized death in police custody that using torture to impermissible and offensive to Article 21.
- The court noted the ubiquity of torture and third-degree methods in police investigations and lamented the 'growing incidence of torture and deaths in police custody' and held:
- "Such a crime-suspect must be interrogated – indeed subjected to sustained and scientific interrogation determined in accordance with the provisions of law. He can't however be tortured or subjected to third-degree methods or eliminated with a view to elicit information, extract confession or derive knowledge about his accomplices, weapons etc."
- It referred to its duty to enforce Fundamental Rights under **Articles 14, 21 and 32** of the Indian constitution and the need to make the guaranteed remedies effective and to provide complete justice.

#### Role of Human Rights commission

- The National Human Rights Commission (NHRC) of India is a statutory public body constituted on 12 October 1993 under the **Protection of Human Rights Ordinance of 28 September 1993**.
- It was given a statutory basis by the Protection of Human Rights Act, 1993 (PHRA).
- The NHRC is responsible for the protection and promotion of human rights, defined by the act as "**Rights Relating to Life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the international covenants and enforceable by courts in India**".

### ■ Laws for Protection of custodial torture victims in India

- **Protection under the Code of Criminal Procedure, 1973:** The code of criminal procedure, 1973 contains provisions intended to operate as a safeguard against custodial torture.
- **Section 163** provides that, No police officer or other person in authority shall offer or make, or cause to be offered, or make, any such inducement, threat or promise as is mentioned in section 24 of the **Indian Evidence Act, 1872**
- But no police officer or person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this chapter any statement which he may be disposed to make of his own free will.

### ■ Protection Under The Indian Penal Code, 1860:

- Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be
- Punished with simple imprisonment for a term which may extend to one year, or with fine, or with both".
- It may be reiterated that the expression injury covers harm illegally caused to body, mind, reputation or property.

## The dilemma between Aadhaar and Privacy

### Context:

- Aadhar data cannot be the source of identification of any criminal case inquiry, according to the UIDAI.
- The Delhi High court has asked police to use the Aadhar details for matching the criminal fingerprints for identifying the culprit.

### ■ What is the present case is about?

- The police recovered 14 chance prints from the spot and footage from CCTV cameras in the area showing one of the suspects.
- The chance impressions and pictures did not match with any of the data already available with the police.
- Investigators now want to cast the net wider, using Aadhaar's biometric database.

### ■ Is Confidentiality of data guaranteed under the Aadhaar Act?

- The Aadhaar Act requires the UIDAI to ensure confidentiality and security of the identity information it collects.
- The UIDAI has also said that no Aadhaar data can be shared by any individual or entity with anyone without the consent of the resident or holder of the Aadhaar.
- Section 33, the provision under which Delhi Police has approached the court, allows the disclosure of only identification information including photograph or authentication records, but no core biometric information.
- Also, this provision states that the court cannot pass any order in such matter "without giving an opportunity of hearing to the UIDAI".
- On September 26th 2018, the Supreme Court delivered its judgment. It upheld the Aadhaar Act as constitutionally valid.

### ■ Judicial backing

- It ruled that the Act empowers disenfranchised sections of society by providing them better access to fundamental entitlements, such as State subsidies.
- The Court held that the Act was competently passed by Parliament, even though it was passed as a Money Bill.
- The Court held that the Act does not violate the fundamental rights guaranteed under Articles 14, 15, 19 and 21.

## Civil Servant and life after retirement (cooling-off period)

### Context:

The cooling off period before joining post-retirement job is necessary for increasing the accountability and efficiency of the person after years of continuous services.

### Analysis

#### ■ What is the cooling-off period?

- Cooling-off period is the length of time for which a retired civil servant is prohibited from accepting commercial employment.
- Post-retirement commercial employment for the three All India Services (IAS, Indian Police Service, and Indian Forest Service) is covered under the **AIS Death-cum-Benefits Rules**, and for the Central Civil Services under the CCS (Pension) Rules.
- **Rule 26 of the AIS Death-cum-Benefits Rules** similarly restricts a pensioner from commercial employment for one year after retirement, except with government sanction.
- **Rule 9 of the CCS (Pension) Rules** states that "if a pensioner who, immediately before his retirement was a member of Central Service Group 'A' wishes to accept any commercial employment before the expiry of one year from the date of his retirement, he shall obtain the previous sanction of the Government to such acceptance".
  - The cooling-off period was two years until January 2007, when the government reduced it to one year by an amendment.
- Non-compliance with these rules can lead to the government declaring that the employee "shall not be entitled to the whole or such part of the pension and for such period as may be specified".

#### ■ What does "post-retirement commercial employment" mean?

**The expression covers:**

- Employment in any capacity including that of an agent, under a company, co-operative society, firm or individual engaged in trading or business but this does not include employment under a body corporate, wholly or substantially owned or controlled by the Central Government or a State Government
- Setting up practice, either independently or as a partner of a firm, as adviser or consultant in certain matters specified under the rules, including matters that are relatable to the pensioner's official knowledge or experience.

### ■ When does a government allow or turn down such requests from pensioners?

- The CCS (Pension) Rules specify several factors for the government to consider while granting or refusing permission,

### ■ These include:

- Whether a "no-objection" for the proposed employment has been obtained from the cadre controlling authority and from the office where the officer retired;
- Whether the officer has been privy to sensitive or strategic information in the last three years of service that is directly related to the work of the organisation he proposes to join;
- Whether there is conflict of interest between the policies of the office he has held in the last three years and the interests/work of this organisation;
- Whether this organisation has been in conflict with or prejudicial to India's foreign relations, national security and domestic harmony; and
- Whether the organisation he proposes to join is undertaking any activity for intelligence gathering.

According to these rules, "conflict of interest" does not include normal economic competition with the government or its undertakings".

### ■ What about government servants joining politics after retirement?

- While in service, the Conduct Rules bar government servants from being associated with any political party or organisation, and from taking part in or assisting any political activity.
- There is no rule, however, to stop government servants from joining politics after retirement.

## Increasing incidents of mob lynching

### Context:

The recent death incident of two tribal men in Madhya Pradesh due to beating received by them on suspicion of **cow slaughtering** has caused a question on **Fundamental rights and ambit of cow slaughter laws in India**.

### ■ What is Mob Lynching?

- It is a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture and corporal mutilation.
- The term lynch law refers to a self-constituted court that imposes sentence on a person without due process of law.

### ■ Why is it considered to be bad for a country like India?

- The incidences of cow lyching have stigmatised communities such as Dalits, Muslims and tribals for their dietary habits and their dependence on cattle products for a livelihood.
- It has been seen that the brunt of the mob violence has been mostly being borne by Muslims, Dalits and Tribal.
- In such cases the reaction of law enforcement agencies has also being called into question.
- It has also been observed that those getting involved in mob lynching go scot free while those involved in supposed cow slaughter are arrested.

- Anti-cattle slaughter laws therefore are seen an expression of majoritarian will rather than a step toward animal protection.

### ■ What is the position of Indian Judiciary on Anti-Cow Slaughter Bills?

- Relying on the provisions of Articles **48, 48A and 51(A) of the Directive Principles of State Policy of the Indian Constitution**, the Supreme Court of India has justified total ban on cattle slaughter.
- The above provisions seek to preserve breeds of cattle used in agriculture and animal husbandry.
- These provisions also identify promotion of animal husbandry to be an important Constitutional goal.

### ■ What is the Way Forward?

- The police should actively take action against the persons having alleged in mob lynching.
- At this point of time four States i.e. Rajasthan, Jharkhand, West Bengal and Manipur, have passed laws against lynching.
- It is important for the society to realise that mob lynching has no place in democratic country like India and even if cow slaughter is a crime, punishment for the same shall be ordered by the Court of Law.

## Delimitation Commission

### Context:

The Jammu & Kashmir Delimitations Commission has finalized its report in which it has recommended increase in the total number of seats in the Legislative Assembly of the Union Territory of Jammu & Kashmir.

### ■ Delimitation Commission

- Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body.
- In India, such Delimitation Commissions have been constituted 4 times - in 1952 under the Delimitation Commission Act, 1952, in 1963 under Delimitation Commission Act, 1962, in 1973 under Delimitation Act, 1972 and in 2002 under Delimitation Act, 2002.
- Under Article 82 of the Constitution, the Parliament by law enacts a Delimitation Act after every census. After coming into force commencement of the Act, the Central Government constitutes a Delimitation Commission.
- This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act.
- The present delimitation of constituencies has been done on the basis of 2001 census figures under the provisions of Delimitation Act, 2002.
- Notwithstanding the above, the Constitution of India was specifically amended in 2002 not to have delimitation of constituencies till the first census after 2026.
- Thus, the present Constituencies carved out on the basis of 2001 census shall continue to be in operation till the first census after 2026.
- The Delimitation Commission in India is a high power body whose orders have the force of law and cannot be called in question before any court.

- These orders come into force on a date to be specified by the President of India in this behalf.
- The copies of its orders are laid before the House of the People and the State Legislative Assembly concerned, but no modifications are permissible therein by them.

### ■ Case Study: Jammu & Kashmir Delimitations Commission

#### Take away from the report of Delimitations Commission:

- Increasing the total number of seats in the UT to 90 from 83 earlier.
- This will increase the number of seats in the Jammu Division to 43 from 37 seats earlier, and that in the Kashmir Valley to 47 from 46 earlier.
- Reorganisation of the Parliamentary constituencies such that the five Lok Sabha seats now are made up of exactly 18 Assembly constituencies each, taking the total number to 90,
- Reservation of nine Assembly seats for Scheduled Tribes – six in Jammu and three in Kashmir,

### ■ Why has the Commission's decision received criticism?

- The panel's decisions are politically significant and have met with criticism amongst mainstream parties in the Valley.
- The Jammu region has got more seats relative to its population compared with the Kashmir Valley, and this violates the population criterion, is a key contention of these parties.
- The award of seats based on the 2011 census has meant that Jammu with 44 per cent population will get 48 per cent share in seats, while Kashmir with 56 per cent of population will get only 52 per cent share in seats.
- Earlier, the Kashmir region had 55.4 per cent share in seats and Jammu 44.5 per cent share in seats.
- Further it is also alleged that, the new Assembly seats in the Jammu region have been carved out mostly in Hindu dominated areas; the only seat in the Valley that has been carved out is in frontier Kupwara district.

## Increasing Inter-state disputes

### Water disputes

#### Context:

- Interstate (River) Water Disputes (ISWDs) are a continuing challenge to federal water governance in the country. Rooted in constitutional, historico-geographical, and institutional ambiguities, they tend to become prolonged conflicts between the states that share river basins.
- Given the significant nature of such disputes, it is essential to examine the constitutional complexities, contentious political federalism, and identity-based electoral political dynamics that fuel ISWDs.

### Analysis

#### ■ Water in the Constitution

- Water in the Constitution of India Water is a State subject as per entry 17 of State List and thus states are empowered to enact legislation on water.
- **Entry 17** of State List deals with water i.e. water supply, irrigation, canal, drainage, embankments, water storage and water power.

- **Entry 56** of the Union List gives power to the Union Government for the regulation and development of inter-state rivers and river valleys to the extent declared by Parliament to be expedient in the public interest.
- Within India's federal political structure, inter-state disputes require the involvement of the Union government for a federal solution at two levels:
  - between the states involved
  - between the Centre and the states
- **Article 262** in the constitution which empowers the President to establish the Inter-State water Disputes Tribunal being and also states.
- Under this provision an **Inter-State Water Dispute Act, 1956 and River Boards Act, 1956** was created.

### ■ What escalates water conflicts?

- The interstate water disputes emerge and recur due to their particular anatomy produced by three sets of characteristics:
  - legal ambiguities
  - antagonistic politics – a making of the nexus of water politics and democratic politics
  - due to their political ecology of asymmetries – deeply embedded as historically and geographically constructed
- **Affected interests:** Water disputes arise when the action of one state affects the interests of one or more other states.
- **Unsustainable use of water:** Economic factors like underpricing of irrigation waters, promotion of water-consuming crops through support pricing, etc., often lead to unsustainable use of water during lean seasons thereby escalating conflicts.
- **Increasing demand, pollution and decreasing availability:** Water sharing disputes across the country (and even beyond) are only going to escalate with increasing demands, and also with increasing pollution & losses reducing the available water.
- Climate change is likely to worsen the situation as monsoon patterns change, water demands going up with increasing temperatures, glaciers melt and sea levels rise.

### ■ What prevents an integrated basin-level ecosystem-based approach?

- Shortsightedness in technocracy
- Fragmented approach to governance
- Over-reliance on structural engineering (without concern of externalities)
- The Centre's lack of initiative

### ■ Why is greater Centre-States coordination essential?

- There are a whole set of reasons- why a coordinated response from the Centre and states is vital. These include:
  - emerging concerns of long-term national water security and sustainability
  - the risks of climate change
  - the growing environmental challenges, including river pollution
- Greater Centre-states coordination is also crucial for pursuing the current national projects.

#### Can the Supreme Court interfere?

- Article 262 (1) bars the jurisdiction of the Supreme Court.
- But matters are still being taken there on legal, jurisdictional, environmental and constitutional issues.

## ■ Required measures

- As river basins are shared resources, a coordinated approach between the states, with adequate involvement of the Centre, is necessary for the preservation, equitable distribution and sustainable utilisation of river water.

### The failed attempt

- The idea of building federal consensus for water reforms is not new. The need for such a political process and forum was felt before as well. For instance,
  - The National Water Resources Council has been created under the aegis of the Ministry of Water Resources.
  - The National Development Council is another forum for such federal deliberations.
- These forums failed to deliver for a variety of reasons. A key reason is their failure to assuage states about their neutrality and objectivity in enabling deliberations; they are perceived as politically subjective and serving the agendas of the particular political regimes in power.
- It is essential and necessary to have credible avenues for pursuing political solutions supplementing legal and institutional mechanisms.
- The strategy has to be multi-pronged, and legal approaches have to be supplemented with institutional and political solutions.

## Inter-state arrests

### Context:

Inter-state arrest procedures of police came into question after the arrest and subsequent release of Tajinder Pal Singh Bagga.

## ■ What are the Constitutional Provisions with respect to 'Police Jurisdiction'?

- **Entry 2, List II of the Seventh Schedule** of the Indian Constitution puts 'Police' in the State list, implying that all matters relating to police will be adjudicated upon by the state government.
- Thus, it can be inferred that the police comes directly under the control of the state government and that the jurisdiction of the police is limited to the area inside its state boundary.
- Rival parties in power in different states therefore can sometimes come in the way of mutual cooperation between police forces, hampering a fair and proper investigation.
- The ramifications of such a politically-driven process are nothing but a challenge to fairness and equality.
- Rather than becoming a topic of justice, the matter turns into the topic of political rivalry.
- An absence of cooperation amongst state police makes the goal of attaining justice a far-fetched one.

## ■ What has been the observation of Supreme Court on this issue?

- Even the Supreme Court acknowledges that political interference is acting as an impediment to a fair investigation.
- Additionally, the Second Administrative Reforms Commission in 2007 also mentioned that increasing political interference has taken a toll on its accountability and the politicians are using the police for personal or political reasons.

### ■ What are inter-state arrest procedures?

- While Section 41 to 60 of the Criminal Procedure Code gives the police prerogative to arrest, Section 78 to 81 of CrPC provides for arrest procedure outside the jurisdiction of particular place.
- Despite having an established methodology its implementation has remained toothless.
- There have been instances where the police of one state arrest a person from another without informing the local police and the court has objected to the same by directing the police to revisit the rules to ensure that rights of the people are not under threat.
- The Delhi High Court had appointed a two member committee to look into inter-state arrest procedures.
- The panel, comprising retired High Court Judge, S. P. Garg and IPS Officer Kanwaljeet Deol have given detailed suggestions based, inter alia, on Sections 48, 77, 79 and 80 of the Code of Criminal Procedure.

### ■ Guidelines for Inter-State Arrest:

Recently in "**Sandeep Kumar vs the State (Government of NCT of Delhi) & Ors. (2019)**", several suggestions or guidelines have been framed by the Supreme Court for the police regarding inter-state arrest. The guidelines are as follows:

- The police officer must take the prior written permission of the superior officer to go out of the state or union territory to carry out the investigation.
  - He can take permission on the phone only in case of urgencies.
- In cases where the police officer decides to arrest an accused in another state, he must write facts and reasons so as to satisfy why the arrest is necessary.
  - The police officer must attempt to get an arrest or search warrant from the magistrate having jurisdiction.
- The police officers should have their identity cards with them, and they should be in uniform.
  - They should carry accurate, clear and visible name tags with their designations on them.
- Before visiting the other state, the police officer must contact the local police in whose jurisdiction he has to conduct the investigation.
  - He must carry translated copies of the FIR and other documents in the language of the state he is going to visit.
- Transit remand must be obtained after producing the arrestee in front of the nearest magistrate.
  - The arrestee must be produced in front of the magistrate before 24 hours.
  - The magistrate must grant transit remand after thinking psychologically and not mechanically.
- If possible, the arrestee must be allowed to take his family member to remain with him till the time he is produced before the jurisdictional magistrate.
- In any case, the arrested person must be produced at the earliest before the Jurisdictional Magistrate (within 24 hours of the arrest, excluding the time of the journey).

## Boundary disputes (Assam-Meghalaya)

### Context:

Signing of Assam-Meghalaya deal to resolve the border dispute between the two countries.

## ■ What was the border dispute between Assam and Meghalaya?

- During the British rule, Assam consisted of the present-day Nagaland, Arunachal Pradesh, **Meghalaya and Mizoram**, which later became separate states.
- The long-standing dispute between Assam and Meghalaya began in 1972 when Meghalaya was carved out of Assam under the Assam Reorganisation Act, 1971.
- The border issues came about as a result of **different readings of the demarcation of boundaries** in the initial agreement for the new state's (Meghalaya's) creation.

The Assam-Meghalaya border dispute includes the areas of **Upper Tarabari, Gazang reserve forest, Hahim, Langpih, Borduar, Boklapara, Nongwah, Matamur, Khanapara-Pilangkata, Deshdemoreah Block I and Block II, Khanduli and Retacherra.**

## About

## ■ What are the salient features of border agreement between Assam and Meghalaya?

- Through this deal Assam and Meghalaya have partially resolved a 50-year-old border dispute in **six of the 12 sectors** along their 885-km boundary.
- The deal was signed by Chief Minister of Assam Himanta Biswa Sharma and his Meghalaya counterpart Conrad Sangma in the presence of Union Home Minister Amit Shah.
- **The six disputed sectors whose issue has been resolved are Tarabari, Gazang, Hahim, Boklapara, Khanapara-Pillangkata and Ratacherra under the Kamrup, Kamrup (Metro) and Cachar districts of Assam and the West Khasi Hills, Ri-Bhoi and East Jaintia Hills districts of Meghalaya.**
- Out of the total disputed area of 36.79 sq. km land in the above six areas of Assam will get 18.51 sq. km and Meghalaya will get the remaining 18.28 sq.km.

## ■ What lays ahead?

- The resolution to 70% of border dispute has been found by this deal.
- The position of the remaining 6 areas is likely to be cleared very soon through an amicable settlement between the states.

## ■ How does the Constitution deal with inter-state disputes?

- At the time of independence in 1947, India consisted of 571 disjointed princely states and provinces directly governed by the British.
- The States Reorganization Commission (SRC) constituted in 1953 after nearly two years of study, merged them into 14 states and six union territories (UTs).
- Currently, they have grown into 28 states and eight UTs, making a total of 36 entities.
- The draftsmen of India's constitution had erred grievously in ignoring the problem of interstate disputes, especially interstate boundaries.
- The constitution makes no provision for a swift and binding decision of such disputes.
  - **Article 262** is on the adjudication of disputes relating to waters of inter-state rivers or river valleys. There is no comparable provision on disputes on land.

## ■ How does SC deal with disputes arising between States?

### Article 131

- Article 131 of the Constitution of India vests the Supreme Court with original jurisdiction over any dispute arising between the states or between the center and state.
- SC has original jurisdiction in any dispute:

1. between the Government of India and one or more States
  2. between the Government of India and any State or States on one side and one or more other States on the other; or
  3. Between two or more States
- (if the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends)

## Constitutionality and Morality of Abortion (Women's Reproductive rights)

### Context:

The Supreme Court of the United States (SCOTUS) has privately voted to strike down the constitutional right to abortion.

### Analysis

#### ■ Indian Provision in Abortion Right

- Medical Termination of Pregnancy (Amendment) Act, 2021: in the year 1971, Indian legislators had passed the law, 'Medical Termination Pregnancy Act' to regulate the procedure of termination of Pregnancy. Recently, Government of India has passed an amendment act to the Medical Termination of Pregnancy act. The provisions included in the Amendment Act:
- **Categories for termination of Pregnancy :**
  - survivors of sexual assault or rape or incest
  - minors and women whose marital status changes during an ongoing pregnancy (widowhood and divorce)
  - women with physical disabilities
  - mentally ill women
- **K S Puttuswami v/s Union of India:** In the landmark judgment in KS Puttaswamy v Union of India, the Supreme Court recognised women's constitutional right to make reproductive choices and the right to "abstain from procreating" was read into the right to privacy, dignity and bodily autonomy.

#### ■ What are women's reproductive rights?

Based on the multiple definitions of reproductive rights, it can be said that they include some or all of the following rights –

- right to safe and legal abortion
- right to control one's reproductive functions
- right to access in order to make reproductive choices free of coercion, discrimination and violence
- right to access education about contraception and sexually transmitted diseases and freedom from coerced sterilization and contraception
- right to protection from gender-based practices such as female genital cutting and male genital mutilation

## ■ Reasons women give for wanting abortions, worldwide:

- disruption of education or employment
- lack of support from father
- desire to provide for existing children
- poverty, unemployment or inability to bear children
- interrelation problems with husband or partner
- a women's feels that she is too young to have a child

## ■ Arguments in favour of Abortion:

- A female is considered a moral person that is entitled to rights, including the right to life. So, abortion is deemed acceptable as the foetus is not a person. **A list of criteria of personhood is identified, which includes consciousness, reasoning, activity, communication and self-awareness. A foetus undeniably is incapable of fulfilling these criteria.**
- The mother, who is a person, has a right to life and it supersedes the rights of the foetus to choose whether or not it remains connected to her body.
- Also, pregnancy is assumed to be a foreseeable consequence of heterosexual intercourse, that too when there is no intention to 'have a baby'. So, denying her the right to abort the child when she was not planning for it is unwarranted.
- **Abortion in self-defence:** It may be ethical for a mother to have an abortion to defend herself from the danger to her mental or physical health than continuing with the pregnancy would cause. Abortion is considered in relation to the '**Doctrine of double effect**'.

**The doctrine of double effect:** The doctrine says that if performing something morally good has a morally bad side-effect it's ethically righteous behaviour to do it provided the bad side-effect wasn't foreseeable. It holds even if you can anticipate that the bad effect would probably come off.

## ■ Arguments Against abortion:

- **'Future like ours' argument:** Abortion is wrong because it deprives the foetus of a potential 'future like ours'. It suggests that death is a bad thing because it deprives people of all the experiences, enjoyments, opportunities that would make up their future personal life. So, the foetus has an intrinsic potential future value and killing a foetus is wrong as killing an adult is wrong.
- **Killing people is wrong:** Killing an innocent human being is a moral wrong. Those who are against abortions believe that human life begins at conception, and by drawing the same analogy, the foetus is an innocent human being. So, killing the foetus is wrong and abortion is always wrong.

## ■ It's her right whether to bring the pregnancy to term or abort it:

- Abortion concerns the autonomy and dignity of the pregnant woman herself. "Autonomy" derives from Greek and means, literally, "self-rule". If a woman who is pregnant wishes to stop being pregnant, it cannot be taken away from her.
- Attitudes to pregnancy are, however, intertwined with how society views sex, women, and the fertile woman specifically. Pregnancy and birth are not trivial inconveniences, such as having a headache. They constitute a major life event, which even when are desired causes immense discomfort and disruption to many women.
- While pregnancy increases the personal responsibilities of a woman it does not plummet her prerogative to decide whether or not to undergo medical treatment. **Her right is not diminished merely because her decision to exercise it may appear morally contrary to the existing or imposed beliefs of the society.**

## Prison system in India

### Context:

Tamil Nadu's Minister for Law, Courts, Prisons and Prevention of Corruption recently said the government would consider setting up an open prison for women.

### Analysis

#### ■ What are open prisons?

- Open prisons have relatively less stringent rules as compared to the controlled jails.
- They go by many names like minimum-security prison, open air camps or prison without bars.
- The fundamental rule of an open prison is that the jail has minimum security and functions on the self-discipline of the inmates.
- The jail does not confine them completely but requires them to earn their living to support their families, living with them inside the jail.
- Prisoners can move out of the prison for their work and are supposed to come back to the prison campus after their working hours.
- Every state in India has a prison law, like the Rajasthan Prisoners Rules and Andhra Pradesh Prison Rules, 1979. Seventeen states are reported to have functional open jails with Rajasthan having 31 such prisons, the highest that any state has.

#### ■ What are the benefits of open prison?

- It will reduce overcrowding and operational costs of prison administration.
- It will reduce the psychological pressure and lack of confidence among prisoners when they assimilate into society.
- It goes with the repeated call to develop a humane attitude and reformatory approach towards the offenders in society.

#### ■ Criticisms of the Open Jails in India

- **Under-Utilisation:** Open Prisons are under-utilised. These prisons have a capacity to accommodate 25776 prisoners however, only 3786 prisoners are currently in these prisons (as of 2015).
- **Lack of accountability:** In most states a committee select prisoners and are not expected to provide reasons for their selections. Thus, they have no accountability which leads to partiality and corruption.
- **Applicability:** There is no provision of Open Jails for under-trial prisoners.
- **Inadequate Open Prisons:** Some states are concentrated with Open Prisons while some have just one and no Union Territory in India has an Open Prison. Due to the state list subject, this inequality exists among different states.
- **Outdated laws:** The rules and laws governing the selection and administration are extremely old and thus unfit for the present situations.

#### ■ Major Issues related to Prisons in India

- **Overcrowding:** One of the primary reasons for overcrowding of prisons is pendency of court cases. Overcrowding affects the already constrained prison resources and renders separation between different classes of prisoners difficult.
- **Under-trials:** Two of every three prison inmates in the country are under-trials. The share of the prison population awaiting trial or sentencing in India is extremely high by international standards. For example, it is 11% in the UK, 20% in the US and 29% in France.

- **Corruption and extortion:** Extortion by prison staff is common in prisons around the world. In exchange for contraband or special treatment, inmates supplement guards' salaries with bribes. Powerful inmates in some facilities in India enjoy cellular phones, rich diets, and comfortable lodgings, while their less fortunate brethren live in squalor.
- **Lack of legal aid:** Lawyers in India are poorly paid and are often over-burdened with cases. Further, there is no monitoring mechanism to evaluate the quality of legal aid representation in most states.
- **Unsatisfactory living conditions:** Overcrowding itself leads to unsatisfactory living conditions. Moreover, prison structures in India are in dilapidated condition. Lack of space, poor ventilation, poor sanitation and hygiene make living conditions deplorable in Indian prisons. Mental health care has negligible focus in Indian prisons.
- **Shortage of staff:** In the absence of adequate prison staff, overcrowding of prisons leads to rampant violence and other criminal activities inside the jails.
- **Torture and Sexual abuse:** Prisoners are subjected to inhuman psychological and physical torture. Sexual abuse of persons in custody is also part of the broader pattern of torture in custody.
- **Custodial deaths:** In 2015, a total of 1,584 prisoners died in jails. A large proportion of the deaths in custody were from natural and easily curable causes aggravated by poor prison conditions. There also have been allegations of custodial deaths due to torture.
- **Underpaid and unpaid labour:** Labour is extracted from prisoners without paying proper wages.
- **Inadequate security measures and management:** Poor security measures and prison management often leads to violence among inmates and resultant injury and in some cases death.
- **Condition of women prisoners:** Women prisoners face number of challenges including poor nutritional intake, poor health and lack of basic sanitation and hygiene. There are also alleged instances of custodial rapes which generally go unreported due to the victims' shame and fear of retribution.
- **Discrimination:** According to Humans Rights Watch, a "rigid" class system exists in the Indian prisons. There is rampant corruption in the prison system and those who can afford to bribe, often enjoy luxuries in prison. On the other hand, socio-economically disadvantaged prisoners are deprived of basic human dignity.
- **Lack of reformatory approach:** Absence of reformatory approach in Indian prison system has not only resulted in ineffective integration with society but also has failed to provide productive engagement opportunities for prisoners after their release.
- **Lack of Mental Health Professional:** There was only one mental health professional for every 21,650 prisoners in 2016, with only six States and one Union Territory having psychologists / psychiatrists.

## ■ Measures taken by the Government

- **Modernization of Prisons scheme:** was launched in 2002-03. Various components included construction of new jails, repair and renovation of existing jails, improvement in sanitation and water supply etc.
- **E-Prisons Project:** The E-Prisons project aims to introduce efficiency in prison management through digitization. The availability of these details on an electronic platform will be useful to track the status of prisoners and smooth functioning of the prison system.
- **Model Prison Manual 2016:** The manual provides detailed information about the legal services (including free services) available to prison inmates.
- **National Legal Services Authority:** It has launched a web application recently to facilitate the under trial prisoners with free legal services and make the legal services system more transparent and useful.
- **Draft National Policy on Prison Reforms and Correctional Administration:** Its key provisions include:

- Amending the Constitution to include principles of prison management and treatment of under trials under DPSP and including prisons in concurrent list.
- Enactment of uniform and comprehensive law on matters related to prisons.
- A department of Prisons and Correctional Services to be opened in each state
- State shall endeavour to provide alternatives to prisons such as community service, forfeiture of property, payment of compensation to victims, public
- State shall improve the living conditions in every prison and allied institution.

### ■ Major Committees related to Prison Reforms

- **All India Prison Reforms Committee, 1980 (Mulla Committee):** The Government of India set-up this Committee with the basic objective to review the laws, rules and regulations for protecting society and rehabilitating offenders. The Mulla Committee submitted its report in 1983.
- **Krishna Iyer Committee, 1987:** The Government of India set-up this Committee to undertake a study on the situation of women prisoners in India. It has recommended induction of more women in the police force in view of their special role in tackling women and child offenders.
- **Justice Amitava Roy panel, 2018:** Supreme Court's newly constituted Justice Amitava Roy panel will look into various matters including over-crowding in prisons and the issues concerning women prisoners.

### ■ Required Measures

- **Immediate attention:** The issue of overcrowding in Indian jails requires an immediate attention. Sincere efforts should be made to improve living conditions which include better sanitation and hygiene, adequate food and clothing.
- **Focus on reformation:** Efforts should be made to reform offenders in the social stratification by giving them appropriate rehabilitation and correctional treatment. Initiatives should be taken to impart vocational training to prisoners and ensure proper rehabilitation and social
- The government must take initiative to improve the conditions of under-trial prisoners which can be achieved by speeding of the trial procedure, simplification of the bail procedure and providing effective legal aid.
- It is also important to address the issue of inadequate prison management by recruiting more prison staff, imparting proper training and undertaking modernization of prisons.
- Issues related to custodial violence and sexual abuse should be dealt with effective monitoring and stringent punishments of those involved in such violence.
- The concept of open prisons should be encouraged more as a correctional facility.

## Women and Public Health services in India

### Context:

- Women are at the forefront of the government's drinking water initiative in the Bihar.
- Recently, reports highlighted the progressive approach of the Bihar government towards empowering women and involve them under various public health schemes ongoing in the state.

### Analysis

#### ■ Status of women and health services in Bihar

- **Mortality Rate:**

- **SRS, 2019:** As per **Sample Registration Survey (SRS), 2019** estimates, the infant mortality rate in Bihar has been recorded as **29 deaths per 1,000 live births**.
  - ▶ It is a reduction by three points from the 2018 estimates and is one point better than the national average of 30 deaths per 1,000 live births.
- **NFHS-5:** Similarly, as per National Family Health Survey (NFHS-5) estimates, mortality rate for children under-5 years of age stands at **56.4 deaths per 1,000 live births**.
  - ▶ The state is one among the least developed and cases reported for infant and maternal mortality was high too.
- Better availability of public health services
  - It also indicates better availability of other public health services such as **safe water, sanitation, and hygiene**.
  - Now Bihar has been able to provide tap water to 1.56 crore households out of the targeted 1.72 crore rural households.
  - This is a remarkable achievement in the last five years considering the low coverage **of 3% with which the State started**.
  - Bihar has provided the highest number of tap connections in the last few years among all the States in India.

## ■ What are the Challenges Involved in Gender and Sanitation?

As per the census 2011, more than fifty percent of India's population defecated in the open, and recent data showed that about 60% of rural households and 89% of urban households have access to toilets.

- **Weak Participation and Proxy for men:** In practice, the promoters of Swachhta rarely encourage women to participate in water and sanitation committees, which do not guarantee their participation.
  - Further, the age, position in the family and societal and cultural barriers for females are some of the factors that determine the participation of women in sanitation decision-making.
- **Gender-Based Sanitation Insecurity:** There is a disproportionate burden faced by women especially shortage of or the non-availability of sanitation facilities that can be also called "Gender-based sanitation insecurity."
  - The desire for privacy during bathing and defecation is different in the case of girls and women than men.
  - Thus, the non-availability of proper sanitation facilities creates a helpless situation for females and leads to the risk of faecal-orally transmitted diseases, urogenital tract infections, urinary incontinence, and chronic constipation.
- **Risks Involved With Open Defecation:** Women face threats to their life and feel unsafe while seeking a toilet facility or while going out for open defecation.
  - This leads to the consumption of less food and water by the women to minimize the need to exit the home to use toilets.
  - The risk involved with feeling unsafe while searching a place to go often to the toilet after dark or early in the morning; and dropping out of school at the onset of menstruation due to a lack of safe and private disposal facilities.
- **Taboo:** Menstrual hygiene education is taboo in India. Women find it difficult to openly ask for sanitary products from a male family member. Women, especially in rural areas, are confined to their homes and depend on male or elderly female household members for procuring sanitary products.

## ■ Important initiatives

- **Odisha:** In Odisha, women and transgender **Self-Help Groups (SHGs)** have been engaged in the operation and maintenance of treatment facilities in eight cities;

- **Jharkhand:** In Jharkhand, trained women masons built over 15 lakh toilets in one year, and the state was declared open defecation free (rural) much ahead of the national cut-off date of October 2, 2019.
- The **India Sanitation Coalition** is committed to looking at these reforms through a gender lens to ensure unintended biases do not creep in.
- **UN Committee on Economic, Social and Cultural Rights, Statement on the Right to Sanitation, 2010** was made the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights.

## A splintered 'nerve centre' (the case of urban governance)

### Context:

According to a recent update, Integrated Command and Control Centers, an integral component of the Smart Cities Mission, have been established in 80 cities, while the remaining 20 would be completed by August 15 this year.

### ■ What are the Integrated Command and Control Centres (ICCCs)?

- The Smart Cities Mission includes setting up ICCCs for each such city as a vital step. These ICCCs are designed to enable authorities to monitor the status of various amenities in real time.
- The ICCC acts as nerve centre for operations management of a Smart City.
- It processes a complex and large pool of data sets at an aggregated level and uses it to provide solutions to municipal problems faced by India's cities.
- Various amenities provided to the residents of Smart Cities can be monitored using the ICCC by the authorities.
- Projects under the ICCCs have been executed with the view of applying selected Smart Solutions to the existing city-wide infrastructure.
- Controlling criminal activities: The ICCC is also linked to Crime and Criminal Tracking Networks and Systems (CCTNS) which would help in controlling and preventing the occurrence of criminal activities in the vicinity of urban India.
- Smart Services: The ICCC is the nodal point of availability of all online data and information relating to smart services included in a smart city, such as like LED street lighting, CCTV surveillance cameras, air quality sensors, smart parking system, WiFi, electricity and water supply and billing, GIS, e-hospitals, property tax management, estate management, engineering systems, asset management systems, and other services.
- During the pandemic, ICCC also operated as COVID-19 management centres.
- These ICCCs are spread across various states that have been developing Smart Cities, with states such as Tamil Nadu, Uttar Pradesh, Madhya Pradesh and Gujarat leading in terms of the total number of ICCCs set up.

### ■ How will ICCC help in improvement of city administration?

- **Corrective measures:** It identifies certain data and analyses it for the administration that can then take the corrective steps.
- **Effectivity:** It enhances safety and security, improves efficiency of municipal services and promotes better quality of life for residents.
- **Better understanding:** ICCC uses its data to understand trends and patterns and forecasts an event or incident for the citizens and the government.

- **Support system:** It acts as a support engine to emergency response system by providing an interface to coordinate among multiple departments such as the police, traffic police, fire, ambulance, hospital etc., in case of an emergency. This provides alerts and predict issues enabling timely decision and action support.
- **Continuous monitoring:** A unique feature of the solution is real time data visualisation, which helps in the continuous monitoring of various critical parameters across the city.
- **Better ideas:** Central to the promise of ICCC is the idea of 'predictive modelling' which uses data to generate inputs on just how the city is but also how it can be.
- It could predict future real estate hot spots and could predict all accident prone spots in the city. It could also predict the bus routes prone to crowding.

#### ■ Does the existence of ICCC interfere with the functions of Urban Local Bodies?

- The ICCC project is being executed under the aegis of the **Special Purpose Vehicles (SPVs)** constituted under the **Companies Act, 2013**, in the selected cities. Projects of the SPV that overlap with core ULB areas have been a source of tension between the two, one that the cities are still learning to resolve.
- Unless the core staff of ULB working across departments such as health, town planning, water supply, etc., adopt the ICCC systems, it risks being a splintered "nerve centre".
- There is the risk of permanent underutilisation of the system. With poor integration with ULB services, and not just software integration but also in terms of workflows and SOPs, the functional capability may continue to be tilted towards video surveillance.
- The sizeable investments required create contradictions in some cities which are otherwise struggling for funds to upgrade their basic infrastructure and services. One of the key questions to gauge the success of ICCC in future, maybe to ask, if cities are choosing to build and sustain these systems out of their own revenue or untied devolution funds. If not, ICCCs may struggle to outlive the exhaustion of mission grants.
- Despite the efforts to keep procurement vendor-agnostic, some segments of ICCC are still dominated by select industry players who may dictate terms to the city or engage in arm-twisting for payments.

## State of children in India (NITI Aayog and UNICEF India signs Statement of Intent on SDGs)

### Context:

- NITI Aayog and UNICEF India signed a Statement of Intent on the Sustainable Development Goals (SDGs) with a focus on children.
- This seeks to formalize a framework of cooperation to launch the first report on the State of India's Children – Status and Trends in Multidimensional Child Development.

### Analysis

#### ■ What is the actual state of children in India?

- **Lack of access to fundamental needs:** A high level of percentage of children is living in rural areas, often have limited access to fundamental needs such as nutrition, access to healthcare, education, and protection.
- **Gender discrimination:** Due to poverty, security or cultural factors, male children are educated while their female siblings do not get much attention.

- **Poverty** is considered as bane in childhood.
- **Child marriage** is still a reality in the country. Though it is considered as the gross violation of human rights in any civil society, it still happens
- **Child labour** is a social problem that affecting the enjoyment of childhood since time immemorial.
- **Trafficking:** The slavery persists in the modern society in the form of trafficking. Children are the worst victim of this social evil.
- **Climate Change:** The climate crisis-induced disasters are among the most relevant dangers to human survival. Children, in particular, are at the receiving end.

#### ■ What needs to be done?

- **Social protection:** Social protection is essential for preventing and reducing poverty for children and families, for addressing inequalities, and for realizing children's rights.
- **Child-sensitive social protection:** Child-sensitive social protection has the opportunity to address chronic poverty, social exclusion, and external shocks which can irreversibly affect children.
- **Addressing the needs of Children:** The government must work towards realisation of the following rights:
  - Right to Health
  - Right to Education
  - Right to life
  - Right to protection, and freedom of expression
  - Right Identity

#### ■ How would the collaboration between NITI Aayog and UNICEF India would help?

- UNICEF India and NITI Aayog are developing a comprehensive measure to understand the multidimensional attainments and deprivations among children across
  - health and nutrition
  - education
  - water and sanitation
  - household living standards
  - protective environment
- It would help to analyse the status of children around critical child-related SDGs to establish recent trends.
- **Achieving 2030 Agenda:** This effort will contribute to the realisation of India's commitments to the 2030 Agenda and provide a set of policy recommendations for concerted action in terms of accelerating progress towards the SDGs to 'leave no child behind' and achieve their holistic development.

#### ■ How would it be done?

- The collaboration between **NITI Aayog and UNICEF India** will draw up the methods, technical analysis, reporting and action planning for the first report on the '**State of India's Children**'.
- This project will undertake a whole-of-society approach involving all stakeholders ranging from Union Ministries, state government, academia, civil society organisations and child rights collectives.

## Death Penalty

### Context:

- The Supreme Court asked Attorney General K.K. Venugopal for assistance to institutionalise a mechanism by which information crucial to decide whether a person should be condemned to death or not can be gathered and placed on record before trial judges.
- This brief aims to look at the history of capital punishments in India and what are the crimes that call for death penalty in the country.

### Analysis

#### ■ What is death penalty in India?

- Hanging and shooting are the two methods of death penalty in India.
- According to the **Criminal Procedure Code**, hanging is the method of execution in the **civilian court system**.
- **The Army Act, 1950**, however, lists both hanging and shooting as official methods of execution in the **military court-martial system**.
- Under the provisions of criminal procedure, death penalty must be awarded as an alternative punishment to life imprisonment which the offenders may be sentenced in '**rarest of rare cases**'.

#### ■ Arguments in favour and against death penalty

##### In Favour

- **Retribution** - One of the key principles of retribution is that people should get what they deserve in proportion to the severity of their crime.
- This argument states that real justice requires people to suffer for their wrongdoing and to suffer in a way appropriate for the crime.
- **Deterrence** - By executing convicted murderers, would-be murderers can be deterred from killing people.
- **Closure**: It is often argued that the death penalty provides closure for victims' families.

##### Against

- **Questionable**: The statistical evidence doesn't confirm that deterrence works.
- Some of those executed may not have been capable of being deterred because of mental illness or defect.
- Death has been prescribed in rape cases since 2013 (Sec. 376A of IPC), still, rapes continue to happen and in fact, the brutality of rapes has increased manifold.
- This compels one to think of the death penalty is an effective deterrent to crime.
- **The risk of executing the innocent persists**.
- **Morality**: It is seen as inhumane. Thus, the morality of the death penalty is debatable.

#### ■ What are the issues in the current system?

A Supreme Court Bench led by Justice U.U. Lalit made the following observations:

- **Quick decision**: In some cases, trial courts sentence a person to death merely hours after conviction.

- **Little effort to unearth the issue:** Little effort is taken to unearth or understand the circumstances which led a person to commit the crime. In short, trial judges hardly know the people they are sending to the gallows.
- **Ignored individual's details:** No effort is ever made to dig deeper into a convict's childhood experiences, multi-generational history of physical and mental health issues, exposure to traumatic events and other familial, social and cultural factors crucial in order to undertake an individualised sentencing enquiry.
- **Mitigation expert:** The court said a "mitigation expert", a qualified professional with unhindered access to the convict's past, ought to be at the centre of this change in outlook.
- This **'one-size-fits-all' approach** while considering mitigating factors during sentencing should end. A more enlightened approach has to be evolved. The apex court's introspection may be a sign of the judiciary veering away from the death penalty.

## Pavement dwellers & their rights (bulldozers' show of strength)

### Context:

The North Delhi Municipal Corporation's bulldozers' show of strength against roadside stalls, and push carts in Delhi's Jahangirpuri have faced resistance from a Constitution Bench judgment of the Supreme Court which had upheld the right to livelihood of pavement dwellers.

### ■ Key-points made by the apex court

#### The SC Bench made the following points:

- The pavement dwellers cannot be treated as trespassers, their eviction should not lead to deprivation of their livelihoods.
- **Right to Life:** They should not be subject to harassment adding that their right to livelihood was an integral part of the right to life under **Article 21 of the Constitution**.
- **Right to Shelter:** Right to shelter was a fundamental right under Article 21. It was a right recognised by international conventions and an integral part of the principles of natural justice.
- **Fair procedure:** Though the right to reside and settle in any part of India under Article 19 (1) (e) cannot be read to confer the licence to encroach and trespass upon public property, the eviction of pavement dwellers and traders should be in accordance with the procedure established by law.
  - This "procedure" should be "fair, just and reasonable".
  - The right to life includes the protection of one's means of subsistence; obligations to provide natural justice prior to eviction, but no automatic right to resettlement under Indian law.

### ■ Olga Tellis case

- The **Olga Tellis vs Bombay Municipal Corporation judgment in 1985** ruled that eviction of pavement dwellers using unreasonable force, without giving them a chance to explain is
- It is a violation of their right to livelihood.
- The case started in 1981 when the State of Maharashtra and the **Bombay Municipal Corporation** decided that pavement and slum dwellers in Bombay city should be evicted and "deported to their respective places of origin or places outside the city of Bombay."
- The court had emphatically objected to authorities treating pavement dwellers as mere trespassers.

- They (pavement dwellers) manage to find a habitat in places which are mostly filthy or marshy, out of sheer helplessness.
- It is not as if they have a free choice to exercise as to whether to commit an encroachment and if so, where.

### ■ What were the questions discussed before the Supreme Court?

- **Right to livelihood:** Whether eviction of a pavement dweller would amount to depriving him/her of their livelihood guaranteed under Article 21 of the Constitution.
- The Article mandates that “no person shall be deprived of his life or personal liberty except according to procedure established by law.”
- **To label ‘trespassers’ or not:** The Supreme Court also decided to examine the question whether it was constitutionally impermissible to characterise pavement dwellers as trespassers.

### ■ Understanding the broader concept

Pavement dwellers include people living on the pavement, under the bridge, flyover, bus stop, near the railway station, in parks or under the open sky in any public place in the metros and urban areas where public facilities like public toilet are provided.

- **In search for better economic opportunities:** The people migrate from small villages looking for employment opportunities as there are not enough employment opportunities in their village or small towns.
- People are homeless due to financial problem, natural calamities, lack of employment opportunities.
- Secondly, Social reason. The pavement dwellers are considered to be the poorest of the poor. They live in kucha house made of plastic, polythene, cardboard, straws, bamboos etc. They try to settle themselves near the place they work.
- **Pradhan Mantri Awas Yojana (Urban) (PMAY-U)** – It was launched in June 2015 with the objective of providing affordable housing to all the urban poor.

## WHO and Traditional medicine in India

### Context:

- In a positive development, the **World health Organisation (WHO) and Government of India** has finalised the establishment of Global Centre for Traditional Medicine (GCTM) in Jamnagar, Gujarat.
- It will be first one-of-its kind traditional medicine centre, supported by an investment of USD 250 million from the Government of India.

### ■ What is Traditional medicine?

- The term traditional medicine describes the total sum of the knowledge, skills and practices indigenous and different cultures have used over time to maintain health and prevent, diagnose and treat physical and mental illness.
- Its reach encompasses ancient practices such as Acupuncture, Ayurvedic medicine and Herbal mixtures as well as modern medicines.

### ■ Need for Revival of traditional Medicines

- **In search of better alternative:** Variety, flexibility, easy availability, religious/social acceptance, relative low side effect and cost are the key factor for the need of revival of traditional medicine.

- **Increasing burden on modern medicines:** In 21st century, tremendous advances in healthcare sector coexist with inequities in accessibility, availability and affordability of the healthcare facilities in many parts of India.
- **Integration of Ayurvedic** and others Indian traditional medicine in clinical practice will help to promote the health of the people who are unable to access the modern medicine properly.
- **Rural reach:** A study in rural area of West Bengal shows that folk medicine plays a key role to prevent common diseases like small injuries, skin disease, fever, dehydration, diabetes, high BP, liver disease etc in better way.
- **Less side-effect:** the traditional medicines have less side effects with respect to modern allopathic medicines as they are made from natural substances.

### ■ Traditional medicine vs Modern medicines

- **Technical challenges:** Instruction and practice of traditional medicine have increasingly embraced the principles of modern medicine, practitioners of this system are reasonably acclimatized with the latter.
- **Conceptual incompatibility:** Conceptual incompatibilities between modern and traditional medicine present yet another formidable challenge.
  - Medical education will need to embrace a pluralist paradigm of understanding.
  - Evidence from Korea indicates that integrated teaching and practice of both systems by the same individual can overcome problems arising out of such incompatibilities.
- **Evidence-based inequality:** Demand for 'evidence' by the modern medicine's doctors is a challenge. However, the demand for evidence should not undermine the considerations of public welfare.
  - The need for evidence should be balanced against other factors, such as the prevailing public satisfaction with traditional systems, cost-effectiveness, and the long-established empirical efficacy and safety of certain interventions.

### ■ What measures are required?

- **Effective planning:** The modernization of traditional and complementary medicines would require extensive scientific research, diligent screening and strict regulatory measures.
- **Modernisation:** The facilities of the GCTM must be used to encourage the induction of scientific and ethical practices within traditional medicines and modernize them.
- **Transparent policies:** Governing bodies, too, must be transparent about the safety and the efficacy of such treatments. But the encouragement of alternative medicines must not mean State disincentives for allopathy.
- **Supplementary care:** The aim of institutes such as the GCTM should not be to replace allopathy but rather plug the gaps and provide supplementary care.

## 'One nation, one legislative platform'

### Context:

In a recent development, the Lok Sabha Speaker Om Birla conveyed that work for 'One Nation One Legislative Platform' will be completed by 2023.

### ■ What is 'One Nation One Legislative Platform' about?

- One Nation One Legislative Platform idea is a portal that will connect all the democratic units of the country and give a much-needed technological boost to the parliamentary system.

- It will make available the proceedings of Houses of Parliament, state assemblies and legislative councils in the online mode.
- All information related to the working of all legislatures, landmark legislations, all important debates, and best practices will be easily accessible to common public.

### ■ What are the issues with legislative functioning?

- There has been increase in cases of legislative disruption, disorder, and indiscipline with frequent adjournments. It not only hinders representative democracy and erodes people faith in their representative but also is a huge wastage of tax-payers money.
- Bills are passed without much debate and scrutiny. Many bills were passed in the same session in which they were introduced. It results in hasty legislation and reduces the accountability of executive to the legislature.
- Less and less number of bills are sent to committees for detailed scrutiny. It leads to inability of the Opposition to hold the government accountable for its action.
- There has been a trend of declining seating of legislative especially Parliament.
- In 2020, Parliament operated for 33 days only.
- For the past 10 years, the Rajya Sabha has functioned for less than 25% of its scheduled time.
- Increase in number of legislatures with criminal records wherein law breakers become law makers.
- There has been a high degree of absenteeism. It showcases representative abstaining from their duties towards their electors.

### ■ How this technology intervention can help?

- One stop platform to access all information related to legislative working.
- It will help public to hold their representatives accountable and in turn legislators will be much more sensitive towards the need and demand of their electors.
- Increase public scrutiny will ensure qualitative and constructive debates and thus a vibrant democracy.
- Uniformity in rules and procedures of the legislatures will reduce complexity and help in ease of functioning.
- It will bring greater synergy and coordination between the Legislature and the executive not only in a State, but also across the States.
- Transforming governance by strengthening Right to Information Thus, ensuring high transparency in legislative functioning and making people well informed & enlighten citizens.
- In line with the vision of Digital India and One Nation, One Standard.

### ■ Is 'One Nation One Legislative Platform' against diversity and pluralism in India?

- India with its 135 crore people is unlike any other nation in the world. With so much diversity in geography, culture, language, issues, etc., it is difficult to implement one nation theory.
- The uniformity that it proposes may be seen as diluting federal character of the country and attacking its rich diversity.

## Rules for foreign funding in India

### Context:

The Supreme Court upheld amendments introducing restrictions in the Foreign Contribution Regulation Act (FCRA) while holding that no one has a fundamental or absolute right to receive foreign contributions.

### Analysis

#### ■ What is the FCRA?

##### Foreign contribution

A donation, delivery or transfer or any article, currency or foreign security by any person who has received it from any foreign source, either directly or through one or more persons refers to foreign contribution.

- The FCRA was enacted during the Emergency in 1976 in an atmosphere of apprehension that foreign powers were interfering in India's affairs by pumping in funds through independent organisations.
- These concerns had been expressed in Parliament as early as in 1969.
- The law sought to regulate foreign donations to individuals and associations so that they functioned "in a manner consistent with the values of a sovereign democratic republic".
- An amended FCRA was enacted under the UPA government in 2010 to "consolidate the law" on utilisation of foreign funds, and "to prohibit" their use for "any activities detrimental to national interest".
- The law was amended again by the current government in 2020, giving the government tighter control and scrutiny over the receipt and utilisation of foreign funds by NGOs.
- Broadly, the FCRA requires every person or NGO wishing to receive foreign donations to be registered under the Act, to open a bank account for the receipt of the foreign funds in State Bank of India, Delhi, and to utilise those funds only for the purpose for which they have been received and as stipulated in the Act.
- They are also required to file annual returns, and they must not transfer the funds to another NGO.
- The Act prohibits receipt of foreign funds by candidates for elections, journalists or newspaper and media broadcast companies, judges and government servants, members of legislature and political parties or their office-bearers, and organisations of a political nature.

#### ■ What is the process of granting of FCRA registrations?

- **Online application:** NGOs that want to receive foreign funds must apply online in a prescribed format with the required documentation.
- FCRA registrations are granted to individuals or associations that have definite cultural, economic, educational, religious, and social programmes.
- **Inquiry through IB:** Following the application, the MHA makes inquiries through the Intelligence Bureau (IB) into the antecedents of the applicant, and accordingly processes the application.
- Under the FCRA, the applicant (should not):
  - should not be fictitious or benami

- should not have been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another
- should not have been prosecuted for or convicted of creating communal tension or disharmony
- should not have been found guilty of diversion or mis-utilisation of funds
- should not be engaged or likely to be engaged in the propagation of sedition
- **Approval or rejection:** The MHA is required to approve or reject the application within 90 days.
- In case of failure to process the application in the given time, the MHA is expected to inform the NGO of the reasons for the same.

### ■ Supreme Court's Ruling:

The Supreme Court upheld the constitutional validity of the Foreign Contribution (Regulation) Amendment Act, 2020 or FCRA Act on following grounds:

- No one has a fundamental or absolute right to receive foreign contributions.
- Amendments only provide a strict regulatory framework to moderate the inflow of foreign funds into the country.
- Free and uncontrolled inflow of foreign funds has the potential to impact the socio-economic structure and polity of the country.
- Permitting the inflow of foreign funds is a matter of policy of the State-backed by law. Hence, it is open for a state to have a regime that may completely prohibit receipt of foreign donations, as there are no absolute rights to receive foreign donations.
- Inconvenience to a party is not a ground to challenge the constitutionality of a provision that mandates the opening of FCRA accounts in the designated bank.

However, the court read down one of the provisions of the 2020 FCRA Amendment Act, which mandated the production of Aadhaar card for registration. The court allowed the office-bearers of NGOs to use their Indian passports as an identification documents.

## Fortified rice, a solution to hunger in India?

### Context:

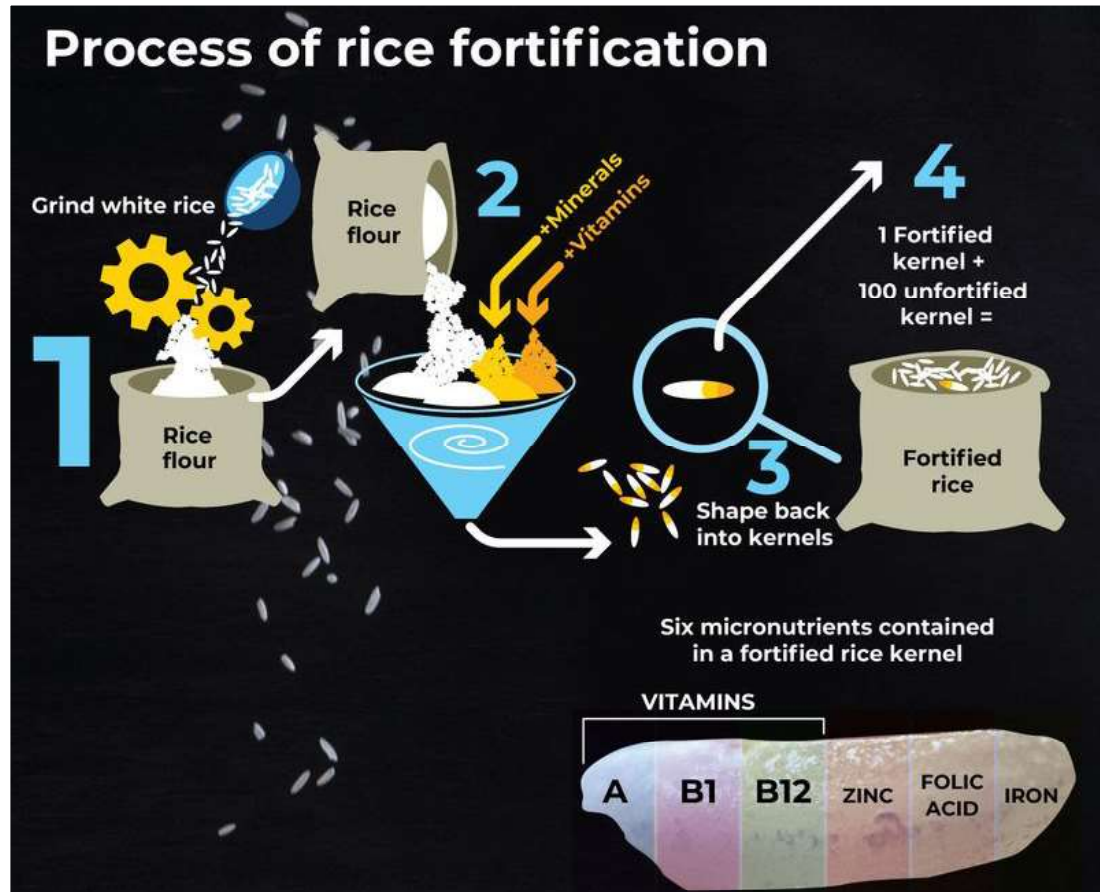
Recently cabinet has approved for distribution of fortified rice. The total cost of fortification which estimates around 2,700 cr. per year.

### ■ How India earlier focused on nutritious food security?

- Green Revolution has significantly benefitted India's food production and ensured food security for all. This has helped to overcome the past challenges of severe famines.
- Unfortunately, green revolution got restricted to the wheat and rice and could not diversify the impact to other crops.
- Food security could not focus on the nutritious food security.

### ■ What is Rice Fortification?

- **Food Security and Safety Authority of India (FSSAI)** describes fortification as "deliberately increasing the micro nutrient content in the food so as to improve nutritional quality of the food and to provide public health benefit with minimal risk to health".
- Micronutrients include **iron, folic acid and vitamin B12**.



### ■ What is the need of fortification?

- India has very high levels of malnutrition among women and children.
- According to the Food Ministry, every second woman in the country is anaemic and every third child is stunted.
- Fortification of food is considered to be one of the most suitable methods to combat malnutrition.
- Rice is one of India's staple foods, consumed by about two-thirds of the population. Per capita rice consumption in India is 6.8 kg per month.
- Therefore, fortifying rice with micronutrients is an option to supplement the diet of the poor.

### ■ How the scheme will be implemented?

- The decision to supply fortified rice throughout the country using the targeted public distribution system in a phased manner by 2024 aims to overcome malnutrition.
- The distribution of fortified rice will be implemented in three phases
  - Phase 1: Through Integrated Child development Schemes (ICDS)/ mid-day meal schemes.
  - Phase 2: Through Public Distribution System (PDS)
  - Phase 3: Rest of the district will be covered before 2024.

### ■ What are main benefits?

- Improve Nutritional quality of the food:** The improved nutritional quality will help to reduce the condition of malnutrition among children and women.
- Demographic dividend:** Focus on children development will ensure better quality of demography which will result into better development of the nation.

- **POSHAN Abhiyan 2.0:** The fortified rice will help to boost the POSHAN Abhiyan 2.0 to secure nutritional food for all.
- **Aatmanirbhar Bharat:** India's long term objective of "Aatmanirbharta" (self-dependency) needs a highly productive and healthy demography which can be achieved by the fortification.

### ■ What are the major challenges?

- **Fortification not permissible limit:** The fortification should not exceed the permissible limit of the fortification to reduce the health concern.
- **Public Awareness:** Lack of public awareness cannot boost the demand for fortified rice that will not incentivize the farmers or companies to opt for fortification.

## Poll Body for Cooperatives in India

### Context:

- Union minister for cooperatives had mentioned to conduct elections for the cooperative societies to be conducted by the Election commission of India.
- In lieu of this a 2-day National conference has been conducted on National Cooperation Policy.

### ■ Need of elections in cooperatives

- **To ensure transparency-** cooperatives need elections conducted in free and fair manner to ensure transparency in the system.
- It has been noted that most of the cooperatives have members nominated and political biased representation can be seen.
- **Adequate representatives from the region-** each community in the region living should get representation in any organisation for equal rights and everybody should be heard.
- **Popular representation-** the elections conducted by the election commission of India by participation of every individual in the region will help to get their popular elected representative amongst themselves for better working of cooperatives.
- **Rural issues to be heard-** the person elected should have local knowledge of the region and culture with agricultural needs of that region. Most of the states like Maharashtra, Orissa, Gujarat, Madhya Pradesh are major states which are benefitting from the cooperatives in rural areas.
- **Financial transparency-** the funds allocated from banks and to individual representatives for distribution will be in the right hands as he/she will be responsible to the people.

### ■ Issues faced by cooperatives in India

- **Government Interference-** The administration has taken a patronizing stance toward the cooperative movement from the start. Co-operative institutions were handled as if they were an integral component of the government's administrative structure.
- **Mismanagement and Manipulation-** The co-operative movement's central idea is that it elevates farmers to the level of shareholders and provides them with agricultural, educational, and medical services. Farmers, sometimes, find it difficult to manage the institutions with large shareholder strength.
- **Lack of Awareness-** People is unaware of the movement's goals, the contributions it can make to society's reconstruction, and the norms and regulations that govern co-operative institutions. Regrettably, no concerted attempts have been undertaken in this direction. People regard these institutions as a means of gaining government benefits and concessions.

- **Restricted Coverage**-The co-operative movement has also been hampered by two major operational constraints.
  - One is that these cultures have been quite modest in size.
  - The other is that the majority of these societies have only a few members and operate in only one or two locations.
- **Functional Weakness**-Since its start, the co-operative movement has struggled with a lack of skilled workers. Two key issues have contributed to the shortage of trained employees.
  - First and foremost, there had been a dearth of institutions dedicated to training workers.
  - Second, due to the inadequate performance of cooperative institutions, efficient individuals were not drawn to or driven by them.
- **Flaws in operation**-Co-operative societies, too, have several flaws in their operation. They have been unable to progress along healthy lines due to this deficiency. As a result, there are several pitfalls.
  - The limiting issues include **poor infrastructure**, poor administration, overdependence on government, dormant membership, non-conduct of elections, a lack of solid human resources, policy, and a lack of professionalism, among others.
- Co-operatives in India are also unable to develop effective communication and public relations strategies that promote the concept of collaboration among the general population.

#### ■ Recent developments

- In 2013, the Gujarat High Court ruled that the amendment was likely to be struck down since it was passed without the assent of one-half of the state legislatures, as required under Article 368(2) of the Constitution.
- According to **Article 368(2)**, ratification of one-half of state legislatures is required for an amendment that makes changes to an entry in the state list.
- The exclusive **legislative power** granted to states in issues covered by the Second List of the Seventh Schedule is a key constitutional concept enshrined in the Constitution's basic framework.

## Global Education Scenario (UNESCO releases global education report)

#### Context:

UNESCO has released a new global education report titled as "Leave no child behind: Global Report on boys' disengagement from education". This report focused on the gender parity and uneven distribution of accessibility of education for different sections of the society.

#### ■ Key-findings of the report:

- Boys are more likely than girls to repeat primary grades in 130 out of 142 countries.
- Around 132 million boys of primary and secondary school age are out of school
- It also stated that boys are more likely than girls to experience physical bullying and are often targeted because of their real or perceived sexual orientation and gender identity or expression (SOGIE)
- In 57 countries boys are falling behind the girls at primary as well as secondary level.

## ■ Other major findings and suggestions:

- At the global level no country has achieved gender parity at tertiary level.
- Advance equal access to education can rule the gender disparity in the accessibility of education
- New norms and education policy to secure the Right To Education for boys'
- Education rights should be secured for all the gender irrespective of their sexual orientation. Segregation of gender cannot bipolar it should be multipolar.

## ■ Problems with India's education system

- Poor access to high-quality education
- Fear of exams instead of Real learning
- Suboptimal Pupil-to-Teacher ratio
- Lack of infrastructure

## ■ Recent government schemes for Education

- **New India Literacy Programme:** The Government approved a new scheme "New India Literacy Programme" for the period FYs 2022-2027 to cover all the aspects of **Adult Education to align with National Education Policy 2020**.
  - The Scheme is implemented by the Ministry of Education in convergence with various Ministries and Departments to implement the scheme.
  - It is a **Centrally Sponsored Scheme**.
- **National Education Policy:** The NEP 2020 is the first education policy of the 21st century and replaces the thirty-four year old National Policy on Education (NPE), 1986.
- **United Nation's E9 initiative:** In April 2021, India joined the United Nation's E9 initiative, whose purpose is to create an initiative on digital learning and skills, targeting marginalised children and youth, especially girls.

### Other major initiatives

- **SWAYAM:** The 'Study Webs of Active Learning for Young Aspiring Minds' (SWAYAM) is an integrated platform for offering online courses and covering school (9th to 12th) to Post Graduate Level.
- **SWAYAM Prabha:** SWAYAM Prabha is an initiative to provide 32 High Quality Educational Channels through DTH (Direct to Home) across the length and breadth of the country on 24X7 basis.
- **National Digital Library (NDL):** The National Digital Library of India (NDL) is a project to develop a framework of virtual repository of learning resources with a single-window search facility.
- **Free and Open Source Software for Education (FOSSEE):** FOSSEE is a project promoting the use of open source software in educational institutions.
- **E-Yantra:** e-Yantra is a project for enabling effective education across engineering colleges in India on embedded systems and Robotics.
- **NEAT** – an initiative by AICTE based on the PPP model to enhance the employability skill among students, in collaboration with Education Technology Companies and National Digital Library (NDL), a repository of learning resources with single window facility.

## The changing need of education in India

### Context:

- Recently, the Government approved a new scheme “New India Literacy Programme” for the period FYs 2022-2027 to cover all the aspects of Adult Education to align with National Education Policy 2020.
- The government has also decided to use the term “Education For All” in place of “Adult Education.”
- This is because the terminology “Adult Education” is not appropriately incorporating all non-literates of 15 years and above age group.

### Analysis

#### ■ What is the New India Literacy Programme (NILP)?

- The **New India Literacy Programme** is implemented by the Ministry of Education in convergence with various Ministries and Departments to implement the scheme.
- It is a **Centrally Sponsored Scheme**.
- The scheme will be implemented through volunteerism **through online mode**.
  - The training, orientation, workshops of volunteers, maybe organised through face-to-face mode.
- The Objective of this Programme to impart **not only foundational literacy and numeracy but also to cover other components which are necessary for a citizen of the 21st century**. Such as-
  - Critical life skills** (financial literacy, digital literacy, commercial skills, health care and awareness, child care and education, and family welfare)
  - Vocational skills** (with a view towards obtaining local employment);
  - Basic education** (including preparatory, middle, and secondary stage equivalency) and
  - Continuing education** (including engaging holistic adult education courses in arts, sciences, etc and recreation, as well as other topics of interest or use to local learners).
- The scheme will cover non-literates of the age of 15 years and above in all states/UTs.
- The target for Foundational Literacy and Numeracy for FYs 2022-27 is 5 crore learners at one crore per year by using “Online Teaching, Learning and Assessment System (OTLAS).”

#### ■ Status of Adult illiteracy in India

- As per Census 2011, the absolute number of non-literates of the country in 15 years and above age group is 25.76 crore.
- About 7.64 crore persons are certified as literates under the Saakshar Bharat programme.
- Hence, it is estimated that currently, around 18.12 crore adults are still non-literate in India.

#### ■ How Government is promoting online education?

- SWAYAM**: The ‘Study Webs of Active Learning for Young Aspiring Minds’ (SWAYAM) is an integrated platform for offering online courses and covering school (9th to 12th) to Post Graduate Level.
- SWAYAM Prabha**: SWAYAM Prabha is an initiative to provide 32 High Quality Educational Channels through DTH (Direct to Home) across the length and breadth of the country on 24X7 basis.
- National Digital Library (NDL)**: The National Digital Library of India (NDL) is a project to develop a framework of virtual repository of learning resources with a single-window search facility.
- Free and Open Source Software for Education (FOSSEE)**: FOSSEE is a project promoting the use of open source software in educational institutions.

- **E-Yantra:** e-Yantra is a project for enabling effective education across engineering colleges in India on embedded systems and Robotics.
- Other major initiatives include:
  - **UG/PG MOOCs** for non-technology courses
  - **e-PG Pathshala** or e-content containing modules on social science, arts, fine arts, natural and mathematical science
  - **CEC-UGC YouTube channel**
  - **Vidwan** – a database of experts who provide information to peers and prospective collaborators,
  - **NEAT** – an initiative by AICTE based on the PPP model to enhance the employability skill among students, in collaboration with Education Technology Companies and National Digital Library (NDL), a repository of learning resources with single window facility.
  - Many noteworthy initiatives have been taken up like Spoken Tutorial, Google Classroom and so on.

## National Public Health Bill

### Context:

Initiative taken by Government of India to draft the new National Public Health Bill.

#### ■ What are the objectives of National Public Health Bill?

- It is important to note that existing Epidemic Disease Act lacks provisions for management of a pandemic like Covid.
- This short coming will be addressed by the new National Public Health law.
- This draft Bill has defined various measures (such as isolation, quarantine and lockdown) that could be taken by the government during a public health emergency.
- The draft of National Public Health Bill shows that the new law will deal with updated, scientific and comprehensive provisions on surveillance, disease notification and public health emergencies.
- The Bill lays down several situation in which 'Public Health Emergency' can be declared.
- The above definition of Public Health Emergency will include:
  - Bioterrorism
  - Appearance of a novel or previously controlled or eradicated infectious agent or biological toxin
  - A natural disaster
  - A chemical attack or accidental release of chemicals
  - A nuclear attack or accident

#### ■ Which new organisations would be created by the National Public Health law?

- The draft Bill proposes the setting up of four-tier health administration architecture with public health authorities at national, state, district and block-level.
- The abovementioned authorities will have "well defined" powers and functions to deal with "public health emergencies".
- National public health authority will be headed by the Union Health Minister.

- Health Ministers of states will lead the state public health authorities in their respective states.
- At District level, the Collector will oversee the functioning of the public health authority.
- Block Medical Authority or Medical Superintendent will head the public health authority at Block level.
- All the above mentioned authorities will have powers to prevent the rise of non-communicable diseases and infectious diseases.
- The proposed law will also create Public Health Cadre.

### ■ Issues in India's health sector

- **Inadequate reach:** The inadequate reach of basic healthcare services, shortage of medical personnel, quality assurance, the inadequate outlay for health, and most importantly insufficient impetus to research.
- **Inadequate Fund:** The inadequate fund allocation by the administrations is one of the grave concerns.
- **Optimal Insurance:** The concept of health insurance is still not clear in India and the market is still virgin.
- **No focus on Preventive Care:** In India, there is a very low emphasis on preventive care, which can be proved very effective in solving a lot of problems for the patient in terms of misery or financial losses.
- **Less emphasis on Medical Research:** In India, there is no much impetus is being given to R&D and cutting-edge technology-led new initiatives. Such technologies could be useful in an unprecedented situation like Covid-19.
- **Issue of Policymaking:** For providing effective and efficient healthcare services policymaking is certainly an important aspect. In India, the problem is fundamental of supply than demand, where policymaking can be effective.
- **Shortage of Medical Workforce:** In India, there is a shortage of doctors, nurses, and other staff in the health sector. As per a report laid down by a minister in Parliament, there is a shortage of 600,000 doctors in India.
- **Inadequate outlay for health:** As per National Health Policy 2002, India contributes only 0.9 percent of its GDP to the Health care sector.
- **Lack of structure:** Private hospitals are expensive and public hospitals are either not enough for the Indian Population or lack the basic facilities.

### ■ What measures are required in the sector?

- **Improving infrastructure:** There is a need of improvising the infrastructure of public hospitals which have a lot of burden due to the high population in India.
- **Focus on private hospitals:** Private hospitals must be encouraged by the government because their contribution is important. Private sector also needs to participate because the challenges are significant and these cannot be resolved only by the government alone.
- **Efficiency enhancement:** More medical personnel must be recruited to enhance the capabilities and efficiency of the sector.
- **Technology utilisation:** Technologies must be used to connect the dots in the health system. Medical devices in hospitals/ clinics, mobile care applications, wearables, and sensors are some forms of technology that should be added in this sector.
- **Awareness:** People should be made aware of early detection and preventive care. It would help them in saving pocket expenditure also.

## Call for unified Human Right Commission

### Context:

Comment made by Kerala Governor Arif Mohammed Khan, calling for the termination of National Commission for Minority and transferring its powers and functions to National Human Rights Commission.

**UN's definition:** The definition provided by United Nations is “Any group or community which is socially, political and economically non-dominant and inferior in population are minorities”.

- The Constitution of India mentioned the term ‘minority’ only on two occasions in **Article 29** and in **Article 30** but it nowhere defines the term.

### ■ Why is the call for abolition of minority commission being made?

- **Creating differences:** Presence of such Commission cultivates an idea within certain groups that a community or some communities are different than the rest and hence special provisions or bodies are required for its or their protection.
  - The above mentioned idea has the potential of sowing the seeds of separatism.
- **Wastage of resources:** The National Human Rights Commission is adequately empowered to look into the issues relating to infringement of rights of people in India and hence of any other organisation that focusses on the rights on just minorities leads to waste of both material and human resources.
- **Political influence:** National Minority Commission may become and in some instances has become place of where appointment for political appeasement is made.

### ■ Why existence of separate National Minorities Commission is necessary?

- **Attentive protection of minorities:** The Constitution of India guarantees Secularism and hence protection of Minorities has to be paid adequate attention.
- **For effective functioning:** National Human Rights Commission is already overburdened with its existing workload and therefore asking it to perform the duties of Minorities also would lead to compromise of the quality of work done by it and also severe backlog affecting many Indians.
- **Lack of expertise with NHRC:** The National Human Rights Commission may not possess the expertise required to tackle the issues impacting rights of Minorities that are guaranteed by the Indian Constitution and other statutes of the country.
- **For diversity in unity:** Religious minorities add to the diversity of India and their unique characteristics have to be safeguarded if India has to maintain its image of being a plural civilisation. This can be done in better way with the National Commission for Minorities being in existence.

## Maharashtra governor refuses nod for speaker's election

### Context:

The rift between the Maharashtra government and Governor Bhagat Singh Koshyari has further escalated as the latter has refused to give nod for holding the state Assembly Speaker's election.

## Understanding the 'legal' position

### ■ State Legislature

- The Constitution of India enumerates the **formation of legislatures in States under Article 168**, comprising of the
  - "Governor"
  - two Houses or one House as in maximum of the States
- In this regard it is pertinent to dive into the constitutional provisions guiding the office of the Governor.

### ■ Governor

- **Article 163** mandates that there shall be a Governor in each State and such person must be a citizen of India and have completed **thirty-five years of age**, who under **Article 154** shall be vested with the executive power of the State to be exercised by him directly or through officers subordinate to him in accordance with the Constitution.
- The term of the **office of the Governor** bridges on the pleasure of the President of India which shall be for a maximum period of five years at a stretch from the date of his entering upon his office.

### ■ Speaker

- **Article 178** of the Constitution mandates that there shall be a **Speaker and Deputy Speaker of the State Legislative Assembly**.
- The office of the Speaker denotes the values on which parliamentary system of the Government is based.
- The Speaker is conferred with the powers and privileges of the State Legislature.
- The Constitution of India lays down the powers and duties of the Speaker under **Articles 96(2), 120(1), 100(4), 189(4), 195(1) and 210(1) of the Constitution of India**.
- The Speaker derives his power from the rules of procedure of respective houses framed under the powers enshrined under the Constitution upholding the concept of constitutional morality.
- Accordingly, he is responsible for the conduct of the proceedings of the assembly in the manner of a guardian.
- The Speaker of the House is in charge and command of the proceedings of the House and such exercise of powers are normally protected under the concept of parliamentary privileges under **Articles 122 and 212 of the Constitution of India**.
- It will not be wrong to state that he is a link between the House and the executive Government and the Governor, the three pillars of a State Legislature.
- The fundamental principle is that the House is sovereign in the matter to frame its own rules of procedure and the conduct of business.

### ■ How the Governor exercises his functions?

- The manner in which Governor can exercise his functions under the Constitution is enumerated under **Article 163** of the Constitution of India.
- It provides that the Governor shall be advised by the **Council of Minister** with the Chief Minister as the head in the exercise of his functions save and except where the Governor is empowered to use his discretionary powers by or under the Constitution or, any law framed thereunder.
- Thus, where the **Governor acts as the Head of the State**, except in relation to areas which are earmarked under the Constitution as giving discretion to the Governor, the exercise of power by him, must only be upon the aid and advice of the Council of Ministers, for the reason that the Governor, being the custodian of all executive and other powers under various provisions of the Constitution, is required to exercise his formal constitutional powers, only upon, and in accordance with, the aid and advice of his Council of Ministers.

- He is, therefore, bound to act under the **Rules of Business framed under Article 166(3)** of the Constitution.
- However, **Article 163(2) empowers the Governor** to act in his discretion, "except insofar as he is by or under this Constitution required to exercise his functions or any of them in his discretion."
- This **discretionary power** has put the position of Governor at a much higher pedestal, thus sometimes leading to an arbitrary and lenient exercise of this power.

## Increasing role of OTT platforms

### Context:

Public service broadcaster, Prasar Bharati has inked a Memorandum of Understanding (MoU) with YuppTV, an over-the-top (OTT) platform, which will act as gateway for Doordarshan viewers across the globe.

#### ■ What is the aim of this move?

- **Expanding reach at global level:** With this move, Prasar Bharati aims to expand the global reach of DD India channel, to put forth the country's perspective on various international developments on global platforms and to showcase its culture and values to the world.
- **Increasing viewership:** The move can be speculated owing to the increasing viewership of OTT platforms in India.
- **Towards development:** The country's age-old DD India channel tying up with an OTT platform is a sure shot precursor of unfolded developments in the coming times.

#### ■ IT Rules, 2021

- The Rules aim to empower ordinary users of social media and OTT platforms with a mechanism for redressal and timely resolution of their grievance with the help of a Grievance Redressal Officer (GRO) who should be a resident in India.
- **Safety measures:** Special emphasis has been given on the protection of women and children from sexual offences, fake news and other misuse of the social media.
- **Source identification:** Identification of the "first originator of the information" would be required in case of an offence related to sovereignty and integrity of India.
- **Appointment of Chief Compliance Officer:** A Chief Compliance Officer, a resident of India, also needs to be appointed and that person shall be responsible for ensuring compliance with the Act and Rules.
- **Complaint monitoring:** A monthly compliance report mentioning the details of complaints received and action taken on the complaints would be necessary.
- **Code of Ethics:** The OTT platforms, online news and digital media entities, on the other hand, would need to follow a Code of Ethics.
- **Self-classification:** OTT platforms would be called as 'publishers of online curated content' under the new rules.
  - They would have to self-classify the content into five categories based on age and use parental locks for age above 13 or higher. They also need to include age verification mechanisms for content classified as 'Adult'.
- **Redressal mechanism:** A three-level grievance redressal mechanism has been mandated. This includes the appointment of a GRO, self-regulatory bodies registered with the Ministry of Information & Broadcasting (MIB) to look after the Code of Ethics and a Charter for the self-regulating bodies formulated by MIB.

## Launch of e-Bill processing system as part of ease of doing business

### Context:

Union Finance Minister Nirmala Sitharaman launched the electronic bill (e-Bill) processing system that seeks to bring in broader transparency and expedite the process of payments.

### Analysis

#### ■ What is the e-Bill processing system?

- The e-Bill processing system aims to enhance transparency, efficiency and faceless-paperless payment system by allowing suppliers and contractors to submit their claims online which will be trackable on a real-time basis.
- In a phased manner, the new system will make the entire process of submission and backend processing of bills completely paperless and transparent.
- The objectives of the system are to provide convenience to all vendors and suppliers of the government to submit their bills and claims at anytime, from anywhere.
- It is seen as a major step forward in realizing the vision of "Digital India" and promoting ease of doing business.
- The system will also eliminate the physical interface between suppliers and government officers, enhance efficiency in the processing of bills/claims and reduce discretion in the processing of bills through the **First-In-First-Out method**.

#### ■ How are Bills from Suppliers and Vendors processed currently?

- The suppliers of various goods and services to the Government have to submit physical, ink signed copies of their bills to the respective ministries/departments/offices of the Government of India.
- Similarly, government employees also need to submit hard copies of their claims. At the backend too, the processing of bills is done through a mixed system of physical and digital modes.
- The suppliers/vendors or their representatives therefore need to visit the offices to deliver bills. Moreover, they are unable to track the status of the processing of their bills.

#### ■ How would the current system change the current situation?

- Under the newly launched e-Bill system, vendors/suppliers can upload their bills online along with supporting documents from the convenience of their homes/offices at any time through digital signature.
- For those not having a digital signature, the facility of e-sign using the Aadhaar has also been provided.
- Hence, the suppliers will no longer be required to visit the offices concerned for this purpose.
- At the backend too, the electronic bill received will be processed by the authorities digitally at every stage and finally, the payments will be credited digitally to the bank account of the vendor.
- The vendor/supplier would be able to track the status of the processing of their bills online.
- The new system will bring a lot of efficiency and transparency in the system and is a big citizen-centric decision of the Government of India.

#### ■ Where has the government implemented this system first?

- The e-Bill system has been developed by the **Public Financial Management System (PFMS) Division in the office of the Controller General of Accounts in the Department of Expenditure, Ministry of Finance**.

- These bills will be processed by the first-in-first-out method.
- The system has been initially rolled out in pay and accounting units of nine ministries/departments. The e-bill system will be rolled out in other ministries/departments in a phased manner in 2022-23.
- In addition to promoting ease of doing business and bringing convenience to lakhs of vendors/suppliers, the e-Bill system will be environment friendly, eliminating the need to submit crores of paper bills annually and will thus save tonnes of papers every year.
- The e-Bill system has an elaborate digital storage facility for the retrieval of documents and a robust audit trail.

## Sealed Cover Jurisprudence

### Context:

- License of MediaOne a television channel in Kerala was cancelled by the Ministry of Information and Broadcasting on the grounds of national security.
- Subsequently, the State High court also dismissed its appeal plea. However, the reasons for invoking national security were not disclosed.

### Analysis

#### ■ How this particular incident infringes upon several Fundamental Rights?

- It compromises right to freedom of speech and expression of the television channel.
- The rights to association, occupation and business are also impacted.
- Moreover, the viewers also have a right to receive ideas and information that gets compromised.
- The most disturbing part of the incident is that state need not even show that its security is threatened.

#### ■ I&B Ministry can regulate the content of which all sectors? and how?

- Originally the Union I&B Ministry had the power to regulate contents of **TV channels, newspapers, magazines, radio and movies in theatres and TV.**
- After the implementation of Technology (**Intermediary Guidelines and Digital Media Ethics Code**) Rules, the regulatory powers of I&B Ministry was extended to internet content also, especially on digital news platforms and Over The Top (OTT) platforms such as Netflix, Amazon Prime etc.
  - In January 2021, **Tandav** on Amazon Prime became the first show on an OTT platform to edit out scenes after direct intervention of I&B Ministry.

This was done after complaints that certain scenes hurt religious and caste sentiments were received.

- The Union Ministry of I&B in the case of MediaOne barred its transmission after the security clearance of the media house was withdrawn by the Union Ministry of Home Affairs.
  - According to the guidelines of the new Rules mentioned above- once a channel is granted security clearance by Union Ministry of Home Affairs, it will be valid for 10 years.
  - But it adds that this can be terminated by the Union Home Ministry at any time within the period.
- Reasonable opportunity has to be given to the media organisation before termination of security clearance by the Ministry of Home Affairs.
- The Union I&B Ministry, under the guidelines of the New Rules, can use its emergency powers to block certain YouTube channels and social media accounts based on inputs from intelligence agencies.

### ■ What earlier Supreme Court judgements have said on the issue?

- It is paramount to ensure that the test of **reasonable restrictions** is satisfied as it is the bedrock of judicial review.
- The Supreme Court adopted the proportionality test in the *Modern Dental College vs State of Madhya Pradesh* (2016) case and reiterated it in the **S. Puttaswamy vs Union of India (2017) case**.
- When an action is alleged to have curtailed fundamental rights, the court is bound to examine the legality of the action through the lens of proportionality.
- This act of executive to not disclose the reasons of using the national security clause even to the other party concerned (here the broadcaster) is opposed to the principles of natural justice.

### ■ How the current High court judgement stands in contradiction to previous SC judgements?

- **First**, there **was no examination of the national security plea** based on the well-established proportionality analysis.
- **Second**, as per a three-judge Bench in the **Pegasus case (Manohar Lal Sharma vs Union of India, 2021)** the state does not get a "free pass every time the spectre of 'national security' is raised".

## Artificial Intelligence in Judiciary

### Context:

- An unstarred question in the Lok Sabha during the first part of the Budget session of Parliament was asked with reference to artificial intelligence and its use in judicial processes to reduce the pendency of cases.
- **Pendency of Cases in India:** The High Courts in India have 57.39 lakh cases and the subordinate courts have 1, 08, 36,087 cases pending.

### ■ What will be the benefits of integrating AI & ML in Justice Delivery?

- **While implementing phase two of the eCourts projects**, under operation since 2015, a need was felt to adopt new, cutting edge technologies of Machine Learning (ML) and Artificial Intelligence (AI) to **increase the efficiency of the justice delivery system**.
- The Supreme Court of India has constituted an **Artificial Intelligence Committee** which has mainly identified application of AI technology in Translation of judicial documents; Legal research assistance and Process automation.
- **ML-based applications in Judiciary:** AI powered tools like SUPACE will not only help organise cases, it will also bring references into the judgment at a speed not seen so far.
- AI will present a more **streamlined, cost effective and time bound** means to the fundamental right of access to justice.
- **Tools derived from AI** could help expedite the case-flow management which in turn helps in lowering delays and pendency in courts.
- The use of software to analyze thousands of previous cases and create a '**judge analytics**'.
- Over the course of the **COVID-19 pandemic**, the use of technology for **e-filing, and virtual hearings** has seen a dramatic rise which can be solved via this technology.

### ■ What are the issues and Challenges associated with AI in Judiciary?

- The use of ML in India's legal sphere has so far been restricted to automating back-end work, and is still a very long way from being used as a decision-making tool for the judiciary.
- Many of the judgments, particularly in the lower courts, are yet to be fully digitized.
- Going by global trends, greater adoption of these tools in the Indian legal system is inevitable.
- AI and ML should assist but do not replace human decision making.
- The ethical and responsible use of AI and ML for the advancement of efficiency enhancement can be increasingly embedded in legal and judicial processes.

### ■ What is the way forward?

- Automated systems, controversially, were being used to decide bail applications in some parts of the United States, and other countries such as Estonia have incorporated AI and ML in a major way.
- But the Indian judicial system is generally "more conservative", and a lot more work remained in making India's legal data amenable to ML formats.
- AI and ML can be tried in tribunals where there is no need for oral evidence and cross examination.
- Consumer courts are an area where AI can be helpful.
  - But in criminal cases where oral evidence and cross examination are key processes, we have to rely on regular human intervention.

## Judicial Appointment: a mix of Judiciary + Executive

### Context:

Appointment of Anoop Kumar Mendiratta as the Judge of Delhi High Court.

### Analysis

#### ■ What is Separation of Powers?

- It is vesting of the legislative, executive, and judiciary powers of government in separate bodies.
- This concept was put forward by French Philosopher Montesquieu.
  - Separation of power is considered important so that the members for judiciary can perform their function as per the law and principle of natural justice without getting influenced by those in power.
  - Organizations like judiciary and the executive branch of government carry the weight of people's trust.
  - And for the sake of safeguarding this trust it is not just important that they carry out their functions in ethical manner, but it is also extremely crucial for the occupants of these high offices to be seen as functionaries that are performing their duties in morally upright way.
  - The occurrence of suspicion, even if this is to a very limited extend, accompanied with the above appointment will dented the confidence of Indian people in both executive and judiciary. This therefore is ought to be avoided.

#### ■ What is Collegium system?

- It is the system of appointment and transfer of judges that has evolved through judgments of the Supreme Court, and not by an Act of Parliament or by a provision of the Constitution.

- Under the system, the collegium decides the following:
  - appointments and elevations of judges and lawyers to the Supreme Court and the High Courts
  - transfer of judges to High Courts and the Apex court

### ■ The procedure

- **CJI and SC Judges:** The President of India appoints the CJI and the other SC judges.
  - **CJI:** As far as the CJI is concerned, the outgoing CJI recommends his successor.
    - ▶ In practice, it has been strictly by seniority ever since the supersession controversy of the 1970s.
    - ▶ The Union Law Minister forwards the recommendation to the Prime Minister who, in turn, advises the President.
  - **SC Judges:** For other judges of the top court, the proposal is initiated by the CJI.
    - ▶ The CJI consults the rest of the Collegium members, as well as the senior-most judge of the court hailing from the High Court to which the recommended person belongs.
    - ▶ The consultees must record their opinions in writing and it should form part of the file.
    - ▶ The Collegium sends the recommendation to the Law Minister, who forwards it to the Prime Minister to advise the President.
- **Chief Justice of HC:** The Chief Justice of High Courts is appointed as per the policy of having Chief Justices from outside the respective States. The Collegium takes the call on the elevation.
- **HC Judge:** High Court judges are recommended by a Collegium comprising the CJI and two senior-most judges.
  - The proposal, however, is initiated by the Chief Justice of the High Court concerned in consultation with two senior-most colleagues.
  - The recommendation is sent to the Chief Minister, who advises the Governor to send the proposal to the Union Law Minister.

### ■ Is the system provided in the Constitution?

- The Collegium of judges is the Supreme Court's invention.
- It does not figure in the Constitution, which says judges of the Supreme Court and High Courts are appointed by the President and speaks of a process of consultation.

### ■ What about 'independence of judiciary'?

- The Constitution of India has embodied the concept of Independence of Judiciary.
- However, the appointment of judges in the High Court and the Supreme Court has been left to the President, who works on the aid and advice of the council of ministers.
- The President shall act in accordance with such advice.

## Role of 'indigenous language' in education

### Context:

MBBS Course to be offered by the Madhya Pradesh government in Hindi medium.

## Analysis

### ■ Provisions for education in mother tongue:

- **Article 350** of the Indian Constitution states that "It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups".
- **The National Education Policy (NEP)** says that wherever possible the medium of instruction in schools until Grade V and preferably until Grade VIII -- should be the mother tongue or the local or regional language.

### ■ Benefits of providing primary education in mother tongue:

- As a child is well versed with his mother tongue, studying in the same language will ensure **faster learning and retention**.
- Teaching in mother tongue and also providing education of any other language/s will lead to **higher synaptic activity** in the brain of a child and this multi-language processing may cause **higher mental agility**. This mental flexibility will transfer to all areas of brain functioning.
- The use of the mother tongue as a medium of instruction will also result in a **higher rate of parental participation** in a child's learning. In India due to a lack of knowledge of English, many parents are unable to participate in their child's schooling effectively.
- Learning in the local language boosts the self-confidence of children and they will be able to express themselves better without any hesitation.
- Mother tongue isn't just a language but a **sense of belonging for an individual**. Learning in the local language helps to preserve our cultural roots and deepen our understanding of our heritage.
- With the use of **local languages for learning**, dropout rates can be dramatically reduced in rural India.
- A lot of students show disinterest to go to school because they are unable to connect with English and with no substitute coaching and lack of parent's intervention, the odds are against them. The use of a known language can dramatically alter the situation.
- The switch to the local language will be a big boon for teachers, the realistic situation on the ground is that many teachers in "English medium" schools are not actually fluent in English and this affects their performance in classroom.
- Knowing more than one language helps in developing new perspectives for an individual and brings in various social and cultural opportunities.

### ■ Arguments in favour of technical education in mother tongue:

- Imparting technical education in mother tongue will help the students who have done their schooling in regional or vernacular language.
- This will help them in understanding the subject in a more comprehensive manner.
- It will aspire students from underprivileged backgrounds to get education in technical courses without spending their valuable resources (time and money) on learning English.
- Students from vernacular medium of education won't have to suffer from inferiority complex in technical education institutions due to their lack of proficiency in English language.

### ■ Difficulties in providing technical courses in mother tongue:

- **Infrastructural issues** stare on the face of implementing the policy of providing technical courses in mother tongue.
- **Translating and producing nationally and internationally renowned materials** in mother tongue would be a Himalayan task leading to logistical nightmare.

- The existing faculties themselves have been trained in their respective technical courses in English. These faculties also have **experience of teaching in English**. Their migration therefore from English to regional languages may not be smooth.
- Implementation of this policy by employing educators how could teach in mother tongue becomes even more difficult when considered that close to **15 percent of the teaching posts across technical education institutes are vacant in the country**. This when technical education today is only in English.
- The biggest concern, among students, is whether studying will hamper their chances of securing an international job after studying in regional languages.

## Positive Secularism in India

### Context:

Argument made in the Supreme Court of India by Senior Advocate Devdatt Kamat stating that India's secularism is 'positive' in nature.

### Analysis

#### ■ What is secularism?

- The definition of secularism that came up after the **French revolution** essentially meant that the State (politics) will maintain distance from religion.
- This was the result of people of Europe and more specifically the people of France not wanting to be governed by the dictates of the Church in all aspects of life including politics.
- In the western societies therefore religion is an 'independent aspect' of life which is considered to be outside the influence of politics.
- This idea of secularism is termed as negative secularism.

#### ■ India's version of secularism:

- Indian version of secularism on the other hand believes in the **vedic** concept called **Sarva Dharma Samubhav**.
- The above concept literally means that the state will be at equidistance from religion.
- It also means that Indian state is not atheists and believes in existence of religion though it does not favor any particular religion.
- Indian Constitution, following to the concept of Sarva Dharma Samubhav, places the responsibility of defending the religious rights of the citizens of India on the Indian State.
- The above is termed as positive version of secularism.

#### ■ Is the concept 'static' in nature?

- The concepts of secularism are not static; it is elastic in connotation.
- In this area, flexibility is most desirable as there cannot be any fixed views in this concept for all time to come.
- The courts decide from time to time the contours of the concepts of secularism and enforce it in practice.

#### ■ How is the above debate relevant to the current petition?

- In the current petition, revocation of order banning Hizab is colleges is sought.

- According to petitioners, wearing hizab is an essential religious practice whose defense falls upon the Indian State including the Supreme Court.

## Gender Justice: Requirement of Policing, For Policing

### Context:

Parliamentary Standing Committee on Home Affairs has recently made an observation that the representation of women in India's police force is abysmally low.

### Analysis

#### ■ What has the Parliamentary Standing Committee on Home Affairs observed?

- The Committee has observed that the representation of women in India's police forces is at 10.3%.
- This, the committee said, is way low than the target of 33% women in police force set by the Government of India in 2009.

#### ■ How do the different states fair on employing women in their police forces?

- States with lower socio-economic indicators have better representation of women** (percentage wise) in their police force.

Bihar, for example, has the highest representation of women in the police force at 25%. Himachal Pradesh comes second with 19%.

- It is also important to note that all southern states, which have better social indicators and are considered to be economically advanced, have a representation lower than the national average, except for Tamil Nadu where it is 18%.

#### ■ Statistics of women in Central Police Forces:

- Reality of representation of women in Central Police Forces is worse than what it is in the state police forces.
- The number of **women employed in the central armed police force**, widely known as the paramilitary force, is 29,249, accounting for just 2.98% of the total number of 9,82,391 personnel.

#### ■ What are the reasons for low representation of women in police forces?

- Structural and attitudinal issues** work against the entry of women in police force.
- Policing is still considered to be a male job** that demands physical strength for which women are considered to be unfit.
- Many a times the **logistics in the police department** do not support the inclusion of women in the force. Prime example of this is limited number of police stations in India having separate toilets for women personnel.

#### ■ Why are more women need in police force?

- Data by report United Nations Women, titled Progress of the **World's Women: In Pursuit of Justice**, categorically shows that **there is positive correlation between presence of women in police force and reporting of sexual assault**.
- More women in police force therefore is an important development towards gender justice.

- According to the **Status of Policing 2019 report**, Policewomen are less likely to have allegations of excessive force against them, and their presence can reduce the use of force by other police officers.
- Studies have consistently found that women possess a number of traits that make them trusted partners to their communities, ultimately helping **to improve police-community relations**.
- Beyond a gender dichotomy, research shows that diverse workforces are more effective, creative and resilient than homogenous workforces, and that teams with broad perspectives are better at making decisions and solving problems.
- Hence including more women to the police force and giving the force more diversity would be an intelligent step.
- It is also important to understand that all institutions like the government and its agencies, occupations like the police and public spaces like classrooms in a democratic society should be inclusive and representative of the society.
- Entry of women in police force should also be encouraged because this job will not only financially empower but also socially uplift them.

■ **Recommendations of Parliamentary Committee for increasing the number of women in police forces:**

- Setting up **at least one all-woman police station in one district**,
- Appointing at least **three women sub-inspectors and 10 women constables** in one station
- Recruitment of **women for additional posts** rather to fill existing posts and assignment of important duties to women police personnel.

## Under-trials in India: Convicted before conviction

### Context:

Deterioration of prison conditions and the prisoners during the pandemic due to lockdown.

■ **Reasons for high under-trial population in India's prisons-**

- **Delay in conducting trials.** This is despite the fact that Right to Speedy investigation and trial is established to be a fundamental right under Article 21 of the Indian Constitution.
- Inability of many under-trials to **furnish the bail amount** or present surety. The primary reason behind this is the socio-economic condition of the most undertrials.
- Most undertrials in India belong to **socially and economically vulnerable category and furnishing a bail** or surety is beyond their capacity.
- Majority of **undertrials in India are illiterate and hence lack awareness of their rights**. Including the right to legal aid.
- **Lack of police personnel** to escort the under-trials to court. This leads to a situation where the hearing of bail petition of the undertrial gets adjourned for no fault of his.
- The above reasons make difficult for an undertrial even when the Indian Legal System, in letters, has promoted that **"Bail and not Jail is the rule"**.

■ **Statistics of undertrials in India:**

- In India, about **70% of prison inmates are under trials**.
- The above number simply means that more than **2/3rd locked of those locked in the prisons** of India have still not been convicted of the offence they are accused of.

- The prison statistics of 2020 also showed that **nearly 70% of this under trials belong to marginalized caste, class, religions and genders.**

### ■ Challenges faced by undertrials in prison:

- **Prison violence:** Jails are commonplace for violence between prisoners or gang-wars. Many first time inmates are caught in these violent incidences.
- First time prisoners are also subject to violence by the hardened criminals in prison.
- **Criminalizing effect of a prison:** With hardened criminals being around and in the absence of scientific classification methods to separate them from others, contamination of first time, circumstantial and young offenders into full-fledged criminals occurs very frequently.
- **Health Problems:** Most of the prisons face problems of overcrowding and shortage of adequate space to lodge prisoners in safe and health conditions. Most of the prisoners found in prisons come from socio-economically disadvantaged sections of the society where disease, malnutrition and absence of medical services are prevalent.
- When such people are cramped in with each other in **unhealthy conditions, infectious and communicable diseases** spread easily.

### ■ What were the efforts taken to decongest the prison during the lockdown?

- By the orders of Supreme Court of India, every state of India established a **High Powered Committee to decongest prisons.**
- The decision to decongest the prisons was taken considering the health and right to life of prisoners and jail authorities.

### ■ How did the HPCs fair?

- The performance of HPCs, in their task of decongesting the prisons was below par.
- The **2020 Prisons Statistics** Report supports the above statement with two data-
  - It reveals that as compared to 2019, "the release of convicts has declined by 41.2 per cent and the release of undertrials has declined by 19.6 per cent" in 2020.
  - Second, as compared to 2019, "the number of undertrial prisoners increased by 11.7 per cent and the number of detainees increased by 11.4 per cent" in 2020.
- HPCs treated this as administrative issue and not a humanitarian one can be considered to be the reason for this state of affair.

### ■ What the HPCs need to do?

The HPCs need to shed their bureaucratic approach and during the time of pandemic view the issue of prison overcrowding from the point of view of public health.

### ■ Recommendation for overall reforms that would better the situation of under-trials:

- Undertrial prisoners should be lodged in separate institutions away from convicted prisoners.
- There should be a proper and scientific classification even amongst the undertrials to ensure that the first timers and petty offenders do not mix up with full fledged and hardcore criminals.
- Institutions meant for lodging undertrials should be as close to the courts as possible.
- Video conferencing between jails and courts should be encouraged and tried.
- Jail visits by the members of judiciary should be more frequent so that the conditions of undertrials can be supervised at regular intervals.
- With undertrial prisoners, adjournments should not be granted unless absolutely necessary.
- There should be a progressive and massive decriminalisation of offences so that many of the wrongs, which now have the status of crimes, are dealt with as compoundable offences which are remediable with compensation.

Compoundable offence is the one in which settlement mechanism exists by which, the offender is given an option to pay money in lieu of his prosecution to avoid prolonged litigation.

## The era of combative federalism (Proposed amendments to Indian Administrative Cadre Rules, 1954)

### Context:

Proposed amendments to Indian Administrative Cadre Rules, 1954.

### Analysis

#### ■ Relations between Centre and State Government as per the Constitution:

- The Constitution of India establishes a **federal polity** in India. This means presence of Union Government at the center and state governments at regional level.
- For effective and efficient administrative functioning of the country, the **Constitution has allotted** both the Centre and the state with **specific domains**.
- The federal structure of India though is not **full-proof** is **tilted towards the Union Government**.
- It also needs to be understood that the framers of Indian Constitution did not possess a divine pen and **presence of ambiguities**, between the areas of operation of Centre and state in the legal framework is only natural.
- The problem further gets complicated when **different political parties are in charge of the governments in the Centre and in the state**.

#### ■ Recent controversies related to disputes between Center and states in India:

- **Passing of farm laws** (now withdrawn) were, according to states, drafted without taking into consideration the views of the latter.
- **The issue of GST compensation** has caused a wedge to be developed between the central and the provisional governments.
- **Action taken by central agencies** like CBI and ED against the leaders of state government, perceived to be done at the behest of the Central government, has led to bittering of relationship between the two sets of government in the country.
- **The extension of territorial jurisdiction** of BSF by the Union Home Ministry is seen as the attack on the powers of state police and has brought the border states of India at loggerheads with the Central Government.

#### ■ What is the Cadre Rules issue?

- The Central Government has proposed the Amendment of the Administrative Cadre Rules, 1954.
- If this proposed amendments are implemented the results will be as follows-
  - It will take away the **liberty of the States to deny consent for handing over Civil Servants, working in state, for Central deputation**.
- If there is a difference between the central and state government with respect to the central deputation of civil servants, who at that particular time is serving the state, then the reason for not releasing him/her should be communicated to the Centre.

- In the event of state not communicating the reason in the above situation, the decision of the Central Government shall prevail.

### ■ What are the current rules on Central Deputation?

- The current rule says that the Central and state government concerned, with concurrence, can depute an officer for services under the Central Government or any other state government.
- In case of difference between the Central and concerned state government, a decision shall be taken on the above matter by both sets of governments together.

### ■ What are the complaints of states against the proposed change in rules?

- Insistence on deputation of an officer would hamper the administration of the state as it would impede the planning of policies and their execution.
- This would be the result because the state would find it difficult to predict the human resource available with the state.

## Human Trafficking, the neglected issue in India

### Context:

Operation AAHT has been launched by the Railway Protection Force to curb human trafficking happening through trains.

### Analysis

#### ■ Operation Aaht:

- Trains are considered to be the most reliable mode transportation for the traffickers for human trafficking. Thus, Operation Aaht has been launched to eradicate the use of trains in this crime.
- As part of it, the infrastructure and intelligence network of the **Railway Protection Force** will be used to collect, collate and analyse clues on victims, source, route, destination, popular trains used by suspects, identity of carriers/agents, kingpins etc. and shared with other law-enforcing agencies.
- The Railway Protection Force would act as a bridge cutting across states to assist the local police in the mission to curb the menace of human trafficking.

#### ■ What is Human Trafficking?

- According to United Nations Office on Drugs and Crime, Human Trafficking is "the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit".
  - **United Nations Office on Drugs and Crime** is an agency of United Nations with headquarters in **Vienna, Austria**.
  - It works in preventing the abuse of drugs, organized crime, corruption and terrorism.
- The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce their victims.

- It is important to note that in majority of the cases of human trafficking, the traffickers are known to the victims.

### ■ Reasons for Human Trafficking to exist:

- **Poverty** is the most important reason for human trafficking to be in existence. Traffickers offer money to parents or other family members of victims and thus push them into slavery.
- **Lack of education** can lead to decreased opportunities for work at a living wage, and it can also lead to a decreased knowledge in rights. Both outcomes can cause people to be at greater vulnerability for human trafficking.
- The **demands for cheap labour and for commercialized sex** lead to opportunities for traffickers to exploit people. Traffickers use these demands conditions to earn profit which is the prime motivation for them to lure victim into been taken away.
- **Social factors and cultural practices** also give impetus to the curse of human trafficking. In some parts of India, bonded labour is seen as an acceptable way to pay off debt. In these cases being bonded labourers or trafficking victims is considered to a norm and hence they usually do not speak about the same even to the human rights groups.
- **Conflict and natural disasters** can lead to economic instability and lack of human rights, giving traffickers an advantage and making people more vulnerable to human trafficking situations.

### ■ Human Trafficking as crime in India:

- It is considered as the second **largest organised crime in India**. Human trafficking is a major issue in India, despite the fact that it is banned under the Indian law.
- As per the **National Crime Records Bureau's** 2016 crime statistics, there were 1,100 cases of trafficking. These numbers stood at 2278 in 2018. There were 2208 cases in 2019 and 1714 in 2020.
- It is important to note that taming Traffickers in India is difficult due to a lack of legal help for survivors and a lengthy trial.
- As per a survey conducted by the Kailash Satyarthi Foundation - It was found that 21% of the households are potentially ready to send their children into child labour due to their increased economic vulnerability.
- About 1/3rd of victims in the cases of human trafficking are women of different age groups.
- Majority of the victims of human trafficking in India are pushed into either forced labour (many of these cases fall under the category of child labour), prostitution, organ transplant, drug peddling and /or begging.
- The States Department of US ranks each country in the Trafficking in Person (TIP) report on one of four tiers, as mandated by the TVPA (Victims of trafficking and Violence Protection Act, 2000). This ranking is based on efforts taken by governments around the world for elimination of human trafficking in their individual country. As per this ranking, India is placed amongst the Tier 2 countries.
- The above finding essentially means that the Indian Government has not been taking enough efforts to put brakes on the practise of human trafficking.

**Section 370 of the Indian Penal Code (IPC)** criminalized trafficking offenses that involved exploitation that included any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, and servitude.

## One Nation, One Election', assessing the idea

### Context:

Elections in 5 states of India in February-March 2022 has once again put the question of One Nation, One Election, i.e. holding simultaneous elections to Lok Sabha and all state assemblies, at the centre-stage.

### Analysis

#### ■ What are simultaneous polls?

- Currently, elections to the state assemblies and the Lok Sabha are held separately — that is whenever the incumbent government's five-year term ends or whenever it is dissolved due to various reasons.
- This applies to both the state legislatures and the Lok Sabha.
- The terms of Legislative Assemblies and the Lok Sabha may not synchronise with one another.
- For instance, Rajasthan faced elections in late 2018, whereas Tamil Nadu will go to elections only in 2021.
- But the idea of "One Nation, One Election" envisages a system where elections to all states and the Lok Sabha will have to be held simultaneously.
- This will involve the restructuring of the Indian election cycle in a manner that elections to the states and the centre synchronise.
- This would mean that the voters will cast their vote for electing members of the LS and the state assemblies on a single day, at the same time (or in a phased manner as the case may be).

#### ■ What are the pros & cons of the idea?

##### Arguments in favour

- **Cost reduction:** One Nation, One Election would reduce the cost of holding elections, and limit all elections to a single event.
- **Public welfare:** The occurrence of elections somewhere or the other almost all the time, according to some, leads to the Model Code of Conduct getting in the way of the government announcing projects or policy plans for the benefit of the people.
- **The Model Code of Conduct** comes into force immediately on the announcement of the election schedule by the commission for the need of ensuring free and fair elections
  - Its main purpose is to ensure that ruling parties, at the Centre and in the States, do not misuse their position of advantage to gain an unfair edge.
  - Model Code of Conduct prohibit launching of scheme or project by Central or state government after the announcement of election schedule.

##### Arguments against

- **Complex process:** It is argued that holding just one mega election (for Lok Sabha and all state assemblies) would be too complex an exercise to be tackled in a country as large and as complex as India.

- **Logistics issue:** Holding of simultaneous elections could be a logistic nightmare — requiring, for example, about twice as many electronic voting machines and Voter Verifiable Paper Audit Trail machines as are used now.
- **Favouring one player:** There is also the view that simultaneous elections would benefit the party that is nationally dominant at the cost of smaller regional players.
- **Going against the basic objective:** The idea of **One Nation, One Election** could also lead to a situation where a particular government, either of the Centre or of any state, may lose confidence of the legislature. In such a case, allowing the government to function would mean going against the basic tenets of parliamentary democracy.

#### ■ Early explorations of the idea:

- In 1983, the Election Commission had suggested simultaneous elections.
- The Law Commission headed by Justice B P Jeevan Reddy, in its 170th Report in May 1999, had stated: "We must go back to the situation where the elections to Lok Sabha and all the Legislative Assemblies are held at once".
- In 2003, Prime Minister Atal Bihari Vajpayee took up the matter with Congress president Sonia Gandhi who was receptive to begin with, but the idea could not be ultimately pursued.
- In 2010, L K Advani discussed the matter with former Prime Minister Manmohan Singh but no result came out of the same.

## Need for Police Reforms in India

### Context:

Union Budget for 2022-23 has increased the allocation to Ministry of Home Affairs. Lion's share of this allocation has been given to police.

#### ■ Need for Police Reforms in India:

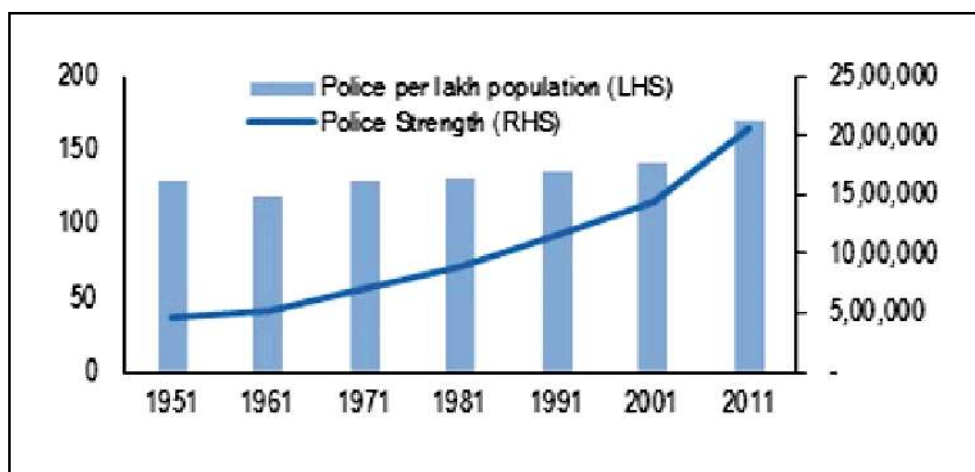
- **Indian Police Act, 1961** was enacted in the Background of the **Revolt of 1857**.
- The Colonial government therefore enacted an Act which was designed in such a way that police would 'rule' the people and not 'serve' them.
- The principle of police in India hence during colonial times was not Peelian, but based on Irish Constabulary.

**Peelian Principles-** These are the principles that summarize the ideas that Sir Robert Peel developed to define an ethical police force.

- After India's Independence, need was felt time and again to reform and restructure the police system in India. The same though has happened only to a limited extent.
- Reforms in police would better the law and order in India and this will result in improved socio-economic conditions of the country.

#### ■ Why police reforms have had limited success in India?

- Law and Order is a state subject and hence enforcing police reforms from Centre is difficult.
- As section of those in power, in politics and civil services, benefit from the colonial system of policing.
- Inertia shown by the stakeholders required to manifest willingness to change that would lead to modernization of police in India.



### ■ Issues plaguing the police establishment in India

- Funds allotted to police forces all over India are only 3% of the combined expenditure of Centre and all the states in India.
- Recruitments in the police departments all over the country is awfully low leading to vacancies of around 24% throughout the country. This adversely impacts police-public ratio.
- It is also important to note that the proportion of personnel working in the police departments is largely concentrated at the subordinate or constabulary level.
- This not only burdens the officials at higher ranks but also leads to concentration of power in the hands of few leading to lack of accountability.
- Corruption has impacted the working of police department and led to deterioration of its functioning.

### ■ Efforts made for the purpose of modernizing police force in India-

- First effort to modernize the police force in India was done by the state of Kerala when in the 1959 it established the **Police Commission** to reform its police force.
- At the national level the earliest initiative to bring reforms was done when the Central Government instituted the **National Police Commission in the 1977**.
- **Nation Police Commission** recommended Amendment of **Code of Criminal Procedure, 1973** and revision of syllabus for IPS probationers. Very little though was done to implement its recommendation.
- The **Padmanabhaiah Committee** on police reforms that was set in the year 2000 looked into police reforms in a comprehensive manner. It recommended modern methods for not only recruiting the police personnel but also their training, patrolling, posting and transfers.
  - Padmanabhaiah Committee also recommended modernization of police forces and police stations all over India.
- **Malimath Committee** set up in the year 2000 was invested with the work of revamping the whole of criminal justice system in India. It paid special attention on technologically modernizing and paying special attention on improving the investigating abilities of the police forces in India.
- **New Model Police** Act was drafted by the Union Government in 2006 and the same was forwarded to the state governments to be implemented. As of now only 16 states have implemented it in limited way.

### ■ Supreme Court's view on Prakash Singh v/s Union of India

- While considering a PIL filed by an eminent former police officer named Prakash Singh, the Supreme Court observed that reforms in the police force have to be undertaken at the earliest and recommended some steps to be undertaken for the same

- Establishment of State Security Commission which would be headed by the Chief Minister or Home Minister of the state and will consist of leader of Opposition in State Assembly, retired Judge of High Court and few non-political independent individuals as its members. This would check the misuse of police forces in India.
- Police Establishment Board to be set up consisting of DGP and four senior police officers. This board would decide on transfer/posting of officers' upto the rank of Dy. SP rank.
- A Police Complaint Authority to be formed and to be headed by retired High Court Judge. This body would decide the fate of police officers who have been alleged to have committed misconduct on duty.
- Merit based process for selection of DGP to take place.
- It is disheartening to know that the monitoring committee appointed by the Supreme Court reported that the states had shown total indifference to its recommendation and only few measure were adopted to bring reforms in the police force.

### ■ Allocation to the police force in Union Budget 2022-23

- The Union Territory of Jammu & Kashmir has been allotted Rs. 4,800 for reshaping of its law and order machinery.
- The Union Territory of Ladakh has been allotted Rs. 3,768 for the purpose building its police infrastructure.
- The Central Armed Police Forces have been allotted Rs. 2,744 crore for infrastructure development.
- The Central Armed Police Forces have been mandated to take up border infrastructure management more effectively and for that purpose allocations have been made to erect barbed wires on fences, install flood lightings, construct roads and construct observation post towers along the border and install hi-tech surveillance.

## The idea of Twitter Governance

### Context:

Telangana government providing governance to the people of state using twitter as the medium of interaction.

### ■ What is twitter governance?

- The state government of Telangana has started using **twitter as a forum for grievance redressal**.
- People of the state have been using twitter to raise issues with the Telangana government concerning health, education, cleanliness etc. and the same are addressed at the earliest by the officials and notified to the aggrieved individuals.

### ■ How effective has this initiative been?

- People reaching out to the state government through the above route to a **large extend have been receiving the required assistance**.
- The method was seen to be **effective during the 1st and the 2nd wave of Covid**, as state government could reach out to those sending SOS due to migrant and food crises in the state.

### ■ What are the merits of using social media to reach government?

- Using social media to make one's grievances heard by the government is **easy and cost effective**.

- The only equipment required for the same are a **smartphone and internet**
- Due to the increase in **the digital workforce of government**, it is more likely that the grievance would be received and addressed to the concerned department for appropriate action to be taken.
- There is almost **negligible time lag** in the process of grievance being sent and it reaching the government.
- People may therefore reach the government and the vice-versa without **brick and mortal apparatus of administration coming in to play**.
- The above therefore is truly creating the scenario of **"Minimum Government, Maximum Governance"**.
- As the person does not have to physically interact with the aggrieved individual, **the scope of corruption drastically reduces**.
- As twitter is an open platform, follow-up of the **grievance and evaluation of the government** in terms of action taken by it to address the concern of the people may be evaluated.

### ■ Why relying on social media alone may not be a good idea?

- In India, **digital literacy is still low** and therefore access to social media platforms such as **twitter is limited**.
- The **workforce** allocated by the government in India to address grievances of people through social medium is still not optimum and increase in both their **number and capabilities is needed**.
- Grievances on twitter may not be sending by the aggrieved person to the concerned department and hence solution to his problem could only happen once he **attends the concerned office in person**.
- There **is no official means in India of holding government personnel accountable** for him not acting on a grievance received through social media.

### ■ Way forward:

- Using twitter or other social media platforms for the purpose of addressing governance issues is a positive step but **attention also needs to be paid to traditional methods** of interaction between people and government.
- **Government servants need to be trained** on getting grievances, whether received through online or offline medium, redressed at the earliest.
- **Administrators also need to empathize** with the problems of the people, which would lead to them taking sincere efforts in providing relief to the citizens.
- **Right to Information Act** needs to cover the grievances send to administrators through twitter, hence accountability of officials not acting on them could be fixed.

## Status of de-notified, nomadic and semi-nomadic tribes

### Context:

A standing committee of Parliament has criticised the functioning of the development programme for de-notified, nomadic and semi-nomadic tribes.

### ■ About the terms:

- Denotified tribes are communities that were 'notified' as being 'born criminal' during the British regime under a series of laws starting with the Criminal Tribes Act (CTA) of 1871.
- After India gained Independence, these tribes were 'de-notified' from the list of Criminal Tribes, and, hence, the term.
- The CTA was repealed and the Habitual Offenders Act (HOA) was enacted in various States.
- Currently, a variant of the HOA Model Bill as proposed by the Union Government stands enforced in 10 States across the country, having been enacted in many more.
- Nomadic and semi-nomadic communities are defined as those who move from one place to another rather than living at one place all the time.

### ■ Steps taken by Government:

- A National Commission for De-notified, Nomadic and Semi-Nomadic Tribes (NCDNT) was constituted in 2006.
  - It was headed by **Balkrishna Sidram Renke** and submitted its report in June
  - The report stated that, "It is an irony that these tribes somehow escaped the attention of our Constitution makers and thus got deprived of the Constitutional support unlike Scheduled Castes and Scheduled Tribes."
  - The Renke commission estimated their population at around 74 crore based on Census 2001.
- A **new Commission** constituted in February 2014 to prepare a state-wise list, which submitted its report in January, 2018, identified 1,262 communities as de-notified, nomadic and semi-nomadic.
- The government set up the **Development and Welfare Board for De-notified, Nomadic and Semi-Nomadic Communities (DWBDNC)** under the Societies Registration Act, 1860 under the aegis of Ministry of Social Justice and Empowerment for the purpose of implementing welfare programmes.
- The DWBDNC was constituted in February, 2019 under the chairmanship **of Bhiku Ramji Idate**.
- Also, a committee has been set up by the **NITI Aayog** to complete the process of identification of the de-notified, nomadic and semi-nomadic communities (DNCs).
- **Ethnographic studies of DNCs** are being conducted by the Anthropological Survey of India, with a budget of Rs 2.26 crore sanctioned.

### ■ Standing committee report:

#### The Committee noted that:

- **At present 269 such Denotified, Nomadic and Semi-Nomadic communities** are specified and a survey is now in under process to place these castes in SC, ST and BC categories.
- The Scheme for economic empowerment of DNT communities formulated to provide coaching, health insurance, facilitate livelihood and financial assistance for construction of homes for the members of DNT, with total outlays **of Rs 200 crore for the period of five years from 2021-22 to 2025-26**.
- However, the DWBDNC **could not spend even a single rupee in 2021-22**.
- The budgetary allocation has been reduced to **Rs 28 crore for 2022-23 against the budgetary allocation of Rs 50 crore for 2021-22**.
- The DWBDNC has not been able to take any decision till date hence they would like the Department to take necessary action in this regard so that these castes are placed either under SCs, STs or BCs and avail benefits.

## Unlocking India's food processing potential

### Context:

The Growing population size of the globe is expected to touch 10 billion by the mid of this century and comes along it is a challenge to feed them by efficient means which are economically and ecologically sustainable.

### Analysis

India's Food processing sector is a sunrise sector, offering huge opportunities for investments with growth aspects. Necessary steps like favourable economic policies and attractive fiscal incentives can boost investments in the food processing industry in India.

### Industry Scenario:

The Indian food industry has a definite role to play in linking its farmers to consumers across the globe. The Ministry of Food Processing Industries (MoFPI) is making efforts to encourage investments across the value chain.

- The food processing industry in India is primarily comprised of grains, sugar, edible oils, beverages, and dairy products.
- The key sub-segments of the Food Processing industry in India are Fruits & Vegetables, Poultry & Meat processing, Fisheries, Food retail, dairy industry, etc.
- The industry engages about 1.93 million people and has a cumulative output of around \$ 159 billion.

#### Some facts about the Indian Food Processing Industry:

- By 2025, India's food processing industry is expected to be worth over half a trillion dollars.
- By 2030, Indian annual household consumption to treble, making India the 5th largest consumer.
- 100% FDI is permitted under the automatic route in food processing industries in India.
- 100% FDI is allowed through the government approval route for trading, including through e-commerce in respect of food products manufactured or produced in India.

### ■ Factors of Growth Drivers in India:

- **Strong economy:** India is one of the fastest-growing economies in the world.
- **Agri-commodity Hub:** India is the largest producer of several agri-commodities like crops, livestock, fruits, cereals, etc.
- **Huge consumer base:** We have a huge market of 1.3 billion consumers with increasing demand for processed food. Changing the dietary habit of its people is adding to the rise in demand.
- **Conducive Policies:** Government policies are proactive and are aimed at providing attractive fiscal incentives.
- **One District, One Product (ODOP):** Under the ODOP scheme, 135 district-specific unique products for 728 districts have been identified across the country.
- **Atmanirbhar Bharat:** PLI schemes worth INR 10,900 crores were introduced under Atmanirbhar Bharat. The PLI is aimed at incentivising domestic players, and making the industry globally competitive with the production of high-value, export-oriented items.

## ■ STEPS TAKEN BY THE GOVERNMENT

### PM Formalization of Micro Food Processing Enterprises (PM-FME) Scheme:

- With initiatives like **Make in India** and the **Atmanirbhar Bharat Abhiyan**, the government has decided to further give a boost to the micro food processing units in the country. Taking inspiration from the **"Vocal for Local"** campaign the PM Formalization of Micro Food Processing Enterprises (PM FME) Scheme was launched.

### ■ Mega Food Parks:

- To provide a mechanism to link agricultural production to the market by bringing together farmers, processors and retailers to ensure maximizing value addition, minimizing wastage. So far 22 Mega Food Parks are operational. Now the target is to take their number to more than 40.

### ■ GIS One District One Product (ODOP) Digital Map of India:

- It is a capacity-building component of the Pradhan Mantri Formalisation of Micro Food Processing Enterprises Scheme (PM-FME Scheme) and GIS One District One Product (ODOP) Digital Map of India, which provides detailed information on ODOP products to all stakeholders.

### ■ Cold Chain Projects to Reduce Food Waste and Boost Exports:

- The policymakers in the agriculture, energy, education and food sectors must work together to promote the use of cold chain technology, improve logistics, maintenance, services, infrastructure, education and management skills, and create sustainable markets for the design, use and funding of cold chains for reducing perishable food losses.
- Introducing cold chain/cold storage in a developing country context requires the integration of a great many different elements and the continuing management of those elements. These projects will fall under the **'Pradhan Mantri Kisan SAMPADA Yojana (PMKSY)'** scheme, with aid from the central government.

### ■ Production Linked Incentive (PLI) Scheme:

- The Union Cabinet has given its approval to introduce the Production-Linked Incentive (PLI) Scheme in Food Products for Enhancing India's Manufacturing capabilities and enhancing exports – Atmanirbhar Bharat. The scheme has an outlay of INR 10,900 crore. The scheme will be implemented over six years from 2021-22 to 2026-27.
- The scheme shall be implemented through a **Project Management Agency (PMA)**. The PMA would, inter-alia, be responsible for the appraisal of applications/ proposals, verification of eligibility for support, scrutiny of claims eligible for disbursement of incentive

### ■ Role of Good-Governance

#### Impact on Food output:

- It is often **observed, that increased spending in public infrastructure positively affects food manufacturing output**. This correlation holds good in India too as higher investments are being concentrated in states such as Gujrat, Maharashtra, Tamil Nadu, Uttar Pradesh and Andhra Pradesh. These states have done fairly well and have been ranked amongst the highest by the **Good Governance Index 2020-21**, in the **'Public Infrastructure and Utilities' parameter with 'Connectivity to Rural Habitations'** showing the highest improvement.
- The logistics challenge of the supply chain is being taken care of by leveraging the existing **PM-Gram Sadak yojana, BHARATMALA, and SAGARMALA schemes**.
- The long-run positive impact of public infrastructure on food output suggests its importance to the food manufacturing sector of continuous public infrastructure investment.

#### ■ Impact of sales promotion on profitability:

- For the exports market, it is an established phenomenon that **sales promotion is positively related to increased sales volume, but inversely related to profitability**. By balancing value-increasing activities with direct investment in advertising and sales promotions, businesses can prosper.

- To bridge this gap, of the **13 key sectors announced under the PLI scheme**, the 'Food Processing PLIS' earmarks a dedicated Category 3 for supporting branding and marketing activities in foreign markets.
- This ensures that India's share of value-added products in the export's basket is improved, and it may also help to increase its proximity to the untapped markets of Europe, the Middle East/West Asia, Africa, Oceania and Japan.

### ■ Challenges and opportunities of the food processing sector:

- Bottlenecks in supply chain infrastructure
- Insufficient connection between production and processing
- Seasonality of operation
- Low-capacity utilisation
- Institutional gaps in supply chain
- Lack of focus on quality and safety standards
- Lack of efforts in product development and innovation.

## Proposed amendment to the IAS (cadre) rules

### Context:

A controversy is raging these days regarding the proposed amendments to the IAS (cadre) rules proposed by the Central Government. This brief aims to understand the current rules and how would the proposed amendments impact the system.

### ■ Understanding the concept of AIS

Before going into the issue, it is essential to understand the concept of All India Services (AIS) as well as the federal structure of the constitution.

- The idea behind the creation of **All India Services** (Indian Administrative Service, Indian Police Service and Indian Foreign Service) has been to have a common perspective between the State Governments and Government of India and that States should also function towards the achievement of national goals.
- Members of these service are recruited by the Central Government and are placed under various State Cadres.
- On selection, IAS officers are assigned to a State cadre where they serve in the district and State Secretariat and acquire knowledge about the ground-level realities.
- They can also opt for central deputation and generally, they spend five years in the Government of India if selected and acquire a national and international perspective.
- He/she carries his/her experience back to the state after his central deputation period is over.
- The All-India character of the service is maintained by the mechanism of giving **1/3 of the vacancies** in a state in a particular year to candidates who belong to the state and the balance is given to the officers from outside the state.

### ■ What are the current rules regarding deputation?

- Central deputation in the Indian Administrative Service (IAS) is covered under **Rule 6(1) of the IAS cadre rule 1954** inserted in May **1969** which states that "a cadre officer may, with the concurrence of the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government".

- It further states that "provided that in the case of any disagreement, the matter shall be decided by the Central Government and the State Government concerned shall give effect to the decision of the Central Government".

#### ■ How a central deputation reserve (CDR) is created and what is proposed now?

- Depending upon the strength of the IAS officers in a particular state a central deputation reserve is created which indicates the number of officers, at various levels, who are eligible for Government of India deputation.
- Based on this, the Central Government asks for an "**offer list**" of officers from which it selects the required officers.
- The Government of India has now proposed an additional condition in **6(1)** which states "provided that each government shall make available for deputation to the Central Government such number of eligible officers of various levels to the extent of the central deputation reserve".
- **Deciding authority:** The actual number of officers to be deputed to the Central Government shall be decided by the Central Government in consultation with the State Government concerned.
- **Disagreement:** In the event of any disagreement the State Governments shall give effect to the decision of the Central Government within a specified time.
- In specific situations where services of cadre officers are required by the Central Government in the public interest the Central Government may seek the services of such officers for posting under the Central Government".

#### ■ What about 'willingness' of Officers?

- It is significant to note that the willingness of the officer concerned to go on deputation to the Government of India is essential as per **rule 6(2)**
- Rule 6(20) states that "no cadre officer shall be deputed except with his consent".
- The clause about posting the officers in the Government of India in **public interest** appears to override this crucial requirement of the willingness of the officer concerned.
- In effect, it would mean that any time the Central Government can pull out an officer from the State Government to serve in Government of India irrespective of the willingness of the State Government or the officer concerned.

## MLAs Suspension, 'Danger to Democracy': Supreme Court

### Context:

12 MLAs from the Maharashtra legislative assembly have gone to the Supreme Court against their 1-year suspension from the state assembly.

### Analysis

#### ■ Argument laid by the suspended MLAs:

They consider the suspension as a "**grossly arbitrary and disproportionate**" one that amounts to:

- Denial of the principles of natural justice
- **Violation of laid-down procedure**
- **Violation of their fundamental right to equality (Article 14):** No hearing or furnishing of written explanations by the MLAs, who had committed contempt of the House.

- **Against Maharashtra Legislative Assembly Rules (53):** The power to suspend can only be exercised by the Speaker, and it cannot be put to vote in a resolution as was done in this case.

### ■ **Suspension of MLAs beyond a session raises questions of rationality:**

- There should be some **purpose of suspension** and the purpose is with regards to the session and should not go beyond that session.
- It deprives the **constituency of being unrepresented** for more than 6 months.
- **Election commission roles get undermined in such a situation as it cannot conduct election in case of suspension of an MLA**, wherein the same is possible in the case of a vacancy or expulsion of the MLA.
- **The fate of democracy gets endangered:** An outer limit on the period for suspending a member of the legislature is essential for democracy as a situation can be perceived in future where a ruling party having a slender majority resorts to such actions to keep the Opposition members out of the House.

### ■ **Observation and references made by the Supreme Court over the suspension of MLAs:**

- **Worse than expulsion:** As the constituency will remain unrepresented and it is like punishing the whole constituency for no mistake and there is no means to fill the vacancy in such scenario. The Supreme court has described such a situation as worse than the expulsion of the MLAs.
- **Referred -Article 190(4) of the Constitution:** As per the relevant rules, the Assembly had no power to suspend a member beyond 60 days. SC observed that while the House has the power to suspend a member, it cannot be for more than 59 days. Also, each constituency has an equal amount of right to be represented in the House, and none can represent these constituencies in the absence of the elected MLAs.
  - Under Article 190(4) of the Constitution, if a member of a House is absent from all meetings without its permission for a period of 60 days, the House may declare the seat vacant.
- **Referred -Section 151 A of the Representation of People Act, 1951:** A constituency cannot go unrepresented for a period beyond 6 months. In suspension, re-election is ruled out and 151 A is also ruled out. Suspension is more onerous than expulsion. The spirit is that the Constituency cannot be left unrepresented for a long time.

## 7th schedule affecting the delivery of public goods

### Context:

In general terms, the public good is something that must be delivered by the government. Since there are layers in our three-tiered structure of governance. Article 246 of the Constitution mentions three lists in the Seventh Schedule — union, state, and concurrent lists thereby affecting the delivery of public goods.

### ■ **The Three List**

Being a Federal Country, in India, the legislative powers are divided between the Centre and the State which is listed under the seventh schedule, Article 246 of the Constitution of India. Based on federalism, Article 246 of the Indian Constitution demarcated the powers of the Union and the State by classifying their powers into the following three lists:

- **Union List:** The Union list comprises those subjects on which only the Union Parliament may enact laws. Under this, subjects of national importance such as foreign affairs, railways, banking, Defence are included.

- **State List:** It comprises those subjects on which the legislature to the state only can make laws such as Public order, police, public health and sanitation, betting and gambling and others.
- **Concurrent List:** This list includes those subjects on which both Union and State have concurrent powers, which includes education, population control and family planning, forests, criminal law, social and economic planning, electricity, marriage, and divorce and others.

#### ■ Rationale behind the list system contained in the Seventh Schedule:

- The Joint Committee Report of 1934 ('JCR') that preceded the enactment of the 1935 Act explains the rationale for the distribution of legislative powers as "an essential feature of Provincial Autonomy and as being itself the means of defining its ambit".
- For this purpose, an unprecedented, exhaustive statutory allocation was considered necessary.
- Further, it was also felt that such a scheme would reduce disputes over the scope of Centre-State jurisdiction. However, the distribution of legislative powers reflects the dominance of the Parliament over the State Legislatures.

#### ■ How is it affecting the delivery of public goods?

- Items have moved from the state list to the concurrent list and from the concurrent list to the union list. Rather than progressing towards decentralization of power.
- Every public good is optimally delivered at a certain level of government. Delivery becomes sub-optimal both above that level and below that level. Most public goods people will think of are efficiently delivered at the local government level, not Union or state level. Most public goods are efficiently delivered at the local government level, not Union or state level.
- Citizens increasingly demand efficient delivery of such public goods. But without delegation of funds, functions, and functionaries, presently left to the discretion of state governments, local governments are unable to respond.

#### ■ Efforts are taken to reform the 7th schedule

- The Rajamannar Committee — formally known as Centre-State Relations Inquiry Committee suggested the constitution of a High Power Commission to examine the entries of Lists I and III in the Seventh Schedule to the Constitution and suggest a redistribution of the entries.
- B Das (former chief minister of Odisha) stated the need for having general principles involved in the selection of Items under Union, Concurrent, and State lists. Such principles will help us to understand the lists much better. However, it was not accepted.
- However, the 1983 Sarkaria Commission and the 2002 National Commission to Review the Working of the Constitution avoided this issue.
- Such limited movements have reflected greater centralization, such as in 1976.
- N K Singh, Chairman of 15th Finance Commission has also often made this point, in addition to scrutiny of Article 282.

## Reaping India's demographic dividend

### Context:

A nation's growth requires the productive contribution of all segments of society, particularly the children and the youth which can yield long-term returns in terms of the high productivity of the economically active population till they enter the elderly cohort.

## Analysis

### ■ What is the demographic dividend?

It refers to the growth in an economy that is the result of a change in the age structure of a country's population.

### ■ What is the overall scenario in India?

- These population parameters indicate the availability of demographic dividends in India, which started in 2005-06 and will last till 2055-56.
- However, according to the Economic Survey 2018-19, India's Demographic Dividend will peak around 2041, when the share of working-age, i.e. 20-59 years, the population is expected to hit 59%.
- **Decline trend in fertility:** The change in age structure is typically brought in by a decline in fertility and mortality rates. As fertility declines, the share of the young population falls and that of the older, dependent population rises. If the fertility decline is rapid, the increase in the population of working ages is substantial yielding the 'demographic dividend'.
- **The window of demographic opportunity:** The smaller share of children in the population enables higher investment per child. Therefore, the future entrants in the labour force can have better productivity and thus boost income. With time, the share of the older population rises and that of the working-age population begins to fall and hence the dividend is available for some time.
- **Demographic Transition:** With falling fertility (currently 2.0), rising median age (from 24 years in 2011, 29 years now and expected to be 36 years by 2036), a falling dependency ratio (expected to decrease from 65% to 54% in the coming decade taking 15-59 years as the working-age population), India is in the middle of a demographic transition.

### ■ Benefits from the demographic dividend

- **Economic growth:** Better economic growth is brought about by increased economic activities due to a higher working-age population and lower dependent population thereby increasing labor force along with rising in women workforce.
- **Policy Framing:** Effective policy making by strictly implementing schemes and programs for the benefit of the people.
- **Rise in employment:** A higher employment-seeking population will lead to the rapid increase of industrialization and urbanization.
- **Increased workforce:** The working-age population rising to 65% will increase the workforce.
- **Swelling labour force:** India's labour force is swelling as its baby boomers reach working age. It would boost India's growth.
- **Effective diversion of resources:** India's population has the potential to divert resources from spending on irrelevant things to investing in physical and human infrastructure.
- **Rise in women's workforce:** There is a rise in women's workforce activity that naturally accompanies a decline in fertility.
- **Easy accumulation:** The fourth is that working ages also happen to be the prime years for savings, which is key to the accumulation of capital and technological innovation.

### ■ Challenges posed by demographic dividends

- However, the realization of the benefits of potential demographic dividends is not automatic and thus presents many challenges.
- Without proper policies, the increase in the working-age population may lead to
  - rising unemployment
  - fuelling economic

- social risks
- This calls for forward-looking policies incorporating population dynamics, education and skills, healthcare, gender sensitivity, and providing rights and choices to the younger generation.

## Act now, recast the selection process of the ECs

### Context:

According to reports, the Chief Election Commissioner (CEC) and his Election Commissioner colleagues have 'attended' an 'informal' meeting with the Principal Secretary to the Prime Minister.

### Background

- **Issue:** The informal meeting has brought renewed focus on the independence and the impartiality of the Election Commission of India (ECI).
- **Reason:** ECI is a constitutionally mandated body that should maintain its distance from the Executive, in perception and reality.

### ■ What is the need to recast the selection process?

- **Due to Multiple accusations:** The ECI has faced multiple accusations of favouring the ruling party.
  - For instance, the Citizens' Commission on Elections (CCE), chaired by the retired Supreme Court judge, Justice Madan B. Lokur, in its report titled "An Enquiry into India's Election System", has highlighted several instances of inaction on the part of the ECI while conducting the 2019 general election.
  - The Government was also accused of hounding (now former) Election Commissioner Ashok Lavasa when he favored taking action against the Prime Minister for violations of the electoral code of conduct.
- **Strengthening the institution:** Changes in the appointment process for Election Commissioners can strengthen the ECI's independence, neutrality, and transparency. The appointment of Election Commissioners falls within the purview of Article 324(2) of the Constitution, which establishes the institution.
- **No change in the old structure:** Pertinently, it contains a 'subject to' clause which provides that both the number and tenure of the Election Commissioners shall be "subject to the provisions of any law made in that behalf by Parliament, be made by the President". Apart from enacting a law in 1991, which was subsequently amended to enlarge the number of Election Commissioners from one to three, Parliament has so far not enacted any changes to the appointment process.
- **Pending Petition:** Three writ petitions, with one pending since 2015, is urging the Supreme Court to declare that the current practice of appointment of Election Commissioners by the Centre violates Articles 14, 324(2), and democracy as a basic feature of the Constitution. These petitions argue for an independent system for the appointment of Election Commissioners, as recommended by previous Law Commission and various committee reports.
- **Several recommendations:** In 1975, the Justice Tarkunde Committee recommended that Election Commissioners be appointed on the advice of a committee comprising the Prime Minister, the Lok Sabha Opposition Leader, and the Chief Justice of India. The Fourth Report of the Second Administrative Reforms Commission additionally recommended that the Law Minister and the Deputy Chairman of the Rajya Sabha be included in such a Collegium.
- **Function of EC:** The "Election Commission is not only responsible for conducting free and fair elections but it also renders a quasi-judicial function between the various political parties including the ruling government and other parties.

- Accordingly, the Executive cannot be a sole participant in the appointment of members of the Election Commission as it gives unfettered discretion to the ruling party to choose someone whose loyalty to it is ensured and thereby renders the selection process vulnerable to manipulation”.

## Suggestive measures

- **Forming a committee:** Establishing a multi-institutional, bipartisan committee for the fair and transparent selection of Election Commissioners can enhance the perceived and actual independence of the ECI.
- Similar to a procedure is already the Chief Information Commissioner, the Lokpal, the Central Vigilance Commissioner, and the Director of the Central Bureau of Investigation.
- The quasi-judicial nature of the ECI's functions makes it especially important that the appointments process conform to the strictest democratic principles.
- **Law enacted by parliament:** Parliament should do well to pre-empt judicial strictures by going ahead and formulating a law that establishes a multi-institutional, bipartisan Collegium to select Election Commissioners.

## SC/ST benefits can be claimed ONLY in one State: Supreme Court

### Context:

The Supreme Court recently said a person declared as Scheduled Caste or Scheduled Tribe in one state cannot claim benefit of his status for employment, education or land allotment in any other state on migration.

### Analysis

#### ■ Key-takeaways from Supreme Court's Judgment

- Being a Scheduled Caste belonging to Punjab and being an ordinarily and permanent resident of Punjab, cannot claim the benefit of a Scheduled Caste in the state of Rajasthan for the purpose of purchase of **land allotted to a landless Scheduled Caste person**.
- A person belonging to Scheduled Caste/Scheduled Tribe in relation to his original state of which he is permanent or an ordinarily resident cannot be deemed to be so in relation to any other state on his migration to that state for the purpose of employment, education etc.
- The top court's judgement in '**Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another**' (1994) would apply with full force in the present case.

#### ■ Who are Scheduled Castes (SCs) and Scheduled Tribes (STs)?

Scheduled Castes (SCs) and Scheduled Tribes (STs) are among the most disadvantaged socio-economic groups in India.

#### ■ Scheduled Caste

- Scheduled castes are sub-communities within the framework of the Hindu caste system who have historically faced deprivation, oppression, and extreme social isolation in India on account of their perceived 'low status'.

- The 2011 Census places the number of scheduled castes in India at 16.6 percent of the total population, or approximately 166,635,700 people.

### ■ Scheduled Tribes

- Scheduled Tribes are classified as marginalised communities on the basis of geographical isolation.
- Primitiveness, geographical isolation, shyness and social, educational & economic backwardness due to these reasons are the traits that distinguish Scheduled Tribe communities of our country from other communities.
- There are over 700 Scheduled Tribes in India according to The National Commission for Scheduled Tribes.

### ■ Constitutional Provision for SC/STs:

#### Article 341:

- The President may with respect to any State or Union Territory and where it is a State after consultation with the Governor thereof, by public notification specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory.
- Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause of any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

#### Article 342:

- The President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory.
- Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community but save as aforesaid a notification issued under 'the said clause shall not be varied by any subsequent notification.

## Tackling Hate Speech and Ensuring Freedom of Expression

### Context:

Hate speech is considered a black spot on the democratic values for a long time. But the use of social media in recent times to spread hate speech has aggravated these concerns because social media is largely unregulated, users are disperse and anonymous, thus making it difficult for the states to regulate hate speech while promoting freedom of expression.

## Analysis

### ■ What is 'hate speech'?

#### Indian context

- Hate speech has not been defined in any law in India. However, legal provisions in certain legislations prohibit select forms of speech as an exception to freedom of speech.
- **Article 19(2)** of the Constitution guarantees freedom of speech and expression to all citizens of India.
- This article is subjected to certain restrictions, namely, sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- Responsible speech is the essence of the liberty granted under **Article 21** of the Constitution.
- One of the greatest challenges before the principle of autonomy and free speech principle is to ensure that this liberty is not exercised to the detriment of any individual or the disadvantaged section of the society.
- In a country like India, with diverse castes, creed, religions and languages, this issue poses a greater challenge.

### ■ What are the reasons of use of Hate speech?

- Hate speech is used by people for multiple reasons-
- It can be used as a means to gain purposive ends of certain individuals like electoral gains.
- It can also be used to demean a particular community or gender and reflect their superiority.
- The stereotypes and rigid ideologies prevents the co-existence of several communities and can result into hate speech.

### ■ Assessing the impacts

Such instances of hate speech can have following impacts-

#### ■ On the victims-

- They may be forced to toe a certain line of thought held by the other community. For instance, female abuse is called as a mean to reflect male superiority.
- A long term feeling of alienation, psychological inferiority can occur which impacts individual autonomy and decision making which is at the core of democratic values.

#### ■ On society-

- It generates intolerance and hatred among various communities which can result into communal hatred and even violence
- It can be demeaning and divisive in nature, creating impacting communal harmony and creating permanent strains on communal ties.
- It challenges the free and open nature of societies as a core theme of democracy.

## Relevant Judicial cases related to hate speech

The related judgements by the honourable Supreme Court in this direction are-

### ■ **Brij Bhushan v. State of Delhi (1950)**

- Hate speech can be curtailed under article 19(2) on the grounds of public order, incitement to offence and security of the State. SC opined that public order was allied to the public safety and considered equivalent to security of the State. This interpretation was validated by the First Constitution Amendment, when public order was inserted as a ground of restriction under 19(2).

### ■ **Pravasi Bhalai Sangathan v. Union of India (2014)**

- The Court observed that the implementation of existing laws would solve the problem of hate speech to a great extent.
- Court also expressed the difficulty of 'confining the prohibition to a manageable standard'. The apprehension that laying down a definite standard might lead to curtailment of free speech has prevented the judiciary from defining hate speech in India and elsewhere.

### ■ **Shreya Singhal v. Union of India (2014)**

- The court declared section 66 A of the Information Technology Act invalid as it did not establish any proximate relationship between the restriction and the act.
- The recent decisions show that the India follows a speech protective regime and the Courts are extremely cautious in restricting article 19 of the Constitution. The reason behind such a stance is the apprehension and fear of misuse of restrictive statutes by the State.

### ■ **Addressing Hate speech**

There is a need to address 'Hate Speech' to ensure individual rights are protected and collective rights are not hampered. Addressing hate speech requires a coordinated response that tackles the root causes and drivers of hate speech.

- In India, following committees gave recommendations in this direction-
- **Bezbaruah committee**- It proposed amendment to Section 153C and Section of 509A of IPC
- **Viswanathan Committee**- It proposed amendment to Section 153C (b) and Section of 505 A of IPC and recommending punishment of up to two years along with a fine of Rs. 5000.

## The state of judicial infrastructure

### Context:

- There is a substantial gap in infrastructure and availability of basic amenities in the judiciary. These gaps or deficiencies are there because there is no agency to ensure use of funds allocated to augment judicial infrastructure.
- In this regard, the brief aims to analyze the concept of the proposed National Judicial Infrastructure Corporation and how it can help the address the persistent issues.

### Analysis

#### ■ **What is Judicial Infrastructure?**

- Judicial infrastructure includes the physical premises of courts, tribunals, lawyers' chambers, and so on.

- It also involves the digital and human resources infrastructure, including the availability of all the resources that are essential to ensure timely dispensation of justice.
- **Key issues:** Key issues like land allocations, tendering, and award of contract, site inspections require active coordination amongst multiple entities.

## ■ Why Judicial infrastructure matters?

- **Better productivity:** The positive correlation between adequate judicial infrastructure and productivity in justice delivery are empirically well-established.
- **Efficient performance:** Adequate and quality judicial infrastructure are the basic pre-requisite for judges, lawyers, and judicial officers to efficiently perform their responsibilities while dispensing justice.
- **Reduced delay and backlogs:** Adequacy of judicial infrastructure is a pre-condition for reducing delay and backlogs in cases. There is a direct connection between physical infrastructure, personnel infrastructure, digital infrastructure, and pendency.
- **Essential during difficult times:** Criticality of adequate judicial infrastructure, particularly the digital, was very much felt during the course of the pandemic when courts were forced to opt for virtual mode.

## ■ What are the reasons behind infrastructural lag?

- **Lack of funds:** One of the primary reasons for the infrastructural lag in trial courts is the lack of funds.

### Scheme for Development of Judiciary Infrastructure

- To develop judicial infrastructure, funds are extended by the central government and states under the Centrally-Sponsored Scheme for Development of Judiciary Infrastructure, which began in 1993 and was extended for another five years in July this year.
  - Under the scheme, the ratio of fund sharing between the Centre and state is 60:40 for all states except those in the Northeast and the Himalayan region where it is 90:10.
  - However, states do not come forward with their share of funds and consequently, money allocated under the scheme is often left unspent with them and lapses.
- **Underutilization of funds:** Not only lack of funds, but underutilization of funds meant for specific judicial infrastructure projects does not help either.
  - **Poor budgetary allocations:** Even after more than seven decades of independence, the budgetary allocations, including states, are still below 1 percent of the GDP.

## ■ How would National Judicial Infrastructure Corporation resolve the crisis?

### The proposed concept

- The proposed NJIAI could work as a central agency with each State having its own State Judicial Infrastructure Authority, much like the National Legal Services Authority (NALSA) model.
  - It has also been suggested that the Chief Justice of India could be the patron-in-chief of the NJIAI, like in NALSA, and one of the Supreme Court judges nominated by the Chief Justice could be the executive chairman.
- **Speedy implementation:** The National Judicial Infrastructure Corporation (NJIC) would act as a coordinating agency to speed up the works.
  - **End bureaucratic hurdles:** It would include the CJI, judges of the Supreme Court, and high courts, finance secretaries of the Centre and states concern. It can quickly end bureaucratic hurdles and challenges of coordination amongst multiple bodies.
  - **Ensuring smooth funding process:** The proposed body is intended to monitor and address the issues of delay in land allotment, funds diversion for non-judicial purposes, evasion of responsibilities by the high courts and trial courts, amongst others.

### ■ Criticism of the concept

- There are doubts about NJIC's necessity and the roles it desires to play.
- Centralization of powers under a new body would go against the principles of federalism.
- The NJIC cannot force the states to spend more or concede powers to a new body.
- There is concern regarding priority to be given by judges to infrastructure projects or to mounting backlog of cases.

## The reality of manual scavenging

### Context:

Despite the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (MS Act, 2013), which prohibits the practice of manual scavenging, it is prevalent across the country.

### ■ What is manual scavenging?

- Manual scavenging in India is officially defined as 'lifting and removal of human excreta manually', at private homes and toilets maintained by municipal authorities.
- As per the "**Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (MS Act, 2013)**" manual scavenging means manually cleaning, carrying, disposing of, or handling in any manner, human excreta in an insanitary latrine.
- It is prohibited with effect from December 2013.
- **Commonly associated people:** Dalit men and women (of various sub-castes, most notably Valmiki).

#### Threats

- Risk of death from asphyxiation due to poisonous gases
- Disease exposure: cholera, hepatitis, meningitis, jaundice, skin disorders and even cardiovascular diseases.
- They often lack access to proper safety gear and equipment.

### ■ Who is to be blamed?

- **Poor governance:** The blame, first and foremost, should lie on the governing structure of the governments.
- **Unequal social structure:** Indian society's deeply unequal social structure based on caste hierarchy and patriarchy is equally culpable.
- **The rich segment:** Moreover, the moral culpability equally lies with the 'neo-middle' and other affluent classes who have been so engulfed in their own lives that they do not care about the issue or questions the government and ensures accountability.
- **Media:** The media too can be blamed, for not giving adequate importance to social issues such as manual scavenging.

### ■ Government measures to end the practice

- **Prevention of Atrocities Act:** In 1989, the Prevention of Atrocities Act became an integrated security guard for sanitation workers; more than 90% of the people employed as handicraftsmen belong to Organized Caste.

- **Manual Scavengers and the Construction of Dry Latrines (Prohibition) Act:** In 1993, the Government of India introduced the Manual Scavengers and the Construction of Dry Latrines (Prohibition) Act prohibiting the hiring of hand-operated scavengers to clean dry toilets and the construction of flush toilets.
- **The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013** prohibits the construction or maintenance of unhygienic toilets, and the hiring of any person by hand cleaning or hazardous cleaning of sewer pipes and swimming pools.
- **Article 21:** The Article guarantees the 'Right to Life' and also with dignity.
- **Swachh Bharat Abhiyaan (Clean India initiative)**
- **Safaimitra Suraksha Challenge**
- **Swachhta Abhiyan App:** It has been developed to identify and geo-tag the data of insanitary latrines and manual scavengers so that the insanitary latrines can be replaced with sanitary latrines and rehabilitate all the manual scavengers to provide dignity of life to them.

### ■ What measures are required?

To assume that a ban on paper would abolish a centuries old practice, deeply vested in caste discrimination, is naive. The government with a strong will need to take the following measures:

- **Education:** educating communities against this dehumanizing practice
- **Strict action:** strict enforcement of criminal penalties
- **Financing:** a genuine financial commitment to overcome the technological barriers

## Reimagining the education sector with online platform

### Context:

- After a gap of more than a year and a half, educational institutes across India are beginning to open their doors to students once again. Learners are gradually returning to conventional modes of classroom teaching, and are being able to access physical libraries and academic resources.
- However, the online trend of education is every indication that this trend is now irreversible. This brief attempts to analyze the rise of platform economy during the pandemic.

### Analysis

#### ■ The new trend set by COVID Pandemic

- The COVID pandemic has jump-started a hitherto sluggish trend (both globally and in India)—“the use of digital platforms to access learning materials”.
- However, during the pandemic, 6 billion children globally were affected by school closures.
- As a new study points out, India's online education market for classes 1-12 is poised to grow more than six-fold to become a US \$1.7-billion market by 2030, while higher education is likely to grow almost four-fold to become a US \$1.8-billion market in the same period.

#### ■ Type of educational platforms imparting education online (Open and Closed)

The rise of a platform economy in India has been a key driver of the surge in online learning.

### Open educational platforms

- Open educational platforms refer to those whose contents are freely available, and on which publishers or research institutions can place their academic products on the basis of their proven credentials as content providers.

### Closed educational platforms

- Closed educational platforms are commercially driven.
- In such platforms, access to content is restricted by paywalls; a commercial publisher or ed-tech firm could be the platform owner; and multiple publishers might enter into an arrangement with the platform to make their contents commercially available.

#### Spectacular growth witnessed by Closed platform during COVID

- Ed-tech platform upGrad's revenues grew by over 100 percent in 2020.
- BYJU's, India's largest ed-tech company, has reported that 40 million new users have joined its platform since the pandemic began.

### ■ Government initiative for e-learning

- SWAYAM:** SWAYAM is a programme designed to achieve the three cardinal principles of Education Policy viz., access, equity and quality. It is the government's national platform for massive open online courses (MOOCS).
- National Digital Library of India:** The National Digital Library of India (NDLI)—an open platform offering free access to over 55 million educational resources.
- Diksha:** This is an initiative of the National Council of Educational Research and Training (NCERT), Ministry of Education, Government of India. DIKSHA can be accessed at [diksha.gov.in](http://diksha.gov.in) by the learners and teachers across the country. It currently supports various courses of NCERT, CBSE and SCERTs across India.
- Free and Open Source Software for Education (FOSSEE):** FOSSEE is a project promoting the use of open source software in educational institutions.
- Other initiatives include:
  - e-ShodhSindhu
  - e-PG Pathshala
  - Swayam Prabha
  - National Programme on Technology Enhanced Learning

### ■ What are the challenges of online learning?

- Lack of internet access:** Some students without reliable internet access and/or technology struggle to participate in digital learning; this gap is seen across countries and between income brackets within countries.
- Good, but only as a supplementary option:** Online education is still not considered permanent alternatives to classrooms. The sector can at best make a useful supplementary learning system.
- Other issues:
  - Uncertainty over accreditation and quality control also remain unresolved.
  - Issue for poor households
  - Unstable electricity
  - Lack of awareness on cyber security and other technical glitches
  - Lack of cultural experience

# At Least 463 Million Students Cut Off From Remote Learning

Students potentially reached by digital and broadcast remote learning programs, by education level\*

■ Potentially reached ■ Cannot be reached



\* "Reached" indicates potential maximums;

"Cannot be reached" indicates minimums, which are likely much higher

Source: UNICEF



statista

## Need of maintaining impartiality and autonomy of Election Commission

### Context:

- The Chief Election Commissioner (CEC) and Election Commissioners have been called by the Executive for a meeting recently.
- In the light of the recent meeting of Election commissioners with the union government, several eyes have been raised regarding the independence and autonomy of the ECI.
- This brief aims to understand the key powers of EC, challenges to exercise it and step needed to assert its autonomy as a constitutional body to uphold democratic value at the helm.

## Analysis

### ■ What are the important functions of ECI?

- **Conducting elections**- It perform the following functions:
  - prepares, maintains and periodically updates the Electoral Rolls
  - supervises the nomination of candidates
  - registers political parties
  - monitors the election campaign, including the funding and expenditure by candidates
- **Model code of Conduct**- It is a set of guidelines issued by the ECI for conduct of political parties and candidates during elections mainly with respect to speeches, polling day, polling booths, portfolios, election manifestos, processions and general conduct.
- **Advisory role**- To advise the President or the Governor of a State, as the case may be, on the question of disqualification of any Member of Parliament or a member of a State Legislature, respectively.

### ■ What are the shortcomings in the EC structure?

- **Tenure on the will of Government**: The CEC and ECs are appointed by the President of India and can only be removed by the Parliament with a two-thirds majority in both the Lok Sabha and the Rajya Sabha on the grounds of proved misbehavior or incapacity. Thus, it enjoys its tenure on the will of the Government of the Day.
- **Toothless**: The situation of political competition in India has intensified, and political parties or actors stepped up violence. However, the election commission could not arrest this deterioration.
- **No say to curb political finance**: Election commission remains ineffective to curb the political finance. The politicians during the election violating the model code of conduct and also postponed/canceled elections, if the credibility of the election commission is compromised.
- **Unaddressed issues**: There is a rising concern related to problems like as of voter bribery and paid news, which the ECI has not been able to address so far.
- **Inefficient functioning**: Several critics have raised questions about the inefficiency of the election commission in the case of not to combat black money and other illegal inducement used during the electoral process.

### ■ Where does the Constitution lack?

- The Constitution has not prescribed the qualifications of the members of the Election Commission.
- The term of the members of the Election Commission is also not defined in the constitution.
- The Constitution has not debarred the retiring election commissioners from any further appointment by the government.
- Under Representation of People's act (1951), the Election commission has no powers to deregister the political parties.

### ■ Why distance is important between executive and ECI?

- The Election Commission functions independently from the executive branch and the commissioners maintain a distance from the government. The wide berth is maintained by the poll panel to avoid any external pressure.
- ECI's communication with the government is commonly restricted to the law ministry, and to the home ministry for security arrangements during voting days. According to protocol, if needed, the government officers schedule meetings with the three commissioners, but the latter do not attend meetings or discussions with the administration's officials.
- There is a need to maintain an adequate distance between the two organs of the democracy. This will ensure that elections are conducted in a free and fair manner thereby upholding the basic structure of the constitution.

The Supreme Court, in its 1995 order in the **TN Seshan vs Union of India case**, had also stressed on the need for the Election Commission to remain independent

## Suggestions

As the role of Election Commission is vital to the democratic setup of India and uphold the basic structure of the Constitution, several steps are needed to strengthen it.

- **Appointment-** Tarkunde Committee (1975) suggested the use of collegium system of appointment for Election commissioners. It will reduce President's and thus, executive choice.
- **T&C:** Parliament should provide for the qualifications and terms of the members of the Election Commission.
- **Model code of conduct (MCC)** - It is voluntary at present and it can be given a legal sanction.
- **Learning from global examples-** In Canada Chief electoral officer directly reports to Parliament and in USA Federal Election Commissioners are appointed by the President with the advice and consent of the Senate.

### Important reports to bring reforms in ECI

- The reports of **Dinesh Goswami Committee** on Electoral Reforms (1990)
- **Indrajit Gupta Committee** on State Funding of Elections (1998)
- **Law Commission's Report** on Reform of the Electoral Laws (1999)

## Relevance and challenges to Democracy in the present scenario

### Context:

Recently, India participated in the first stage of the 'Summit for democracy' which was virtually hosted by the President of USA. In the light of recent challenges faced by countries, this summit holds much significance for India and world.

### Analysis

#### ■ What is the 'Summit for Democracy'?

- It is a **flagship initiative** by the President of USA to put democracy and human rights at the heart of U.S. foreign policy. Summit for Democracy will take place in two stages-
- The first stage of the Summit was leader level event held virtually on December 9-10, 2021. The second will be held approximately one year later.
- **Focus areas of the summit :**
  - Strengthening democracy and countering authoritarianism
  - Fighting corruption
  - Promoting respect for human rights.
- **Aims of the summit-**
  - It aims to show how democracies can deliver on the issues that matter most to people: strengthening accountable governance, expanding economic opportunities, protecting human rights and fundamental freedoms, and enabling lives of dignity.

- It also aims at showing how open, rights-respecting societies can work together to effectively tackle the great challenges of our time, such as the COVID-19 pandemic, the climate crisis, and growing inequality.

### ■ Importance of the summit

- **Mutual learning**- It has led to sharing of views on democracy and democratic institutions by various participants. It's an opportunity to listen, learn, and speak about the challenges faced by democracies across the world.
- **Bolstering democracy**- Participating governments have pledged to support domestic and international commitments in the shared push to bolster democracy from local to global levels.
- **Human at the center of policy making**- It will also lead to promotion of human rights, reduction of corruption in the public policy and strengthening of global democratic institutions for the greater good of citizens.
- **Sense of safety**: The summit was in recognition of the fact that democracy is on the defensive around the world.

### ■ Need of preservation of democracies across the globe

- **Inclusive and relevant**- It is experienced that societies that respect and defend democratic institutions, the rule of law, human rights and fundamental freedoms, and gender equality are more stable, prosperous, secure, and better equipped to confront global challenges.
- **Sense of responsibility**: Individually and collectively, democracies must continually demonstrate that they can deliver for their people.
- **Role of citizens**- While citizens are the key beneficiaries of the democracy, they are also the key participants in a democracy; therefore their empowerment is a crucial aspect of democracy.

### ■ Why India is getting criticized?

- India has been criticized for the use of sedition, defamation and counter-terrorism laws such as the **Unlawful Activities (Prevention) Act** to silence critics, and control over citizens privacy including with invasive high-tech surveillance.
- The country is also getting criticized for:
  - crackdown on the protests against the **Citizenship Amendment Act (CAA)**
  - handling of lockdown due to COVID-19 pandemic

### ■ Success of India's democracy-

However, Indian democracy has been successful in a variety of ways that can serve as an example for the world. These include-

- **People's participation**: The essence of democracy is the participation of the people in the day to day affairs of the state.
- **Elections**: India has been successful in carrying out regular elections from local to national level, despite the cultural diversity and vast size of the country.
- **Reservation**: Affirmative actions like reservation for SC and ST at all levels and for women at local level election has made policy making inclusive and participative.
- **Just Judiciary**: Constitutional values are protected and defended by the judiciary time and again in her various.
- **Right assertion**: Legislations such as RTI and Lokpal have shown political commitment to give voice to common man to assert their rights.
- **Social Security**: Various initiatives by the central government like RTE (right to education) and PDS (public distribution system) have been beneficial in providing physical as well as social security to disadvantaged people.

## ■ What measures are essentially required for improved democracy?

As the benefit of people is the key desired outcome of a political state, the following steps can help in bolstering it:

- **Access to basic human rights:** For participation in governance, the citizen has to be equipped at least with basic human rights such as the right to live without fear or insecurity, right to employment and adequate standard of living, right to enough free education, right to free health services and right to clean and decent environment.
- **Effective economic order:** The country must have a rational, planned and scientific economic order which will ensure first and foremost the empowerment of every citizen by providing them with basic human rights.
- **Inclusive development:** Broadening the scope of democratic institutions to include civil society, private agencies and local government to ensure policy making and policy implementation is inclusive.
- **Equality (in every sense):** The next requisite for a democracy is to have social and economic equality and in any case, the least possible inequality.
- **Focusing more on values:** There is a need to focus more on democratic values than as a political institution. The values include respect for human rights, freedom of speech and expression and making citizen at the center of democracy.
- **Collaborative approach at global level:** At global level, the presence of diverse political institutions (like monarchy, communism) needs to be accepted with a broad consensus on minimum rules and rights for the citizens.

## The Sixth Schedule of Ladakh

### Context:

A latest demand has arisen from Ladakh that the region should be included in the Sixth Schedule of the Constitution to safeguard land, employment, and cultural identity of the local population.

## ■ What is the Sixth Schedule?

- Passed by the Constituent Assembly in 1949, the Sixth Schedule under Article 244 seeks to safeguard the rights of tribal population through the formation of Autonomous District Councils (ADC).
- ADCs are bodies representing a district to which the Constitution has given varying degrees of autonomy within the state legislature.
- Autonomous District Councils (ADCs) are the autonomous administrative divisions that have some legislative, judicial, and administrative autonomy within a state.
- ADCs have up to 30 members with a term of five years.
- It can make laws, rules and regulations with regard to land, forest, water, agriculture, village councils, health, sanitation, village- and town-level policing, inheritance, marriage and divorce, social customs and mining, etc.

## ■ Powers conferred to Governors

- The governors of these states are empowered to reorganize boundaries of the tribal areas.
- In simpler terms, she or he can choose to include or exclude any area, increase or decrease the boundaries and unite two or more autonomous districts into one.
- They can also alter or change the names of autonomous regions without a separate legislation.

### ■ Understanding the 'crux' of Ladakh's demand?

- At the heart of the UT's demand is power. The UT status came without a legislative Council and instead, even the existing powers of LAHDC got shifted to the Lt Governor.
- The demand now is that the local Councils are empowered with legislative power by bringing them under the ambit of Sixth Schedule of Article 244(1) of the Constitution.
- They demand a Bodoland-type power arrangement that protects the rights of indigenous people over their land with legislative subjects that are exclusive to local governments without interference from Central Laws.
- A similar provision under Article 371 (A) is given to other areas such as in Nagaland in respect of the religious, social practices, customary law of the Nagas.

### ■ Can Ladakhis be described as vulnerable community?

- Ladakh is known as a part of the global **Buddhist civilisation or Islamic heritage** that cannot be described as a 'primitive' or 'vulnerable' community
- **Diverse and rich cultural setting:** Ladakh is historically perceived as a cosmopolitan region with centuries of multiple cultural settings. It was an Asian pivot – the people here traversed diverse cultural boundaries and engaged with ideas.
  - Its Buddhist community resembles nothing like the Chakma tribes in the Northeast.
  - The Baltis and Purigs of Kargil cherish their rich Persian Shia and Sufi heritages.
- **High education level:** The region had the highest literacy rate (82 percent) in J&K.
- **Social equality:** A great deal of social equality exists; the women enjoy high status in every aspect of life.
- **Elite population:** It has a highly westernised Buddhist and Balti elite which send children to study in India's top-public schools.

### ■ What steps are actually needed for Ladakh?

- **Heritage protection:** Ladakh was once an ancient Western Himalayan Kingdom with a profound cultural backdrop. Its rich Buddhist, Balti and Dardic cultural heritage requires a much higher degree of protection.
- **Policy measure:** A prudent policy step would be to consider Ladakh under the ambit of protecting the Himalayan heritage – its people, culture, environment and security.
- **National Commission:** A national commission is urgently needed to review the issue as also addressing the Ladakhi demand so as to bring about a necessary law by the Parliament.

## Balancing National Security and Fundamental Rights in Environmental Cases

### Context:

- Frequent flooding, forest fire, earthquake and other calamities are causing incalculable loss and damage to an already fragile ecosystem.
- Such loss demands a balance between security and fundamental rights of the citizens in the environmental cases.

### ■ How climate change is threatening human rights?

- Human rights express the entitlement of all people to be treated equally, to live their life in safety and freedom, and to be protected by their government.

- Climate change affects many of the human rights, such as right to life, health, food, and an adequate standard of living.

During **COP 24**, the UN climate change conference in Poland, 34 UN human rights experts – on issues ranging from business, development, and environment – called upon countries to take human rights-based climate action in line with the 1.5C temperature target in the Paris Agreement.

### ■ Is climate change, a case of 'national security'?

- Security can no longer be confined to national security threats or international relations alone. Off-late, the world over environmental changes has now also been listed as security threats.
- It is believed that changing environmental conditions may affect war fighting capability, the existing defence works, and elaborate communication infrastructure.

### ■ Why changing climate is a threat to national security?

- **Affected mobility in warfare**
- **Affected military operation:** Flash floods out of glacier melt can complicate military planning and would affect the campaign season, logistics, surface mobility and weaponry platforms.
- **Wear and tear:** High temperature would result in wear and tear on equipment and demands of more water.
- **Naval operations:** Rise in water levels would affect Indian Navy at all levels of warfare—strategic, operational and tactical—impinging on issues of maritime boundaries, exclusive economic zone (EEZ), post operations, shallow water operations, notably for submarines and naval tactics
- **Affected performance of Air Force:** The climate change would affect the performance of the aerial platforms, as well as that of the munitions, delivered from these platforms, because weather plays a key role in weapon delivery, particularly in the case of standoff weapons and laser-guided munitions.

### ■ Role of state to protect environment (Environment and Indian Constitution)

The Directive Principles of State Policy (DPSP) and the Fundamental Duties chapters explicitly enunciate the national commitment to protect and improve the environment.

Three constitutional provisions bear directly on environmental matters.

- **Article 21 states:** "No person shall be deprived of his life or personal liberty except according to procedure established by law." In *Subhash Kumar v. State of Bihar*, A.I.R 1991 SC 420, and *Virendra Gaur v. State of Haryana*, (1995) 2 SCC 577, the Supreme Court recognized several liberties that are implied by Article 21, including the right to a healthy environment. The State High courts have followed the Supreme Court's lead, and virtually all now recognize an environmental dimension to Article 21.
- **Article 48A** requires that "the State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country."
- **Article 51A** establishes that "it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wild life and to have compassion for living creatures."

### ■ SC's view on clean environment

- For years the Supreme Court has held that the 'right to clean and safe environment' is a fundamental right (**Subhash Kumar vs State of Bihar; Rural Litigation and Enlightenment Kendra vs State of UP; C. Mehta vs Union of India; Charan Lal Sahu vs Union of India; T.N. Godavarman vs Union of India**).
- When there is an identifiable risk of serious or irreversible harm to the environment, including, for instance, extinction of species, major threats to ecological processes, the burden of proof shall be placed on the person or entity proposing the activity that is potentially harmful to the environment.

- This is also known as the precautionary principle (Vellore Citizen's Welfare Forum vs Union of India).
- It is this burden that the state has wanted to shift by raising the argument of **national security** in the Char Dham project case thinking that the court will grant it complete authority.
- The law laid down in L. Sharma, therefore, becomes crucial and significant.

## Analyzing the concept of Default Bail

### Context:

- The Supreme Court dismissed the National Investigation Agency's petition challenging Bombay High Court order granting bail to advocate and activist Sudha Bharadwaj, arrested in Bhima Koregaon case.
- This brief attempts to analyze the concept of bail in India and its actual implementation in today's time.

### Analysis

#### ■ What's the case?

- Bharadwaj was arrested on August 28, 2018 in connection with the Bhima Koregaon/Elgar Parishad case under the Unlawful Activities Prevention Act (UAPA).
- Unlawful Activities Prevention Act (UAPA), an anti-terror law that suspends the fundamental, constitutional rights of those arrested.
- Now, HC has granted default bail to activist-lawyer **Sudha Bharadwaj in the 2018 Bhima Koregaon case under Section 167(2)** of the Criminal Procedure Code.
- The high court stated in its order that Bharadwaj, accused of being part of a conspiracy to overthrow the Union government, was entitled to bail and its denial would be in breach of her fundamental right to life and personal liberty guaranteed under **Article 21** of the constitution.
- The National Investigation Agency (NIA) approached the Supreme Court against the Bombay High Court order, which got dismissed by the apex court.

#### ■ What is default bail?

- Also known as **statutory bail**, this is a **right to bail** that accrues when the police fail to complete investigation within a specified period in respect of a person in judicial custody.
- This is enshrined in **Section 167(2)** of the Code of Criminal Procedure where it is not possible for the police to complete an investigation in 24 hours, the police produce the suspect in court and seek orders for either police or judicial custody.
- This section concerns the total period up to which a person may be remanded in custody prior to filing of charge sheet.
- For most offences, the police have 60 days to complete the investigation and file a final report before the court.
- However, where the offence attracts death sentence or life imprisonment, or a jail term of not less than 10 years, the period available is 90 days.
- In other words, a magistrate cannot authorise a person's judicial remand beyond the 60-or 90-day limit.
- At the end of this period, if the investigation is not complete, the court shall release the person "if he is prepared to and does furnish bail".

## ■ Principles on Default Bail

- **A right:** Default or statutory bail is a right, regardless of the nature of the crime.
- **Stipulated period:** The stipulated period within which the charge sheet has to be filed begins from the day the accused is remanded for the first time.
- It includes days undergone in both police and judicial custody, but not days spent in house-arrest.
- **Requirement:** A requirement for the grant of statutory bail is that the right should be claimed by the person in custody.
- If the charge sheet is not filed within the stipulated period, but there is no application for bail under Section 167(2), there is no automatic bail.
- In general, the right to bail on the investigation agency's default is considered an 'indefeasible right', but it should be availed of at the appropriate time.

## ■ Right to Default Bail: Statutory or Fundamental?

### As per a recent judgment by Delhi HC-

- "The right to seek default bail under **Section 167(2)** CrPC is a fundamental right and not merely a statutory right, which flows from Article 21 of the Constitution of India. It has been held to be an indefeasible part of the right to personal liberty under Article 21 of the Constitution of India, and such a right cannot be suspended even during a pandemic situation. The right of the accused to be set at liberty takes precedence over the right of the state to carry on the investigation and submit a charge sheet."

## ■ Types of Bail

Bail is a provisional release of a detained person, who is accused of a criminal offense and therefore the judgment is yet to tend.

### There are 3 types of bail Regular, Interim and Anticipatory.

- **Regular bail-** A regular bail is generally granted to a person who has been arrested or is in police custody. A bail application can be filed for the regular bail under Section 437 and 439 of CrPC.
- **Interim bail:** Interim bail is granted for a short period of time and it is granted before the hearing for the grant of regular or anticipatory bail.
- **Anticipatory Bail:** If any person has reason to believe that he/she may be arrested for non-bailable offence, he/she may apply to Sessions court or High court for anticipatory bail praying that in the event of arrest, he/she shall be released on bail (Section 438 Cr.PC).

## Global Nutrient Report 2021

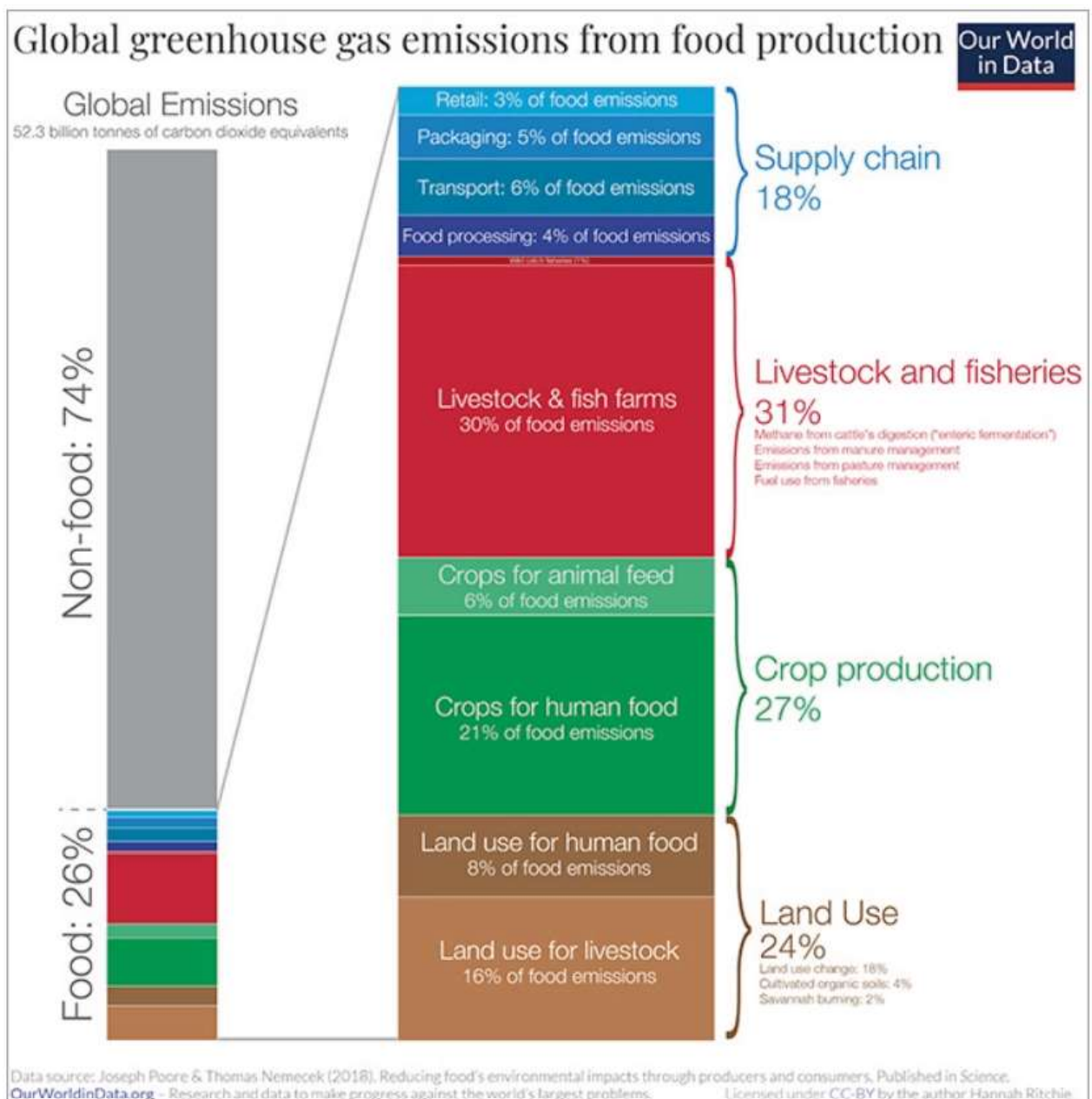
### Context:

According to a recent report by the Global Nutrition Report (GNR, 2021), India has made little progress in terms of 'anaemia' and 'child abuse'.

### Important Findings

- **Global Food Targets:** With the current level of progress, global targets will not be achieved by 2025 globally and in many countries around the world.

- **Variation in Data Access:** There are significant differences in data availability and progress in targeting global nutrition in 194 countries. Only seven countries are on track to meet four of the six nutritional goals for mothers, infants and young children by 2025, and no country is 'on track' to stop the growth of obesity in adults or to achieve a 30% reduction in salt / sodium intake. .
- **Impact of Covid-19:** The Covid-19 epidemic is hindering progress toward achieving global nutrition goals. An estimated 155 million more people have been thrown into extreme poverty worldwide, and people with food borne illness are experiencing side effects of Covid-19.
- **Small Food Development Developments:** The last ten years have seen little progress in food development, and a quarter of all deaths among adults are due to malnutrition.
- **Greenhouse Gas Emissions Worldwide:** Food production currently produces more than a third of all greenhouse gases worldwide, and it uses a large and growing amount of natural resources.
- **Principles of Sustainable Development:** No region is in the process of meeting the Sustainable Development Goals aimed at limiting the health and environmental risks associated with food and the food system.

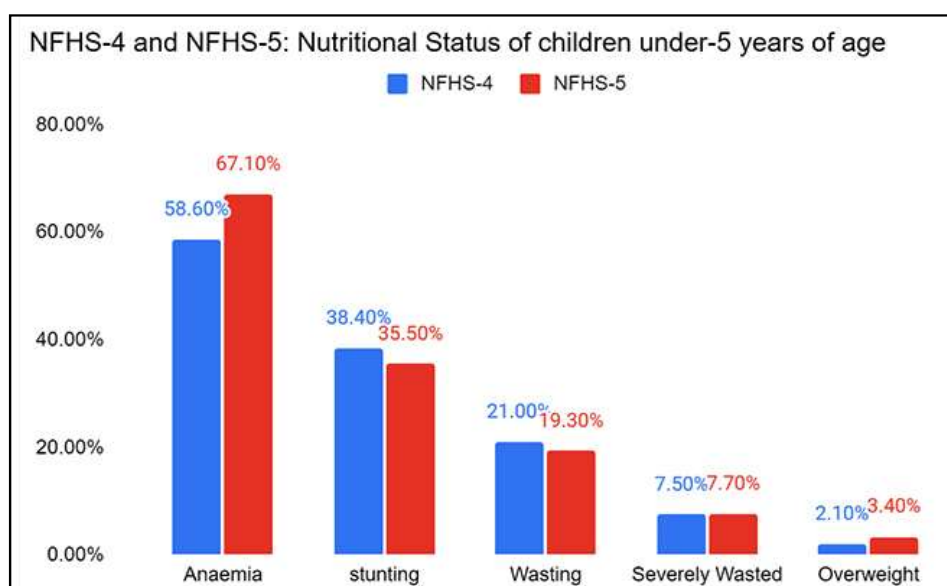


### Global Nutrition Targets

In 2012, the World Health Assembly (the decision-making body of the World Health Organization) identified six nutrition targets to be met by 2025. These are:

- Reduce stunting by 40% in children under 5.
- Reduce the prevalence of anaemia by 50% among women in the age group of 19-49 years.
- Ensure 30% reduction in low-birth weight.
- Ensure no increase in childhood overweight.
- Increase the rate of exclusive breastfeeding in the first six months up to at least 50%
- Reduce and maintain childhood wasting to less than 5%.

### Data Related to India:



- **Indian Women with Anaemic:** More than half of Indian women 15-49 years old have anaemia. There has been an increase in Indian women with anaemia from 2016 from 52.6% to 53% by 2020.
- **Child Abuse:** More than 17% of Indian children under the age of 5 are affected. India is also among the 23 countries that have made little or no progress in reducing 'child abuse'. Waste means children who are underweight for their height.
- **Child Surprise:** More than 34% of children under the age of 5 are still affected. India is among 53 countries 'on the road' to meet the challenge of hardship. Toughness is defined as the minimum length of years.
- **Childhood Obesity:** The country is among 105 countries 'on track' to meet the goals of 'childhood obesity'.
- **India Conference Targets:** India meets 7 of the 13 global targets of nutritious foods including sodium, high blood pressure (both men and women), obesity (both men and women) and diabetes (both men and women).

### Reason for lacking behind

- **Inequality and social exclusion:** In recent years, India has become self-sufficient in grain production and has enjoyed steady economic growth. Despite this success, there is no alleviation of poverty, food insecurity and malnutrition in the country.
  - In a report, WFP revealed, almost 21.25% Indian population lives on USD 1.90/day with a huge spectrum of inequality and social exclusion.

- **Growing prevalence of food insecurity:** In 2019, India had 6.2 crore more people living with food insecurity, which increased by 3.8% between 2014 and 2019. The COVID 19 pandemic and subsequent lockdown has made food insecurity worse by disrupting the food distribution system across large parts of India.
- **Inadequate focus:** In 2019, NITI Aayog's 'Strategy for New India @ 75' report found that India's main nutrition program platform, Integrated Child Development Services (ICDS) has inadequate focus on the first 1000 days of the child's life. This report argued that the program mainly delivers services to children aged 3 to 6 years old, whereas children under 2 to 3 years of age should be given the highest priority to ensure optimum growth and development among young children.
- **Poor implementation of PDS System:** There are persistent problems in India's PDS such as fake supply of ration cards leaving the poor left out, selling the commodities on the open market, not supplying permitted amounts of food grains by the fair price shops, replacing good quality food grains with cheap varieties, etc.

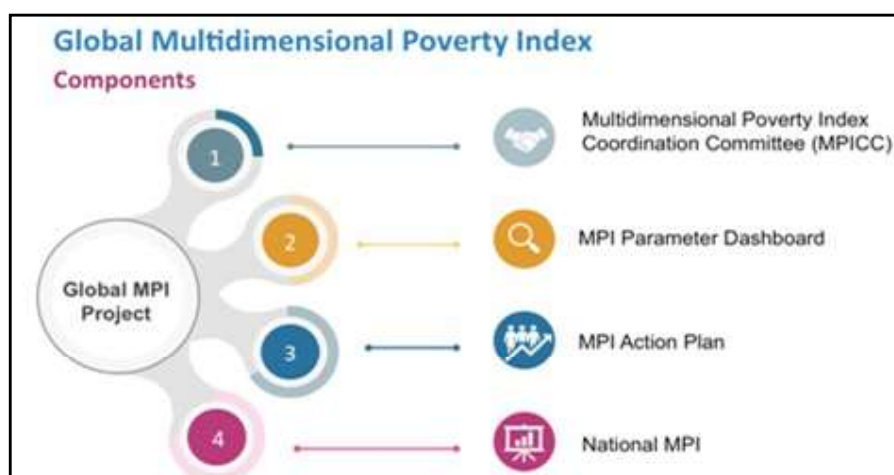
### Suggestions to meet the target

- **Holistic approach:** The first step for India to combat the dual burden of malnutrition, nutrition inequality, and food insecurity is to fill the gaps in the nutrition composition of the daily diet.
- **Maintaining good diet:** Ensuring sustainable eating by adding nutrient-dense, climate-smart crops such as millets to the Indian daily diet could be rewarding in preventing nutritional deficiency and diet related NCDs.
- **Policy initiatives** are urgently needed to transform the existing food system by involving all stakeholders.
- **More finance** is needed to meet additional requirements to address pandemic-induced nutritional loss.
- **Monitoring:** At the same time India needs a better data management system, greater accountability in the food distribution system, efficient resource management, adequate nutrition education, reinforcement of manpower and systematic monitoring to aim at achieving global nutrition targets by 2030.

## National Multidimensional Poverty Index: NITI Aayog

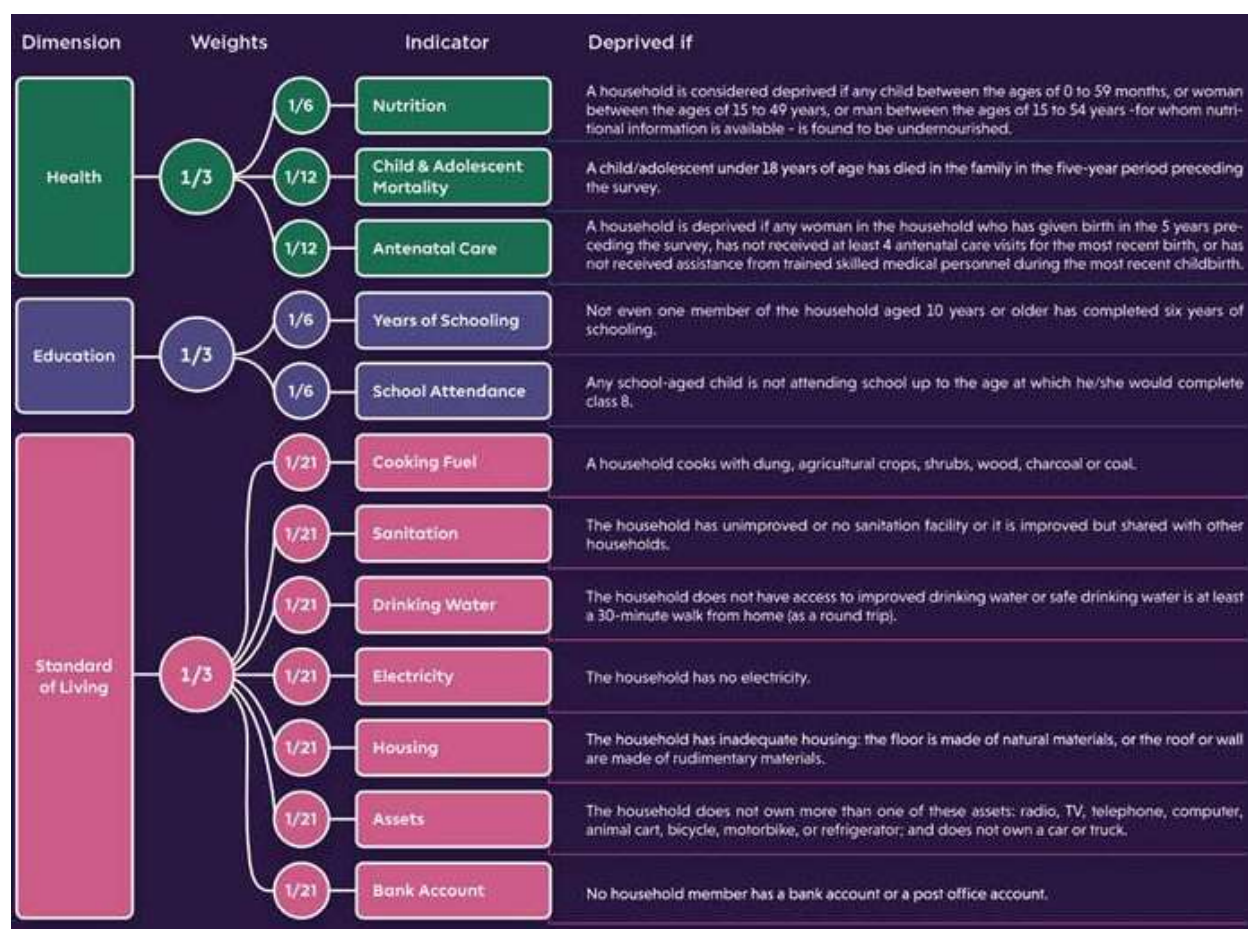
### Context:

The government think tank NITI Aayog has released the National Multidimensional Poverty Index (MPI).



## ■ What is Global Multidimensional Poverty Index 2021?

- **Earlier published by:** Earlier, the Global Multidimensional Poverty Index 2021 was released by the United Nations Development Program (UNDP) and the Oxford Poverty & Human Development Initiative (OPHI).
- **Aim:** MPI aims to measure poverty in all its many aspects and actually complements existing poverty statistics based on individual spending expenditures.
- **Global MPI:** According to the Global MPI 2021, the Indian standard is 66 out of 109 countries. National MPI aims to eliminate the global MPI and create a global-oriented MPI for India to design broad-based Transformation Programs with the ultimate goal of improving India's position at Global MPI levels.
- **Dimension:** It has three equal dimensions - health, education and standard of living.



- **Categories:** These three categories are represented by 12 indicators such as food, schooling, schooling years, drinking water, sanitation, housing, bank accounts among others.
- **Approach:** The national MPI scale uses an internationally accepted and dynamic approach developed by the Oxford Poverty and Human Development Initiative (OPHI) and UNDP.
- **Base year:** This basic report of the national MPI rating is based on the 2015-16 National Family Health Survey (NFHS-4).
- **Why NFHS-4:** NFHS-4 data was used to identify the concept of various basic poverty to determine the situation before the full introduction of centralized government programs.
- **Indicators:** NFHS-4 preceded the full implementation of programs (of central government) affecting housing, drinking water, sanitation, electricity, cooking oil, investment, and other major efforts to improve schooling, nutrition, maternal and child health, etc.
- **Suggestion:** However, it should be noted here that NFHS-5 data suggests improvements in access to clean cooking fuel, sanitation, and electricity which means a reduction in demand.

## ■ Key-Findings of the Index:

### ◦ Poverty Levels:

- Bihar has the highest number of people in the country followed by Jharkhand and Uttar Pradesh who are poor in terms of rank.
- Kerala has registered the poorest poverty rates, followed by Pondicherry, Lakshadweep, Goa and Sikkim.

- **Malnourished People:** Bihar also has the highest number of malnourished people, followed by Jharkhand, Madhya Pradesh, Uttar Pradesh, and Chhattisgarh.

## ■ Importance of the index

- **Contribution to Establish a Community Policy Tool:** The development of the Index is an important contribution to the development of a social policy tool that monitors various poverty, informing evidence-based and focused interventions, thus ensuring that no one is left behind.
- **Showing All Image of Poverty:** This paints a complete picture of poverty in the country, and also provides an in-depth and in-depth analysis of the areas of interest such as districts - regions or regions, as well as specific sectors and complementing financial poverty statistics available.
- **Assistance in Achieving the SDGs:** It is a contribution to measuring progress towards the 1.2 Sustainable Development Goals (SDGs) aimed at reducing "at least half of men, women and children of all ages living in poverty in all its aspects."

However, Preliminary observations from NFHS 5 (2019-20) suggests improvement in access to clean cooking fuel, sanitation, and electricity which translates to reduction in deprivation. Additionally, the State reports released for 22 States and UTs suggest reduction in deprivation in school attendance, drinking water, bank accounts and housing. These improvements indicate an overall direction of significant reduction in the incidence of multidimensional poverty in the forthcoming index based on NFHS 5 (2019-20) household micro data.

## Error Corrected on Interpreting POCSO Act

### Context:

Recently, the Supreme Court has set aside the controversial judgment of the Bombay HC which held that 'skin-to-skin' contact is necessary for an act to be classified as sexual assault under the Protection of Children from Sexual Offences (POCSO) Act.

### Analysis

#### ■ What is POCSO act?

- The Protection of Children from Sexual Offences (POCSO) Act was enacted in 2012 especially to protect children aged less than 18 from sexual assault.
- It admitted that a number of sexual offences against children were neither specifically provided for in existing laws nor adequately penalised.
- Therefore an offence against children needs to be explicitly defined and countered through proportionate penalties so that it acts as an effective deterrence.
- The UN Convention on the Rights of the Child which was ratified by India in 1992 requires sexual exploitation and sexual abuse to be addressed as heinous crimes.

#### ■ Why the High Court verdict is controversial?

- Ignored the basic fact that the entire Act is aimed at penalising actions rooted in 'sexual intent'. So the judgment is out of sync with the legislative intent behind the enactment of stringent law.

- The law is to protect children based on principles found in the UN Convention on the Rights of the Child.
- Restricting the interpretation of the words 'touch' or 'physical contact' to 'skin to skin contact' would be a narrow and pedantic interpretation of Section 7 of the POCSO Act.

So, the Supreme Court verdict ensured that the core ingredient of a sexual offence is the "sexual intent".

### ■ What is the opposition to verdict?

- NCRB data for the past year shows that India registered 43,000 cases under the POCSO Act. That means that on an average, a child faced sexual assault every 12 minutes. Against such a background, this verdict by the Bombay High Court caused anger in many circles.
- Workers active in child protection and welfare said that such decisions would further encourage perpetrators and children will be left unable to bring forward cases of such incidents against them.

### ■ How does POCSO and IPC deal with sexual assault?

- In IPC the definition of assault or criminal force to woman with intent to outrage her modesty is very generic.
- In POCSO, the acts of sexual assault are explicitly mentioned such as touching various private parts or doing any other act which involves physical contact without penetration.
- However it excludes rape which requires penetration and otherwise the scope of 'sexual assault' under POCSO and 'outraging modesty of a woman' under the IPC is the same.
- IPC provides punishment for the offence irrespective of any age of the victim but POCSO is specific as it is for the protection of children.
- Section 7 of the POCSO Act says that whoever with sexual intent touches the private parts of the child is said to commit sexual assault & the Section 8 of Act provides minimum imprisonment of 3 years.
- Whereas Section 354 of the IPC lays down a minimum of one year imprisonment for outraging the modesty of a woman.

### ■ What were the earlier judgements that stirred debates?

- **Nagpur Bench's judgement** - In 2020, the Bombay High Court's Nagpur bench acquitted a man under POCSO Act and held that an act against a minor would amount to groping or sexual assault only if there was "skin-to-skin" contact.
  - The High Court had concluded that mere touching or pressing of a clothed body of a child did not amount to sexual assault.
  - The accused was sentenced to minimum 3 years imprisonment under Section 8 of the POCSO Act but the High Court reduced his sentence to 1 year under Section 354 (assault of a woman to outrage her modesty) of the Indian Penal Code.
- **Gadchiroli special court's judgement** – The special court convicted and sentenced the accused for offences punishable under IPC Section 448 and 354-A (1)(i) and Sections 8 and 10 read with Sections 9(m) and 12 of POCSO Act.
  - But the court set aside his conviction under Sections 8 and 10 of POCSO Act.

### ■ What is the Supreme Court's interpretation?

- The Supreme Court has set aside the two judgments that acquitted two offenders against children from the graver charge of sexual assault.
- The court has said that narrow interpretation of the words 'touch' or 'physical contact' to 'skin to skin contact' of Section 7 would frustrate the very object of the Act.
- The court ruled that the act of touching the sexual part of body or any other act involving physical contact, if done with sexual intent would amount to sexual assault within the meaning of Section 7 of POCSO Act.

### ■ Why is the judgement significant?

- The High Court's understanding was flawed and out of sync with the legislative intent behind the enactment of a stringent law to protect children.
- The Supreme Court judgment sets right the misinterpretation of the statute and underscores that the core ingredient of a sexual offence is the "sexual intent" behind it.
- The Court's decision of holding such an accused guilty is in the spirit of the legislation enacted to protect a child's dignity and autonomy from undesirable intrusions.
- For a country that reported over 43,000 POCSO offences in the past one year and where the conviction rates are very low, the SC observation should accelerate things towards an unmistakably clear-cut and firm view of the situation.

## Allahabad High Court's views on Uniform Civil Code

### Context:

Responding to as many as 17 petitions related to interfaith marriages, the Allahabad High Court has asked the Central government to consider setting up a panel for implementing the mandate of Article 44, which says that the "state shall endeavour to secure for the citizens a Uniform Civil Code (UCC) throughout the territory of India".

### Analysis

#### ■ What is UCC?

- The Uniform Civil Code (UCC) calls for the formulation of one law for India, which would be applicable to all religious communities in matters such as **marriage, divorce, inheritance, adoption**.
- The code comes under **Article 44** of the Constitution, which lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.

#### ■ Why Article 44 is significant?

- The objective of **Article 44** of the Directive Principles in the Indian Constitution was to address the discrimination against vulnerable groups and harmonise diverse cultural groups across the country.
- B R Ambedkar, while formulating the Constitution had said that a UCC is desirable but for the moment it should remain voluntary, and thus the **Article 35** of the draft Constitution was added as a part of the **Directive Principles of the State Policy in part IV** of the Constitution of India as Article 44.
- It was incorporated in the Constitution as an aspect that would be fulfilled when the nation would be ready to accept it and the social acceptance to the UCC could be made.

#### ■ Why civil laws and criminal laws are not uniform?

- While the criminal laws in India are uniform and applicable equally on all, no matter what their religious beliefs are, the civil laws are influenced by faith.
- Swayed by religious texts, the personal laws which come into effect in civil cases have always been implemented according to constitutional norms.

## ■ Observations made by Allahabad HC on UCC

The Allahabad High Court has rightly reminded the Government about Article 44 of the Indian Constitution which is a Directive Principle of Policy, which was meant to be parallel to a fundamental right to be implemented in due course. It made the following observations on the issue:

- The UCC is necessity and mandatorily required today.
- It cannot be made 'purely voluntary' as was observed by B.R. Ambedkar 75 years back, in view of the apprehension and fear expressed by the members of the minority community.
- It is the need of the hour that the Parliament comes up with a "single family code" to protect interfaith couples from being "hounded as criminals".

## ■ How UCC can help?

- **Protection and unity:** The UCC aims to provide protection to vulnerable sections including women and religious minorities, while also promoting nationalistic fervour through unity.
- **Simplified laws:** When enacted the code will work to simplify laws that are segregated at present on the basis of religious beliefs like the Hindu code bill, Shariat law, and others.
- **Easy adoption for all:** The code will simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions making them one for all.
- **Application irrespective of faith:** The same civil law will then be applicable to all citizens irrespective of their faith.
- **End of conflict:** It will avoid conflicts in various personal laws in relation to marriage and divorce.

## ■ Is Indian society 'liberal' enough to adopt UCC?

- A set of people argue that reforms with reference to 'personal law' must come from within the community and should not be imposed by the legislature.
- Observing the past and prevailing attitude of the community leaderships, this is very unlikely to happen.
- The influential stakeholders enjoying the inadequate societal setup actually want to drag the subjects on the backward track.
- The outrage by stakeholders in the aftermath of the **Shah Bano (1985) and Triple talaq verdict proves this.**

# The decentralisation charade of urban local bodies

## Context:

- In India, the "disorganized" nature of urban planning habitually becomes a topic of public debate whenever cities encounter a major crisis (urban flooding in Chennai).
- Since urban planning and its enforcement are routinely declared the culprit of India's "dysfunctional" cities, it is important to examine the roots underpinning India's current urban planning regime.

## Analysis

### ■ Major challenges faced by Indian ULBs

- **Lack of autonomy in management:** ULBs across the country lack autonomy in city management and several city-level functions are managed by parastatals (managed by and accountable to the state).

- **Lack of fiscal autonomy:** Indian ULBs are amongst the weakest in the world in terms of fiscal autonomy and have limited effective devolution of revenue.
- **Limited source of revenue:** They also have limited capacity to raise resources through their own sources of revenue such as property tax.
- **Dependency:** Lack of finance and other required power lead to a dependence on transfers by the state and central government.
- **Skin-tight control of government:** Government crafts its own schemes for the ULBs run at the local level with financial contribution from the GoI. These schemes run with skin-tight administrative and financial control, asking the ULBs to essentially carry out the will of the GoI.
- **Low encouragement by state government:** Not only the centre, even the states, themselves want to give no elbow room to the ULBs in local governance.
- **State approvals:** The Indian ULBs are amongst the most rigorously controlled local bodies dominated in their governance by state parastatals and functionaries.
  - State district authorities retain control of the ULBs.
  - Their chief executives get posted by states; their budgets, with certain exceptions, are subject to state approval, and mayors, in general, continue to be figure-heads with little administrative, financial, and functional powers.
  - Development plans of ULBs are subject to state approval and there are instances of very substantive changes made in their plans and regulations even against the will of the ULBs.

#### ■ Impact on the governance

- **Poor service delivery:** The above multiple challenges have led to poor service delivery in cities.
- **Administrative and governance challenges:** It has also created administrative and governance challenges at the municipal level.

#### ■ Why the focus is shifting towards ULBs 'now'?

- Urbanisation in India is taking place at a faster pace than ever before.
- It is estimated that every minute, some 30 people are migrating to Indian cities from rural areas; if the trend continues, the country's urban population is likely to reach 600 million by 2030.
- Cities are growth hubs for India, and the country's transformation depends directly on their **governance and sustainable urbanisation**.
- According to **the Niti Aayog**, India requires an INR 40-trillion investment until 2030 to overhaul its infrastructure whereas the revenue of all the municipal corporations put together is not more than INR 1.2 trillion — approximately one percent of the country's Gross Domestic Product (GDP).
- Substantially underfunded mandates include crumbling municipal corporations, which lie at the core of this urban transformation challenge.

#### ■ Why decentralisation is essential?

- **Good governance:** In the democratic world, decentralisation is amongst the most significant instruments for good governance.
- **Greater knowledge and informed decisions:** It brings decision-making closer to the people and allows authorities with greater knowledge of local conditions to make more informed decisions.

#### ■ What about public participation?

- Indian ULBs have been unwilling to allow any meaningful direct citizen participation in any aspect of civic governance.
- Considerable progress in this area has been achieved in the western world, aided by the march of technology, social media, and the ease of establishing online platforms for citizen interaction.

- Since information flow is rapid and voluminous in the modern world, citizens in many Indian cities have formed groups and associations with a view to press for decision-making space in their own localities.
- GoI itself initiated the Model Nagar Raj Bill to institutionalise people's participation.

## Ayushman Bharat Health Infrastructure Mission

### Context:

Prime Minister recently launched the Ayushman Bharat Health Infrastructure Mission, one of India's largest pan-India programs to strengthen health care infrastructure, in his parliamentary constituency Varanasi.

### ■ Key-features

- **Free diagnostics at district level:** Under PMASBY, 134 different types of testing will be done free at district level, which will not only save costs but also reduce unnecessary inconvenience to poor people.
- **Mobile Hospitals:** For the first time in Asia, two container-based hospitals with complete medical facilities will be maintained at all times under PMASBY. One mobile unit will have 22 containers with 100 beds each.
  - The mobile hospitals will be set up in New Delhi and Chennai. These hospitals can be quickly assembled by train or air to respond to any disaster or disaster in the country.
- **Strengthening NCDC:** The existing National Centres for Disease Control (NCDC), which has the mandate to stop outbreaks, will be strengthened under PMASBY by adding three new phases.
  - This will be the Climate Change Unit, the Occupational Health Unit, and the Disaster Management Unit. Five branches of the NCDC region - one north, south, east, west, and central - will be established. General diagnostic services will also be improved.

### ■ Significance:

- India has long needed a comprehensive health care system. A study ('State of Democracy in South Asia (SDSA) -Round 3') conducted by Lokniti-CSDS in 2019 highlighted how access to public health care remains difficult for those living on the fringes.
- The study found that 70% of sites have public health care services. However, availability was low in rural areas (65%) compared to urban areas (87%).
- Schemes such as Swachh Bharat Mission, JalJeevan Mission, Ujjwala, PoshanAbhiyan, and Mission Indradhanush have saved countless lives. More than 2 million poor people have received free treatment under Ayushman Bharat Yojana and many health related problems are being solved through Ayushman Bharat Digital Mission.

### ■ What are the expected benefits of Health Infrastructure Mission?

- **Make India's health plan ready for the future:** PM ABHIM aims to produce strong Public Health outcomes, jumping India to one of the most developed countries in the world in terms of managing Public Health outbreaks.
  - Various initiatives under PMASBY such as the National Platform for One Health, regional NIVs, etc., will strengthen India's ability to detect and diagnose new diseases very quickly. Entry points will be strengthened in India-ring-fence against the introduction of new infectious diseases and viruses.

- **Make Ayushman Bharat the first step as an umbrella:** Ayushman Bharat- Health & Wellness Centres was established in April 2018 followed by Ayushman Bharat-PMJAY in September 2018. The Ayushman Bharat Digital Mission was launched earlier this year.
  - The focus of the new scheme on Health Infrastructure makes the Ayushman Bharat campaign a turning point. Together they offer the following:
  - Provide affordable, quality and accessible health care for all people and reduce out-of-pocket expenses.
  - Provide universal access to basic diagnostic and therapeutic services, and will bring health care closer to rural and urban communities.
  - It covers almost all areas of health.
- **Make India self-sufficient:** Set of national, regional, regional, regional and block laboratories supported by a strong I.T. The ecosystem will lead to reliance on diagnosing, preventing and preventing outbreaks.
- **Make sure they do not disrupt other resources during events such as the epidemic:** Many non-COVID-19 patients were denied treatment during the violence, as hospitals were overcrowded. Blocks of critical care hospitals will provide care for those with serious infectious diseases without interrupting other services. In non-epidemic cases, this capability will be used to provide critical care in other cases of disease.

#### ■ How can India continuously improve health infrastructure?

- **Encourage provincial participation:** Like other government-funded programs, the Centre will cover 60% of the cost, while governments will have to spend the rest. Therefore, Central Government should encourage international participation in order to make this program a success.
- **Increase health budget:** Parliamentary Standing Committee has recommended that in order to achieve the National Health Policy targets, Government must allocate ₹1.6-lakh crore for public health this year. This doubles the value of the current average health budget.
  - Therefore, the institution should increase government funding for health to at least 2.5% of GDP as envisaged in the National Health Policy, 2017 in order to improve health infrastructure and achieve the goals of national health policy.
- **You need more health professionals:** According to government data, India has 1.4 beds per 1,000 people, one doctor for 1,445 people, and 1.7 nurses for every 1,000 people. More than 30,000 MBBS seats and 24,000 medical postgraduate seats have been added since 2014. However, the construction of infrastructure must go hand in hand with additional human resources, so the government must improve the workforce needed.
- **Examine private misconduct:** The Clinical Establishment (Registration and Regulation) Act (CEA) was passed in 2010 to provide for the registration and regulation of all clinical facilities in the country. The law currently applies to only 11 countries throughout India. The central government will still take appropriate steps to encourage the implementation of the CEA.
  - This has led to widespread misuse of private hospitals, for example, huge hospital bills during the violence. Therefore, the government must ensure the proper implementation of the Act in order to investigate the wrongdoings of private companies.

## SC on Farmer's 'Right to Protest'

### Context:

Farmer's protest against three agricultural laws.

## Analysis

### ■ Understanding the constitutional provisions of 'Right to Protest' in India

- The right to protest, to publicly question and force the government to answer, is a fundamental political right of the people that flows directly from a democratic reading of Article 19.
- The right to peaceful protest is bestowed to Indian citizens by our Constitution.
- It is part of the freedom of speech and expression, which is a fundamental right under Article 19(1) (a).
  - Article 19(1) (a) guarantees the freedom of speech and expression.
  - Article 19 (1) (b) states about the right to assemble peaceably and without arms.
  - Article 19 (2) imposes reasonable restrictions on the right to assemble peaceably and without arms and to freedom of speech and expression and none of these rights are absolute in nature.
- These reasonable restrictions are imposed in the interests of the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

### ■ What are the legal provisions?

The legal provisions and avenue available to police for handling agitations, protests, and unlawful assemblies are covered by-

- the Code of Criminal Procedure (CrPC), 1973
- the Indian Penal Code (IPC), 1860
- the Police Act, 1861

#### Important cases on right to protest:

- **Shaheen Bagh protests case:** In the Shaheen Bagh protests case, SC stated that the right to protest should not hamper the right to movement of the public.
- **Ramlila Maidan Incident v. Home Secretary, Union Of India & Bears:** SC held that, 'Citizens have a fundamental right to assembly and peaceful protest that cannot be removed from arbitrary executive or legislative action.'
- **Maneka Gandhi v. The Union of India:** Justice Bhagwati stated that, 'if democracy means the government of the people, on the part of the people, it's obvious that every citizen must have the right to participate in the democratic process & allow him to intelligently exercise his rights to make a choice, a free & general discussion of public issues is absolutely essential.'

### ■ Why the right to protest is essential?

- **Essential for all segments:** Protests play an important part in the civil, political, economic, social and cultural life of all societies.
- **Securing human rights:** The right to protest formally involves the exercise of numerous fundamental human rights, and is essential for securing all human rights.
- **Responsible citizenry:** Protests encourage the development of an engaged and informed citizenry.
- **Strengthening democracy:** They strengthen representative democracy by enabling direct participation in public affairs.
- **Transparency and effectiveness:** They enable individuals and groups to express dissent and grievances, to share views and opinions, to expose flaws in governance and to publicly demand that the authorities and other powerful entities rectify problems and are accountable for their actions.

## Hunger in India

### Context:

India has slipped to 101st position in the Global Hunger Index (GHI) 2021 of 116 countries, from its 2020 position of 94th.

### ■ Constitutional Provisions and Food Security

- The '**right to food**' or in general the economic, social, and cultural rights are defined in Part IV of the Constitution as Directive Principles of State Policy.
- The Right to Food in Indian Constitution is not recognized as a "**Fundamental Right**"
- **Article 21 and 47** of the constitution obliges the Government of India to take appropriate measures to ensure a dignified life with adequate food for all citizens.
- **Article 47:** Article 47 of the Indian Constitution provides that it is the "duty of the State to raise the level of nutrition and the standard of living and to improve public health".
- **Article 21:** Protection of life and personal liberty – No person shall be deprived of his life or personal liberty.

### ■ What are the reasons for Prevailing Hunger in India?

- **Small and marginal land holding:** The agriculture output from small and marginal holdings are either stagnant or declining due to reasons such as reduced soil fertility, fragmented lands or fluctuating market price of farm produce. Almost 50 million households in India are dependent on these small and marginal holdings.
- **Lesser production for self-consumption:** Though the country has surplus food, most small and marginal farming households do not produce enough food grains for their year-round consumption.
- **Income on decline:** Relative income of one section of people has been on the decline. This has adverse effects on their capacity to buy adequate food, especially when food prices have been on the rise.
- **Less remunerative work:** The kind of work a section of people have been doing are less remunerative or there is less opportunity to get remunerative works.
- **Poor functioning of PDS:** The public distribution system (PDS) of the state is not functioning well or is not accessible to everyone.
- Other reasons include:
  - Poverty: Poverty and hunger exist in a vicious cycle.
  - Food shortages
  - Climate change
  - Poor nutrition
  - Poor infrastructure
  - Gender inequality

### ■ What needs to be done?

- **Multi-pronged strategy:** A multi-pronged approach is needed to deal with the crisis.
- **Renewed focus on small and marginal holdings:** More crops have to be grown, especially by small and marginal farmers with support from the Union government.
- **Focus on food security of the vulnerable section:** The government may create provisions to supply cooked nutritious food to the vulnerable section of the society.

- **Boost to employment schemes:** Rural employment schemes such as MGNREGA should be given a boost to increase employment and wages.
- **Streamlining and universalizing PDS:** Access to food grains under the PDS needs to be streamlined by simplifying technical processes and reducing Aadhaar-related glitches.
- **One Nation One Ration card scheme:** The Union government must also ensure that the 'One Nation One Ration card' scheme, if brought into effect, is operationalised through proper preparations.

## ■ Government initiative to tackle hunger

- Eat Right India Movement
- POSHAN Abhiyan
- POSHAN 2.0
- Pradhan Mantri Matru Vandana Yojana
- National Food Security Act, 2013
- Mission Indradhanush
- Integrated Child Development Services (ICDS) Scheme
- **Food Fortification:** Food Fortification or Food Enrichment is the addition of key vitamins and minerals such as iron, iodine, zinc, Vitamin A & D to staple foods such as rice, milk and salt to improve their nutritional content.

# Medical Termination of Pregnancy (Amendment) Act, 2021

## Context:

The government has notified new rules (Medical Termination of Pregnancy (Amendment) Rules, 2021) under which the upper limit for termination of a pregnancy has been increased from 20 to 24 weeks for certain categories of women.

## Analysis

### ■ What is in the new Rules?

#### Relaxation

- According to the **Medical Termination of Pregnancy (Amendment) Rules, 2021**, these categories include
  - survivors of sexual assault or rape or incest
  - minors and women whose marital status changes during an ongoing pregnancy (widowhood and divorce)
  - women with physical disabilities
- The **new rules also cover**
  - mentally ill women
  - cases of foetal malformation that has
  - a substantial risk of being incompatible with life
  - or if the child is born it may suffer from such physical
  - or mental abnormalities to be seriously handicapped

- women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the government

### ■ Who can abort?

- One of the serious issues with the Medical Termination of Pregnancy Act 1971 was that only a 'married women' was eligible to abort pregnancy (up to 20 weeks).
- Now, in the latest act, married as well as unmarried women are allowed to terminate their pregnancy.
- The move from "married woman" and "her husband" to "woman" and "her partner" is appreciable.

### ■ Who will decide on termination of pregnancy?

- According to the new rules, a state-level medical board will be set up to decide if a pregnancy may be terminated **after 24 weeks** in cases of foetal malformation and if the foetal malformation has a substantial risk of it being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped.
- **Functions:** The function of the Medical Board shall be
  - to examine the woman and her reports if she approaches for medical termination of pregnancy
  - to provide the opinion with regard to the termination of pregnancy
  - rejection of a request for termination within three days of receiving the request
- The Board has also been tasked to ensure that the termination procedure, when advised by it, is carried out with all safety precautions along with appropriate counselling within five days of the receipt of the request for medical termination of pregnancy.

### ■ What issues remain unresolved?

- The law is not inclusive of non-binary or trans persons who may be pregnant and seek an abortion.
- Significantly, the decision to terminate a pregnancy still does not rest with the woman alone.
- This is of grave concern as doctors have been known to charge exorbitant fees for the procedure (as per the **National Family Health Survey 2015-16, 52 per cent of abortions were done in private hospitals**), deny access to the service on moral grounds or send the woman or child to the courts even if the service can be legally provided.

### ■ What are women's reproductive rights?

Based on the multiple definitions of reproductive rights, it can be said that they include some or all of the following rights –

- right to safe and legal abortion
- right to control one's reproductive functions
- right to access in order to make reproductive choices free of coercion, discrimination and violence
- right to access education about contraception and sexually transmitted diseases and freedom from coerced sterilization and contraception
- right to protection from gender-based practices such as female genital cutting and male genital mutilation

#### SC on women's right to make reproductive choice

- In the landmark judgment in **KS Puttaswamy v Union of India**, the Supreme Court recognised women's constitutional right to make reproductive choices and the right to "abstain from procreating" was read into the right to privacy, dignity and bodily autonomy.

## ■ What is the actual situation of women's right to make reproductive choice?

- The issue of 'right to reproductive health' especially abortion, takes on special significance in the Indian context as various national and international stakeholders struggle to bring meaning to the important concepts of 'women empowerment, rights and choice'.
- Historically, reproductive health-related laws and policies in India have failed to take a women's rights-based approach.
- The Indian setting is heavily guided by the social context that defines the pressures, constraints, and options for women's reproductive behaviour.
- Women's enjoyment of their reproductive rights is heavily undermined by gender-biased norms and practices that govern family matters.

## ■ Issues and challenges in the Indian setting

- **Lack of healthcare:** In India, one woman dies every 15 minutes due to lack of healthcare during pregnancy and childbirth.
- **Unsafe abortion:** Although the country legalized abortion almost five decades ago, access is extremely limited, and it is estimated that one woman in India dies every three hours due to an unsafe abortion.
- **Child marriages:** Despite a national law penalizing marriage of girls below 18 years of age, in practice India continues to account for the highest number of child marriages.
- **High rate of maternal deaths:** Despite policies and schemes guaranteeing women maternal healthcare, India accounts for 20% of all maternal deaths globally.
- **Undermining reproductive health:** Further, Indian women face among the world's highest risk of HIV/AIDS and discriminatory treatment if infected, forced abortions of female fetuses, trafficking for forced prostitution, custodial rape in government institutions, sexual harassment in the workplace; and harmful customs that seriously undermine reproductive health.

# Data Revolution in Indian agriculture

## Context:

Recently, a document entitled "Indian Agriculture: Ripe for Disruption" was released by Bain and Company.

## ■ Key takeaway of the report

- Bain report predicts data-based conditions for agribusiness
- It includes identifying the production of other proteins, and food / food-based ingredients and initiating marine farming, etc.
- The agricultural sector (currently valued at \$ 370 billion), is estimated to receive another \$ 35 billion investment.
- The two conditions that allow such investment opportunities are these
- Changes to the regulatory framework, especially recent changes to the Farm Act
- Digital disruption through the government's IDEA program - 'India Digital Ecosystem for Agriculture'.
- The Indian agricultural sector in the future will put the farm on the fork and open the way to a single national market with a national speaker with better communication between producer and consumer.

- The report satisfactorily reflects the business opportunity available in the supply chain between the farm and the Agricultural Production Market Committee (APMC) and the customer, which can be achieved with the support of digital disruption and the latest agricultural reforms.
- According to the report, to benefit from the huge investment in the agricultural system, double the farmers' wage targets could be achieved in the near future.

### ■ Challenges

- The IT sector is opposed to IDEA mainly due to the practice of making a unique Farmer ID based on a person's Aadhaar number and the potential for data misuse.
- There is a common perception that large investments in the agricultural sector will benefit farmers; 'But how' was not satisfactorily answered in this report.
- Most small and underprivileged farmers are less educated and less experienced in technology. However, the capacity building of farmers is being ignored amidst these changes of prominence.
- The farmers' protest against the reforms could serve as a barrier or danger that led to the removal of these new farm rules.

### ■ Way Forward

- While we agree with the fact that data transformation is inevitable in the agricultural sector, given its social and political complexity, we cannot rely solely on technological reforms and agricultural enterprises to improve the lives of farmers.
- There needs to be a concerted effort to improve the skills of farmers, by establishing support programs, through FPOs and other farmers' organizations.
- Given the size of the agricultural sector in the country this will not be an easy task but it will require a different system across the country with more investment.

## The key to revitalising India's reservation system

### Context:

Recent, central government's decision to introduce bookings for some Class for Backward Classes (OBCs) for the National Eligibility cum Entrance Test (NEET) has sparked controversy over the class census and brought controversy over prominence.

### Problems with the current policy of reservation

With the placement of seats in political and governmental institutions, it was envisaged that the parties who have reached so far will be able to secure a place in power-sharing and decision-making. This disability removal strategy has not changed the balance of life expectancy in many groups in our unique society.

### What are the problems?

#### ■ Updated problem

- The report of the **Justice G. Rohini Commission** on the classification of OBCs based on data from the past five years on central government functions and the acceptance of OBCs in tertiary institutions highlights this problem.
- The commission concluded that 97% of OBC's average profits would be 25% lower.

- 983 OBC communities - 37% of the total - have zero representation in central government services and admission to secondary universities.
- Also, the report states that only 10% of OBC communities receive 24.95% employment and admission.
- Clearly, to assume that the evils of all the minority groups in each sector are the same is misguided.
- As a result, the distribution of booking ratings has severely hampered the political projects of the southern coalition.

### ■ Lack of data

- There is a great need for accurate information on the socio-economic status of the various social groups.
- Although section-based bookings have been the most important factor in promoting high social mobility we do not have sufficient information on the achievement and attainment of this policy measure.
- We do not know how liberating it is to make castes constantly tied to traditional sources of income and unable to see the new opportunities offered by the opening up of the economy.
- What is urgently needed is a way to deal with this lacuna and make the system more responsive and responsive to the needs of the parties.

### ■ What needs to be done?

**Since all classification will lead to renewal and division over time, two things are needed.**

- Evidence-based policy option: We need to develop a variety of content-sensitive, evidence-based options that can be used to meet the specific needs of specific groups.
- **Institution:** We need an institution similarly the Equal Opportunities Commission of the United States or the United Kingdom can do two important but related things:
- Indicate the reduction of data relevant to the socio-economic census of the various communities.
- Research the performance of employers and educational institutions on a fair and equitable basis and issue codes of conduct in various fields.
- This will facilitate policy formulation and monitoring at the institutional level.
- Similar recommendations were made over the past decade in the recommendations made by the expert committee of the **Equal Opportunity Commission (2008)** in its comprehensive report to the Department of Minor Affairs.

## Income can't be sole basis to decide 'creamy layer': SC

### Context:

The Supreme Court has stood firmly by its principle that economic criterion alone cannot be the sole basis for identifying a Backward Class member as "creamy layer". Other factors like social advancement, education, employment too.

## Analysis

### ■ Key-highlights of the SC Verdict

- Haryana's notifications have violated the law declared in the **Indra Sawhney judgment** by identifying creamy layer only on the basis of income.
- The Supreme Court has set aside the notification specifying the criteria for exclusion of 'Creamy Layer' within the backward classes issued by the State of Haryana.
- The SC held that the government cannot deny reservation to a person belonging to a backward community solely on the ground that he or she is rich.
- The court went to the extent of determining "creamy layer" among Backward Classes.
- The judgment held that persons from the classes who occupied posts in higher services like IAS, IPS and All India Services had reached a higher level of social advancement and economic status, and therefore, were not entitled to be treated as backward. Such persons were to be treated as "creamy layer" without any further inquiry.
- People with sufficient income who were in a position to provide employment to others should also be taken to have reached a higher social status and therefore, should be treated as outside the backward class.

### ■ Understanding India's reservation Policy

- The reservation policy is an age-old policy being practiced in India.
- Its origin has its roots scattered from the ancient times when the practice of 'untouchability', caste system and Varna system was dominant in the society.
- Deprivation is only one measure of caste discrimination in India.
- Reservations for the SCs and STs were put in place in the Indian constitution, immediately after independence, as a means to recognise the historical injustice meted out to these groups and to implement provisions by which groups would have better access to resources and opportunities that were hitherto denied to them.

#### Current scenario of Reservation

- The Supreme Court ruling that reservations cannot exceed 50% (which it judged would violate equal access guaranteed by the Constitution) has put a cap on reservations.
- The current scenario of Reservation in India is:
- 15% seats are reserved for Scheduled Castes (SC).
- 5% seats are reserved for Scheduled tribes (ST).
- 27% seats are reserved for Other backward classes (OBC).

### ■ What is the creamy layer concept?

- The term 'creamy layer' is used to refer to some members of a backward class who are highly advanced socially as well as economically and educationally.
- They constitute the forward section of that particular backward class – as forward as any other forward class member.
- Currently, annual family income above Rs. 8 lakh are considered the 'creamy layer' and excluded from reservation benefits given to OBCs.

#### Important Committees and Commissions:

- Hunter Commissions(1882)
- Kelkar Commission(1953)
- Sachar Committee (2003)

## Preventive Detention: A necessary evil?

### Context:

Recently a two judge bench of Supreme Court has quashed a preventive detention order which was earlier upheld by the High Court for the State of Telangana at Hyderabad.

### Analysis

#### ■ What is the difference between preventive detention and an arrest?

- An 'arrest' is done when a person is charged with a crime. An arrested person is produced before a magistrate within the next 24 hours.
- In case of preventive detention, a person is detained as he/she is simply restricted from doing something that might deteriorate the public order.
- In the case of **Union of India v. Paul Nanickan and Anr**, the Supreme Court stated that the purpose of the preventive detention isn't to punish any person for doing something but to obstruct him before he does it and deter him from doing so.
- The reasoning for such detention is based on suspicion or reasonable possibility and not a criminal conviction, which can be justified only by valid proof

#### ■ Regulations in post-independence India for Preventive Detention

- The first Preventive Detention Act was passed after independence in 1950. But this act was questioned on its validity in the case of **AK Gopalan v. the State of Madras** at the Supreme Court and with the exception of some provisions, the Supreme Court held the act constitutionally valid.
- Starting from pre-independence till now there have been several laws made in regard to preventive detention such as
  - Maintenance of Internal Security Act (MISA), 1971
  - Foreign Exchange Conservation and Prevention of Smuggling Activities (COFEPOSA), 1974
  - Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985
  - Prevention of Terrorist Activities Act (POTA), 2002
  - Unlawful Activities (Prevention) Act, 2008

#### ■ Judiciary in Preventive Detention Cases

- In the case of **Prem Narayan v. Union of India**, the Allahabad High Court stated that preventive detention is an infringement upon the personal freedom of an individual and it can't be infringed in an easy-going way
- In the case of **Shibban Lal v. State of Uttar Pradesh**, the Supreme Court of India stated that a courtroom isn't even competent to enquire into reality or in any case of the facts which are referenced as the grounds of detainment.
- In **Haradhan Saha case**, the Supreme Court held that if a person is liable to be tried for a criminal offence, but the ordinary criminal laws are not be able to deal with the situation, then, and only then, can the preventive detention law be taken recourse to.
- In the case of **Banka Sneha v. State of Telangana**, the Supreme Court held that Preventive Detention Order can only be passed against a Detenu if his activities adversely affect or are likely to adversely affect the maintenance of public order.

### ■ Why Preventive Detention laws should find no place in our statute books?

- There have been different circumstances of abuse of Preventive Detention powers for political advantages or to control free discourse and articulation.
- National Security Act was utilized in Uttar Pradesh to ensure transparent and corruption-free examinations or captures were made for the issues rising up out of neighbourhood cricket disagreements.
- Unreasonable capacity to detain an individual without much checks and balances and the least legal impedance expands the chance of conceivable abuse of power to detain an individual.
- In the case of **Rekha v. State of Tamil Nadu**, the Supreme Court of India stated that Prevention detention is, ordinarily, repugnant to democratic ideas and abhorrent to the rule of law.
- No such law exists in the USA and in England (with the exception during wartime)

### ■ What needs to be done?

- It is clear that in certain cases the laws pertaining to colonial history now have to be modified or updated over time. Now there is a need for security and human rights to go hand in hand
- It now requires an evaluation of the laws and their regulation. The state must take the responsibility to compensate the acquitted detenu in the place of damages caused relating to life, health, income, etc.
- A proper system should be made which will make sure that the rights are being made available to the detenu during the detention period.
- If any accusations for coercive actions are made, it should be taken in a serious way and should be followed by a proper investigation by an appropriate authority.

## Secrecy of casting vote is necessary: Supreme Court

### Context:

In a recent Judgment, the Supreme Court observed that any attempt of 'booth capturing and/or bogus voting' should be dealt with iron hands as such activity ultimately affects the 'rule of law and democracy'.

### Analysis

#### ■ Key-points highlighted by the SC

- Election is a mechanism that represents the will of the people and democracy and free election have been said to be part of the basic structure of the Constitution.
- The freedom of voting is a part of the freedom of expression and secrecy of casting vote is necessary for strengthening democracy.
- The essence of the electoral system should be to ensure freedom of voters to exercise their free choice.
- Nobody can be permitted to dilute the right to a free and fair election.

#### ■ Booth capturing

- In the context of Indian Election, according former CEC S.P. Sen Kumar, booth capturing rigging refers to:

- "When people speak about rigging during the electoral process that generally means that a corrupt practice has been committed in a constituency in a systematic and pre planned manner with the aid and consent of the ruling party, either acting individually or aided by the Election Commission itself. Rigging is used in the used in the press by the politicians." Booth capturing exists in various forms.

## ■ Bogus voting

- The most common form is more widespread in urban areas; in rural areas familiarity instills fear of being caught red handed in the act.
- The outlook of allowing agents of the candidates at polling booths is to keep an eye on bogus voting and it is nearly impossible to identify voters in elections held in urban areas.

### Case Study

- In Nagaland, for example, voting by school students is a frequent occurrence during elections.
- Teachers are the instigators and they enrol all their students as voters and register their votes on the polling day.
- This is a major reason behind Nagaland's massive electorate which stands at 75% against the national average of just over 50%.

- **Double enrolment** is also very frequent during elections in India. People having their residence in rural areas but their place of work in urban areas register themselves in both the places.

### Case Study

Printing unsanctioned ballot papers and using them in elections amounts to Rigging. Such a contention was raised during the 1983 Jammu and Kashmir Assembly polls.

- Snatching ballot boxes in transit is a common instance in Northern states of India despite the presence of the government officials and the agents of the candidates.

## ■ What hinder the process of fair elections?

- Corrupt practices related to elections (bribery)
- Undue influence (use of physical force and booth capturing)
- Inciting hatred and violence amongst people of different communities
- Criminalization of politics
- Influencing public officials
- Defection politics
- Demanding votes on the basis of religion and caste
- Misuse of Election Machinery

## ■ Important initiatives for free and fair elections

Various initiatives have been taken by the Parliament by amending the laws for a free and fair election in India. There have been many changes made from time to time on our electoral system, but there were no significant and substantial reforms brought about. The reforms are as follows:

- Reports of Dinesh Goswami Committee on Electoral Reforms (1990)
- Indrajit Gupta Committee on State Funding of Elections (1998)
- Law Commission's Report on Reform of the Electoral Laws (1999)
- NCRWC (National Commission to Review the Working of the Constitution)

## ■ What measures are required?

- **Effective implementation:** Initiatives go in vain without implementation. Thus, there is an urgent need for effective implementation of the existing laws and measures.

- **Strong SC's intervention:** The Supreme Court should take all necessary steps to strengthen democracy in the country. The legislature and executive have been complaining about the Supreme Court's intervention on their domain, but it becomes imperative in such kind of unwanted situation.
- **Electoral reforms:** The long-pending electoral reforms need to be addressed related to stopping the blatant abuse of money power, raising the ceiling on election expenditure for political parties, ensuring a level playing field, and making paid news a criminal and electoral offense.

## Ministry of Co-operation

### Context:

In a historic move, a separate 'Ministry of Co-operation' has been created by the government for realizing the vision of 'Sahkar se Samridhhi'. This ministry will provide a separate administrative, legal and policy framework for strengthening the cooperative movement in the country.

### Analysis

#### ■ What is Cooperative Society?

- It is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspiration through jointly owned and democratically controlled enterprises.
- Co-operative societies are service enterprises aiming at rendering service to its members. In one sentence the philosophy of cooperation can be summed up as "each for all and all for each".

#### ■ Challenges Faced By the Cooperative Sector

- **Membership:** Ensuring 'Active' member participation and enabling speedy exit of non-user members has remained a daunting task for cooperatives
- **Governance:** governance issues are primarily focused on the structure of the Board and its relationship with members, managers and the State
- **Lack of Recognition of Cooperatives as Economic Institutions**
  - The lack of recognition of cooperatives as economic institutions meant to serve the needs of its members.
  - The general perception has been that cooperatives are instruments of government meant for public good and therefore need to be supported by the government.

#### ■ Board and Management Interface and Accountability

- cooperative Boards suffer from lack of long-term perspective, market and business orientation, understanding of the cooperative way of business and how it differs from other enterprises, awareness about the environment
- In a large number of cooperatives, Board and executive functions are not clearly demarcated, often leading to identity conflicts
- **Operations**
  - Professionalization and Accountability
  - Capital
  - Linkages and Competitiveness

## ■ Other challenges

- Accessibility to Finance/Credit Services by Members
- Accessibility to Finance/Credit Services by Members
- Politicization of Cooperatives and Control/Interference by Government

## ■ Importance of Cooperatives

### ◦ Voluntary organization

- The membership of a cooperative society is open to all. Any person with common interest can become a member.
- The membership fee is kept low so that everyone would be able to join and benefit from cooperative societies.

### ◦ Ease of formation: Cooperatives can be formed much easily when compared to a company.

### ◦ Democracy: A co-operative society is run on the principle of 'one man one vote'. It implies that all members have equal rights in managing the affairs of the enterprise.

### ◦ Each for all and all for each: Co-operative societies are formed on the basis of self-help and mutual help. Therefore members contribute their efforts to promote their common welfare.

### ◦ Government support: The government with a view to promote the growth of cooperative societies extends all support to them. It provides loans at cheap interest rates, provides subsidies etc.

### ◦ Elimination of middlemen: Cooperatives societies can deal directly with the producers and with the ultimate consumers. Therefore they are not dependent on middlemen and can save the profits.

### ◦ Rural credit: Co-operative societies have contributed significantly in freeing villagers from money lenders. Earlier, money lenders used to charge high rates of interest and the earnings of the villagers were spent on payment on interest alone.

### ◦ Role in agricultural progress: They serve as a link between the government and agriculturists. High yielding seeds, fertilizers, etc. are distributed by the government through the cooperatives.

### ◦ Encourages thrift: Cooperative societies encourage the habit of savings and thrift among their members. They provide loans only for productive purposes and not for wasteful expenditure.

### ◦ Fair price and good quality: Co-operative societies buy and sell in bulk quantities directly from the producers or to the consumers. Products are processed and graded before they are sold. Bulk purchases and sales ensure fair prices and good quality.

### ◦ Social benefit: Co-operative societies have played an important role in changing social customs and curbing unnecessary expenditure. The profits earned by the co-operatives have been used for providing basic amenities to the society.

## One Nation One Ration Card

### Context:

Calling One Nation One Ration Card "an important citizen-centric reform", the Supreme Court has set a deadline of July 31 for all states to implement the scheme and further noted that "its implementation ensures availability of ration to beneficiaries under National Food Security Act (NFSA) and other welfare schemes.

## Analysis

### ■ What is ONORC Scheme?

- It aims to provide an option to all eligible ration card holders/beneficiaries covered under NFSA to access their entitlements from anywhere in the country.
- The distribution of highly subsidized food grains is enabled through nation-wide portability of ration cards through the implementation of IT-driven systems by:
  - installation of ePoS devices at FPSs
  - seeding of Aadhaar number of beneficiaries with their ration cards and
  - operationalisation of biometrically authenticated ePoS transactions in the State/UTs.
- Till Feb' 21 the facility has been enabled in 32 States/UTs covering nearly 69 crore beneficiaries, almost 86% of NFSA population of the country.



### ■ Challenges with earlier regime

- **Beneficiaries were confined to particular Fair Price Shops (FPS)**
  - Ration Cards were tagged to a particular FPS
  - Beneficiaries can avail foodgrains from tagged FPS only
  - Dependent on the whims-and-fancies of the FPS dealer
- **Loss of food security due to migration**
  - Migrant beneficiaries lose access to subsidised foodgrains
  - Forced to purchase from open market at inflated prices
  - Very purpose of 'Food Security' under NFSA was not fulfilled
- **Difficulty in getting new Ration Card**
  - Lengthy process to obtain new ration card at new place
  - Requirement of supporting documents and local proofs
  - Prone to introducing duplicity of ration card/beneficiary

### ■ Reason for non-implementation in few states/UT

- **Delhi:** yet to operationalize ePoS in fair price shops which is one of the core component of ONORC scheme.
- **West Bengal:** Demanded that beneficiaries of non-NFSA ration cards (issued by state government) should also be included in the scheme.

### ■ Benefits of the One Nation One Ration Card

- **Interoperability of ration cards:** Beneficiaries will be able to purchase subsidised food grains in any part of the country if their ration cards are linked to the Aadhaar number.

◦ **Empowering all migrant beneficiaries:**

- The scheme has been launched keeping in mind the country's internal migration, as people continue to move to different states in search of job opportunities and better standards of living.
- One of the key challenges faced by migrant workers in cities at the beginning of the lockdown was lack of food security and access to food grains.
- The One Nation One Ration Card system will certainly help get our labour force back into the cities.

◦ **Reducing discrimination:**

- The scheme will give beneficiaries the option of choosing the concession holder of their choice. If any dealer misbehaves or misallocates, the beneficiary can instantly switch to another FPS shop.
- The scheme will reduce the practice of black marketing at PDS shops due to installation of ePoS machines

◦ **Achieving Sustainable Development Goal (SDG):** This will help achieve the target of ending hunger by 2030. Also, it will address the poor. In the 2020 Global Hunger Index (GHI), India ranked 94 out of the 107 countries.

■ **Challenges in implementation**

- Exact data on the mobility of poor households migrating to work, locating intra- and inter-state destinations and sectors employing the workers is challenging, which will affect the allocation of food grains to different states.
- Without the portability of Integrated Child Development Services, Mid-Day Meals, immunisation, health care and other facilities for poor migrant households the aim of nutritional security will remain elusive.
- Since the scheme is based on two important guiding principles: Aadhar and digitalisation of ration cards. Due to poor digital literacy and internet penetration and authentication errors the entitled can remain excluded.
- Unless the government brings in 'divisibility' of the ration card, it might be challenging to keep track of the migration pattern.
- Experiences show that implementation is a demanding process and the deadline seems highly unlikely to be met in a way that it is in practice effective.

## Recusal in Judiciary

### Context:

In less than a week, two Supreme Court judges hailing from Kolkata have now withdrawn themselves from two politically sensitive cases involving the state government.

### Analysis

■ **Doctrine of Recusal: The Concept**

- Recusal is removal of oneself as a judge or policy maker in a particular matter, especially because of a conflict of interest.
- It is a basic precept that no one should be a judge in his or her own case.

- Courts must keep the promise of dispensing fair and impartial justice, and must decide controversies without bias.

### ■ Need of Recusal in Judiciary

- The requirement is that the judge must be impartial and must decide the case objectively on the basis of the evidence on record.
- A person cannot take an objective decision in a case in which he has interests, for as human psychology tells us, very rarely can people take decisions against their own interests.
- This concept of recusal is applied not only to avoid the possibility of a partial decision but also to ensure public confidence in the impartiality of the adjudicatory process.
- In this manner Impartiality, objectivity and public confidence provide the foundation on which the superstructure of rule against bias is built.

### ■ Recusal in India

- **Absence of statute:** In India there is no statute laying down the minimum procedure which judges must follow in order to ensure the impartiality. However, courts have always insisted that judges and other adjudicatory authorities must ensure that they have to ensure principles of impartiality.
- **Inspired from Natural Justice:** The principles of Natural Justice have developed with the growth of civilization and the content thereof is often considered as a proper measure of the level of civilization and Rule of Law prevailing in the community. It implies fairness, reasonableness, equity and equality.
- **Constitutional ethos:**
  - Though the Indian constitution does not use the expression of recusal, the concept divested of all its metaphysical and theological trappings pervades the whole scheme of the Constitution.
  - Duty to act fairly and impartially is ingrained in articles 14 and 21 of the constitution. Indian courts have nourished these values with reference to administrative decision making and emphasized on the test of 'real likelihood of bias.'
- **Supreme Court views**
  - The reasonableness of the apprehension in the mind of the party is relevant according to Supreme Court
  - Hence the proper approach in case of bias for the Court is not to look into his own mind and ask "am I biased?" but to look into the mind of the party before it.

### ■ Types of judiciary recusal in practise

In India two methods are normally being practiced, automatic recusal and If no one objects, a judge may proceed with the matter.

### ■ Automatic Recusal

- **Case of Justice Markandey Katju**
  - He followed the practice of automatic recusal when he withdrew his name from the Novartis case by saying that it would not be proper for him to deal with the appeal filed by Novartis.
  - His withdrawal from the case was apparently meant to preclude fears of bias in the MNC camp on account of an article he had written five years earlier against liberal grant of pharma patents
- **If no one objects, judge may proceed**
- **Case of Justice S. H. Kapadia**
  - Disclosing the fact that he owns some shares in Vedanta, he asked the lawyers appearing in the case at Punjab High Court whether he should recuse himself from hearing the case if the lawyers had any objections.
  - Had there been any objections the judge would have recused from the case

## ■ Usual Grounds of Recusal

- **Disqualification by interest:** it is where some direct or indirect interest in the proceedings, whether pecuniary or otherwise, gives rise to a reasonable apprehension of prejudice, partiality or prejudgment.
- **Disqualification by conduct:** it includes 'published statements' and 'consists of cases in which conduct, either in the course of, or outside, the proceedings, gives rise to such an apprehension of bias'.
- **Disqualification by association:** it consists of cases where the apprehension of prejudgment or other bias results from some direct or indirect relationship, experience or contact with a person or persons interested in, or otherwise involved in, the proceedings.
- **Disqualification by extraneous information:** overlaps with the third, but commonly 'consists of cases where knowledge of some prejudicial but inadmissible fact or circumstance gives rise to the apprehension of bias.

## Clampdown of information tantamount to Contempt of Court

### Context:

The Supreme Court has warned the law enforcement agencies that there can be no clampdown on citizens right to communicate their grievances on social media platforms regarding COVID-19, otherwise it will be treated as contempt of court.

### Analysis

#### ■ What is contempt of court?

- Contempt of Court is disobedience to the court whether wilfully or accidentally, by acting in defiance to the authority, justice and dignity.
- The power to punish for Contempt can be duly exercised by the court to up hold the dignity of the court of law and protect its proper functioning whenever an any person or body adversely affects the administration of justice by its act or tends to impede the course of justice, or shake public confidence in a judicial institution.

#### ■ Why does the Contempt of Court Act should be retained?

- As per the Law Commission report 274, there were a high number of civil (96,993) and criminal (583) contempt cases pending in various High Courts and the Supreme Court. The Commission observed that such high number of cases vindicates the claim of relevancy of the contempt of court in present scenario
- Even if the concerned act is repealed but the offence of Scandalising the Court continues to be punishable in UK under other laws
- Supreme Court and High Courts derive their contempt powers from the Constitution. The procedure in relation to investigation and punishment for contempt are only mentioned in the Contempt of Court Act, 1971. Therefore, repeal of relevant sections of the offence from the Act will not impact the constitutional powers of the constitutional courts to punish anyone for its contempt.
- if the definition of contempt is narrowed, subordinate courts will suffer as there will be no remedy to address cases of their contempt, as they cannot punish for their contempt as per the constitution

- The Act had passed judicial scrutiny at various levels and hence it is justified to retain the law in the statute books

#### ■ Why the provisions regarding contempt of court are unwarranted?

- The Contempt Law in England has now been abolished after the last contempt proceedings occurred in 1930.
- If the courts are to preserve their duty using this archaic law, the dignity of court will not be established and respected if it impedes fundamental rights of the citizens.
- A law for criminal contempt is completely standing apart from our democratic system which recognises freedom of speech and expression as a fundamental right.
- It violates the principle of natural justice, where a party to the case cannot be its adjudicator
- In the *Nambudiripad's* case, the court observed that the Freedom to Speech and expression should always prevail except where contempt is manifest, mischievous or substantial.
- If citizens are free to voice their opinion, then certain structural inefficiency like the opaque system of appointment of Judges in the Higher Judiciary adds to the argument against retaining this provision of contempt of court.

## 'The People vs the Indian State'

### Context:

- The recent proliferation of protests and grassroots movements points to increased public discourse on politics and human rights. The on-going farmers protest is one example of an energized population eager to invoke change in the country.
- These protests also raise the question that will shape India's democratic future in 2021 and beyond.

### Analysis

#### ■ What are the core political rights of democracy?

- Democracies everywhere are founded on two core political rights.
- The first, the right of every citizen to freely elect their government and when dissatisfied with its performance, to vote it out of power in a legitimately held election (Article 326).
- This remains the only proper constitutional procedure to get rid of a government and rightly so. Indeed, peaceful transfer of power is one of the great strengths of democracies.
- But short of displacing it, and as long as it is done peacefully, any form of public action to challenge the government's proposals or decisions is also constitutionally legitimate, forming the second core political right: to politically participate not only during but between elections.
- The right to protest, to publicly question and force the government to answer, is a fundamental political right of the people that flows directly from a democratic reading of Article 19.

#### ■ Are Protests legal?

- All protests are legal only if they are non-violent and carried out with appropriate permissions.
- Fundamental duties that are enshrined in the constitution require that the rule of law is followed and that public property is not destroyed.
- The right to protest peacefully is enshrined in the Indian Constitution under Article 19.

## ■ What's behind the protests?

- **Fractured growth, discredited State:** These protests draw their legitimacy from the lived experience of fractured growth driven by oligarchic capitalism and a discredited State.
- **System failure and injustice:** Conflict is expected and when judicial and state processes fail, people often take to the streets to administer some form of vigilante justice and retribution.
- **Threat:** This is also happening in a context where civil liberties are being eroded and dissenting views are under attack.

## ■ How protests are 'strong tools' for change?

- **Contagious:** Of late, protest has emerged more contagious than any other political tool. The spread and degree of these protests are unbelievably massive and without identified leaders.
- **Bringing core issues in light:** In democracies, protests are for more about rights and also to question democratic institutions. In many non-democracies, protests are over economic hardship and for bringing in democracy.
- **Grievance redressal:** In the absence of other avenues, protests have become a means of grievance redressal, a way of legitimising the demands, a function of multi-cultural democracy and a form of freedom of speech and expression.
- **Collective conscience:** Protests can be seen as the articulation of the collective conscience of the nation.
- **Building community:** Protests not only build communities of like-minded people, but they also increase civic engagement in general.
- **Bring change:** Protests create an important avenue to bring about the much desired change in the society. This also helps in improving the status of affairs in the country.
- **Strengthening democracy:** Protests are a means of ensuring that democracy thrives. It helps a people express their views without the interference of others who have a contrary opinion.

### Role of Women in the protests

- Women are taking lead role in the protests be it CAA protest (**Shaheen Bagh**) or the ongoing farmers protest. The dedicated participation of women in these protests shows that women's activism and protest has become an empowering space in and of itself.
- **Chipko Movement, 1973:** In 1973, a group of peasant women gave the world the term "tree huggers" when they led a protest in a Himalayan village to prevent trees from being felled. (Chipko means "hugging" in Hindi.) In Uttar Pradesh, the Chipko movement managed to secure a 15-year ban in 1980 on the felling of trees in that state's Himalayan forests.
- **Anti-Nuclear Protests in Tamil Nadu, 1980:** The women of Idinthakarai fishing village in the southern Indian state of Tamil Nadu, have been protesting against the Kudankulam Nuclear Power Plant in Tirunelveli district since the 1980s, when the plant was proposed.
- **Bhopal Disaster, 1984:** In Bhopal, a city in the central Indian state of Madhya Pradesh, mostly Muslim women took to the streets to seek justice for themselves and their families, who became victims of one of the world's worst industrial accidents.
- **Narmada dam protests, 1985:** The Narmada Bachao Andolan (Save Narmada Movement) is perhaps the longest non-violent movement in the history of the world driven primarily by women.

## Gambling

### Context:

Decision of Karnataka High Court to strike down certain provisions of Karnataka Police (Amendment) Act, 2021, that banned online games with monetary stakes.

### Analysis

#### ■ What did Karnataka Police (Amendment) Act, 2021 deal with?

- The Karnataka Police (Amendment) Act, 2021 aimed at **banning online betting** associated with **game of 'chance'**.
  - In India, regulating gambling is in the domain of states as the subject is listed in the **List II of the 7th Schedule of the Constitution**.
- The Amendment though kept did not apply to lotteries, betting on horse races conducted on race courses.
- This Act provided for maximum punishment of imprisonment of three years and penalty up to Rs. 1 lakh for violation of its provisions.

#### ■ What arguments were presented by the petitioners against the ban imposed by the Act?

- Online games are based on skill and not chance, hence **state government has no jurisdiction to ban them**.
- Those betting on a game are themselves participants, the bets therefore are not wedged on the performance of any third party. **Relying of individual skills** hence cannot be categorized as gambling.
- **Banning online gaming** in which mere chance is not involved, would create a situation that will lead to closure of gaming companies and unemployment of people working with them.
- The Amendment is in contravention to **Article 19(1)(g)** of the Constitution of India.

**Article 19(1)(g)** of the Indian Constitution gives an Indian Citizen to practice any profession, or to carry out any occupation, trade or business.

#### ■ Judicial Position of other High Courts:

- Kerala High Court had declared the decision of Kerala Legislative Assembly, which had banned online rummy, to be bad in law.
- The decision of Tamil Nadu Assembly banning all kinds of online games was struck down by the Madras High Court.

#### ■ Opinion of Supreme Court:

- In **M. D. Chamarbaugwalla vs Union of India**, the Supreme Court had held that a competition which requires a certain degree of skill of the participant to be applied, cannot be considered to be gambling.

#### ■ What was the decision of Karnataka High Court?

- Division **Bench of Karnataka High Court**, comprising of Chief Justices Ritu Raj Awasthi and Justice Krishna Dixit, brought down provisions of Karnataka Police (Amendment) Act, 2021 that banned online gaming with monetary stakes.

- The **Karnataka High Court issued a Writ of Mandamus** to the state government restraining it from interfering with online gaming business and allied activities.
- High Court of Karnataka applied to **Doctrine of Severability** and struck down only those provisions of Karnataka Police (Amendment) Act, 2021 that banned online games with monetary stakes.

**Doctrine of Severability:** It is also known as doctrine of separability. It means that when some particular provision of a statute offends or is against a constitutional limitation, but that provision is severable (separable) from the rest of the statute, only that offending provision will be declared void by the Court and not the entire statute

## Social Accountability

### Social accountability

- Social accountability has been defined as an approach towards ensuring accountability that relies on civic engagement, i.e., in which ordinary citizens and citizen groups participate directly or indirectly in exacting accountability.
- In a public sector context, social accountability refers to a wide range of actions and mechanisms that citizens, communities, independent media and civil society organizations can use to hold public officials accountable.
- Evidence from around the world suggests that social accountability mechanisms can contribute to improved governance, increased development effectiveness through better service delivery, and citizen empowerment.

### Why is Social Accountability important?

- Social accountability initiatives in South Asia are a product of a combination of motivating factors, the three main being increased development effectiveness, improved governance and empowerment.
- Accountability of public officials is the cornerstone of a good government and a prerequisite for effective democracy. It leads to improved development outcomes through improved public service delivery and through a more responsive, sensitive and informed policy design.
- Increased accountability, eventually resulting in improved governance and development effectiveness, has implications for empowerment of the people, especially the poor and marginalised sections of society.
- Social accountability has the potential to contribute to poverty reduction by engendering a more pro-poor policy design and improved service delivery. In most cases, accountability mechanisms are meant for the poor with the focus usually on issues like health, sanitation, education and similar services that have significant implications for the lives of the disadvantaged.

### Social Accountability Tools:

The tools and methods of social accountability are diverse and varied but there are certain basic similarities.

Social Accountability tools have been distinguished on the following basis:

- (a) Whether it has been initiated by the government or the citizens/CSOs.
- (b) Whether it is institutionalised or independent.

- (c) The extent to which it involves 'collaboration' with the government as opposed to 'confrontation'.
- (d) Whether it occurs at the local, regional or national level.
- (e) The phase or stage of public expenditure that is being monitored through the tool.

Social Accountability is often referred to as "vertical" accountability and should necessarily be distinguished from the various "horizontal" mechanisms of accountability that are internal to the state.

### Examples of Social Accountability Practices in India:

- Participatory Planning and Policy Formulation (Kerala)
- Participatory Budget Analysis (Gujarat)
- Participatory Expenditure Tracking System (Delhi, Rajasthan)
- Citizens' Surveys/Citizen Report Cards (Bangalore, Maharashtra)
- Citizen Charters (Andhra Pradesh, Karnataka)
- Community Scorecards (Maharashtra, Andhra Pradesh)

## CBI and states: Federal Issue

### Context:

Recently, Supreme Court has referred a case, in which the CBI had filed an affidavit on the withdrawal of 'general consent' to the CBI by several States.

### Analysis:

#### ■ Issue:

Total number of Eight States has withdrawn consent from the CBI for launching investigations in their territorial areas. These states are West Bengal, Maharashtra, Kerala, Punjab, Rajasthan, Jharkhand, Chhattisgarh and Mizoram.

#### ■ Types of Consent:

- **General Consent:** When a state gives a general consent (Section 6 of the Delhi Special Police Establishment Act) to the CBI for probing a case, the agency is not required to seek fresh permission every time it enters that state in connection with investigation or for every case.
- **Specific Consent:** When a general consent is withdrawn, CBI needs to seek case-wise consent for investigation from the concerned state government. If specific consent is not granted, the CBI officials will not have the power of police personnel when they enter that state.

#### ■ What does the withdrawal of general consent mean?

- It means the CBI will not be able to register any fresh case involving officials of the central government or a private person in the state without the consent of the state government.
- "CBI officers will lose all powers of a police officer as soon as they enter the state unless the state government has allowed them," a former CBI officer who has handled policy during his time in the agency.

### ■ Arguments made by States:

- The two state governments said that they had lost faith in the CBI in the backdrop of its internal turmoil marked by the open war among the agency's top officers.
- They have also alleged that the Centre is using the CBI to unfairly target Opposition parties.

## Anti-defection Law

**Context:** Anti Defection Law

### Analysis

#### ■ Main Issue(s) with the Law

##### 1. Whether the right to freedom of speech and expression is curtailed by the Tenth Schedule.

The Supreme Court in Kihota Hollohon Case has held that the provisions do not subvert the democratic rights of elected members in Parliament and state legislatures. It does not violate their conscience. The provisions do not violate any right or freedom under Articles 105 and 194 of the Constitution.

The court made it clear that it was only in matters pertaining to confidence motion/ no confidence motion and matters integral to party's policy based on which it enjoys support of the electorate, that a legislator is bound by direction issued by the party.

##### 2. Whether only resignation constitutes voluntarily giving up membership of a political party

Voluntarily giving up the membership is not the same as resigning from a party. The Supreme Court in **Ravi S. Naik v. Union of India** has held that the words "voluntarily giving up membership" have a wider meaning. An inference can also be drawn from the conduct of the member that he has voluntarily given up the membership of his party.

##### 3. Whether a member can be said to voluntarily give up his membership of a party if he joins another party after being expelled by his old political party

According to Supreme Court in **G.Vishwanathan v. Honourable Speaker, Tamil Nadu Legislative Assembly**, once a member is expelled, he is treated as an 'unattached' member in the house. However, he continues to be a member of the old party as per the Tenth Schedule. So if he joins a new party after being expelled, he can be said to have voluntarily given up membership of his old party.

##### 4. Finality to the decision of the Speaker/ Chairman

- According to Article 109(3) of the Constitution, the speaker has to satisfy himself that the resignations are voluntary and genuine and can reject them if he feels they are not. The Speaker has absolute discretion in this matter. The High Courts and the Supreme Court can exercise judicial review under the Constitution. Judicial review should not cover any stage prior to the making of a decision by the Speakers/ Chairmen.
- The irony is that the office of the Speaker which is of paramount significance in a parliamentary democracy at times seems to tow the political party's line by flouting well established principles of law. Speakers have not acted as impartial umpires generally on issues related to defection because they invariably come from the ruling party.

- For example, in the last Parliament, there was a no confidence motion tabled by a set of MPs. The Speaker refused to consider this, saying that there was too much disturbance in the Lok Sabha, but during the same period allowed the Finance Bill to be passed without discretion.

### ■ Arguments in Favour of Anti Defection Law

- Provides stability to the government by preventing shifts of party allegiance.
- Ensures that candidates elected with party support and on the basis of party manifestoes remain loyal to the party policies. Also promotes party discipline.

### ■ Arguments Against Anti Defection Law

- By preventing parliamentarians from changing parties, it reduces the accountability of the government to the Parliament and the people.
- Interferes with the member's freedom of speech and expression by curbing dissent against party policies.

### ■ Suggestions

- **Dinesh Goswami Committee** on electoral reforms (1990) suggested that the issue of disqualification should be decided by the President/ Governor on the advice of the Election Commission.
- **Halim Committee** on anti-defection law suggested that the words 'voluntarily giving up membership of a political party' and the term 'political party' be comprehensively defined.
- **Law Commission** (170th Report, 1999) suggested that the Political parties should limit issuance of whips to instances only when the government is in danger.
- **Election Commission** suggested that decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the Election Commission.
- **Constitution Review Commission (2002)** suggested that the vote cast by a defector to topple a government should be treated as invalid and that the defectors should be barred from holding public office for the duration of the remaining term.

## Panchayats and Service Delivery

### Context:

Participants from 16 States signed the Mysuru Declaration and resolved to roll out the Common Minimum Service delivery by Panchayats across the country from April 1, 2022.

### ■ Mysuru Declaration:

- Mysuru declaration is aimed at recognising Citizen Centric Services as the "Heart of Governance".
- The declaration also aims to promote inclusive and accountable Local Self Governments in delivery of services in consonance with the priorities and the aspirations of our citizens.
- As part of the declaration, participating states have committed to:
  - Increase the availability of Citizen Services at the grassroots levels in a timely and efficient manner, commencing with offering of the following basic, statutory and/ or essential services at the Gram Panchayat level from 1st April 2022
  - Implement the highest standards of professional integrity and accountability towards timely delivery of Public Services

## ■ About panchayats:

- Panchayati raj system is a three-tier structure of the Indian administration for rural development. Panchayati Raj aims to develop local self-governments in districts, zones and villages.
- The main objectives of Panchayati Raj is rural development and this has been established in all states of India except Nagaland, Meghalaya and Mizoram, in all Union Territories except Delhi, and certain other areas.
- These areas include:
  - The scheduled areas and the tribal areas in the states,
  - The hill area of Manipur for which a district council exists and
  - Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists
- There were many committees appointed by the Government of India to study implementation of self-government at the rural level and also recommend steps in achieving this goal.
- The committees appointed are as follows:
  - Balwant Rai Mehta Committee
  - Ashok Mehta Committee
  - G V K Rao Committee
  - L M Singhvi Committee

## ■ Salient features of Panchayat:

- The Gram Sabha is a body consisting of all the people registered in the electoral rolls who belong to a village comprised within the area of the Panchayat at the village level.
- **Permanent:** Gram Sabha is the smallest and the only permanent unit in the Panchayati Raj system. The powers and functions of Gram Sabha are fixed by state legislature according to the law on the subject.
- **Reservation:** Seats are reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) and chairpersons of the Panchayats at all levels are reserved for SCs and STs in proportion to their population.
- **Women:** One-third of the total number of seats are to be reserved for women. One-third of the seats reserved for SCs and STs, are also reserved for women. This policy extends to the office of the chairperson at all levels as well (Article 243D). The reserved seats may be allotted by rotation to different constituencies in the Panchayat.
- There is a uniform policy with each term being five years. Fresh elections must be conducted before the expiry of the term. In the event of dissolution, elections compulsorily within six months (**Article 243E**).

# Digital Sovereignty

## Context:

In March 2022, Visa, Mastercard and American Express announced that they would no longer be operating their payment networks in Russia. This highlights the issue of Digital Sovereignty.

## Analysis

### ■ Data Sovereignty

- Data Sovereignty means that data collection and processing is subject to the laws and regulations of the country where data is originated.

## ■ Steps taken by government to ensure Data Sovereignty:

The government of India has taken several steps to ensure data sovereignty.

- The **RBI issued directive to all system providers** to ensure that, the entire data relating to payment systems operated by them is stored only in India.
  - This covered not only card payment services by Visa and MasterCard but also of companies such as Paytm, WhatsApp and Google which offer electronic or digital payment services.
- Government has introduced **personal data protection bill** on the lines of EU's General Data Protection Regulation (GDPR).
  - It requires all sensitive and critical data to be stored in India.
  - Further it requires that a digital company must obtain explicit permission from a user before collecting their personal data.
- India did not sign **the Osaka track**, which is a framework to promote free flow of cross border data.
- Flagship '**Digital India**' programmes is a way forward to make data as the cornerstone of India's socioeconomic future, where the government leverages the Indian citizen's data for the benefit of the people themselves, and not solely for profit-making.
- **National Digital Communications Policy (NDCP)2018:**
  - Key Strategy of the Policy:
    - Establishment of a National Digital Grid by creating a National Fibre Authority.
    - Establishing Common Service Ducts and utility corridors in all new city and highway road projects.
    - Creating a collaborative institutional mechanism between Centre, States and Local Bodies for Common Rights of Way, standardization of costs and timelines.
    - Removal of barriers to approvals.
    - Facilitating development of Open Access Next Generation Networks.
  - The National Digital Communications Policy, 2018 envisages three Missions:
    - Connect India: Creating Robust Digital Communications Infrastructure
    - To promote Broadband for All as a tool for socio-economic development, while ensuring service quality and environmental sustainability.
    - Propel India: Enabling Next Generation Technologies and Services through Investments, Innovation and IPR generation

To harness the power of emerging digital technologies, including 5G, AI, IoT, Cloud and Big Data to enable provision of future ready products and services; and to catalyse the fourth industrial revolution (Industry 4.0) by promoting Investments, Innovation and IPR.

- Secure India: Ensuring sovereignty, safety and security of digital communications

To secure the interests of citizens and safeguard the digital sovereignty of India with a focus on ensuring individual autonomy and choice, data ownership, privacy and security; while recognizing data as a crucial economic resource.

## Conclusion:

India has a natural advantage in the age of software and technology. Indian talent is manning the helm of many global tech giants. Our youth would love the opportunity to come build for the security and sovereignty of their own nation, if we can create the conditions for them to do so.

Whether India becomes a major power or not in the next ten years will depend on whether we are able to create traction in cyber-security, maps, drones, 5G, medical AI and more. If we can't repeat our UPI and SaaS formula in these sectors, we will be a small player on the global stage. Success in these areas is a matter of keeping India secure and sovereign.

## PESA: Latest issues and developments

### Context:

In a recent development, the Ministry of Home Affairs (MHA) informed the Lok Sabha that “presently, there is no proposal to implement the ‘Panchayat system’ in the Sixth Schedule areas of Assam”.

### Analysis

#### ■ What is Sixth Schedule of the Constitution?

- The Sixth Schedule of the Constitution of India consists of provisions for the administration of tribal areas in north eastern states of Assam, Meghalaya, Mizoram and Tripura, according to **Article 244** of the Constitution.
- Along with protecting the tribal population, the Schedule provides autonomy to the communities through creation of autonomous development councils (ADCs) which are empowered to frame laws on land, public health, agriculture and others.

#### ■ What Autonomous districts and regional councils?

- The Sixth Schedule of the Constitution of India provides for Autonomous district, along with separate Regional Councils for each area constituted as an autonomous region in the district.
- Under the Schedule, these councils have been given Legislative, Administrative and Judicial powers
- No Central or State law in respect of the legislative powers conferred on the Autonomous District Councils (ADCs) could be extended to those areas without their prior approval.
- Also, these councils are empowered to constitute **Village councils** and courts.
- In all, there are 10 autonomous councils in Assam, Meghalaya, Tripura and Mizoram. The specified tribal areas are –
  - **Assam:** the Bodoland Territorial Area, North Cachar Hills and Karbi Anglong
  - **Meghalaya:** Khasi Hills, Jaintiya Hills and Garo Hills
  - **Mizoram:** Chakma, Mara and Lai districts
  - **Tripura:** Tribal Areas
- Each ADC and regional council consists of not more than 30 members.
- Out of 30, four are nominated by the Governor and the rest through elections. The members remain in power for five years.

#### ■ Panchayat rule in India

- The Constitution (73rd Amendment) Act enacted in 1992 vests power in the Government of the respective State to endow Panchayats with such powers and authority as may be necessary to allow them function properly as institutions of self-government.
- With the **amendment of the Act**, Panchayats were given ‘constitutional status’ as an institution of **local self-governance for rural India**.
- The Act mandates provisions for:
  - Establishment of a three-tier structure
    - Village Panchayat
    - Panchayat Samiti or intermediate level Panchayat
    - Zilla Parishad or district level Panchayat
  - Establishment of Gram Sabhas (village level).

- Regular elections to Panchayats every five years.
- Proportionate seat reservation for SCs/STs.
- Reservation for women (not less than one-third seats).
- Constitution of the State Finance Commissions to recommend measures to improve the finances of Panchayats
- However, the areas, predominantly inhabited by the Adivasi population, called scheduled areas, were exempted from these new amendments.
- In 1996, the **Panchayat (Extension to the Scheduled Areas) (PESA Act)**, took local self-governance rules to the areas listed under the fifth schedule.

#### About PESA Act

**Panchayat (Extension to the Scheduled Areas) (PESA Act)** extends the provision of the Indian Constitution to formalise the three-tier Panchayati Raj system to fifth Schedule areas with certain modifications and exceptions.

## Reservation for Locals in Private Sector

### Context:

The Punjab and Haryana High Court on Thursday stayed the Haryana government's law guaranteeing 75% reservation to locals in private sector jobs.

### Background

- On January 15, 2022, the government notified the "**Haryana State Employment of Local Candidates Act, 2020**".
- The law provides for 75% of new employment for local candidates having salary of less than Rs.30,000 a month in various privately managed companies, societies, trusts, limited liability partnership firms, partnership firms etc.

### ■ Is it constitutionally valid?

This development is raising eyebrows since it prima facie exercises a power exclusively within the domain of Parliament under **Article 16(3)**, breaches the 50% ceiling on reservation, and also interferes with the constitutional right of citizens to conduct business or trade.

- While **Article 16(3)** allows Parliament to make any law with residence qualifications necessary for government jobs, introducing domicile-based preferential treatment, there is no such provision in the Constitution empowering states to pass laws on domicile-based reservation.
- On the other hand, the Supreme Court has in a body of judgments berated such endeavours by state governments.

#### Key-judgments

- In **Uttar Pradesh vs Pradip Tandon (1974)**, the top court held that "no reservation can be made on the basis of place of birth as that would offend Article 15", which prohibits the state from discriminating against any citizen on grounds of religion, race, caste, sex, or place of birth.
- In **Dr Pradeep Jain vs Union of India, 1984**, the top court dealt specifically with the issue of domicile-based reservation, underscoring that to regard an individual from one state as an outsider in another state "would be to deny him his constitutional rights and to derecognise the essential unity and integrity of the country..."

## ■ What are the provisions in the Constitution that enable reservation/quota?

- **Article 14** guarantees equality and equal protection of law to all.
  - **Articles 15 (1) and 15 (2)** prohibit the State from discriminating any citizen on ground of religion, race, caste, sex, or place of birth.
  - But **clauses (3) to (5) of Article 15** empower the State to positively discriminate in favour of the grossly underrepresented and neglected sections of the society in order to promote substantive equality.
    - **Article 15(3)** empowers the State to make special provisions for women and children while Article 15(4) authorises the State to make special provisions for advancement of socially and educationally backward sections or SC/STs.
    - **Article 15(5)** goes one step further and says the State can make reservation in admission to education institutions, whether or not aided by government.
  - Similarly, **Articles 16 (1) and 16(2)** lay down that the State cannot discriminate against citizens in the matters of employment.
  - However, **clause 3 of Article 16** allows Parliament to enact a law with residence qualifications necessary for government jobs, thus introducing the domicile-based preferential treatment.
  - **Article 16(4)** also allows the State to make reservation for any backward class of citizens, which in the opinion of the state is not adequately represented in services. This opens door for reservations for Other Backward Classes (OBCs).
  - **Article 16(4A)** was incorporated permitting reservation in promotions but restricting the same to Scheduled Caste (SC) and Scheduled Tribes (ST).
  - After the **Constitution (103rd Amendment) Act, 2019**, clauses 6 and Articles 15 and 16 were inserted to provide for a further 10% reservation in jobs and educational institutions to economically backward sections in the general category.

## Criminal Laws amendments

### Context:

A panel of experts constituted by the Ministry of Home Affairs (MHA) to suggest reforms to the British-era Indian Penal Code (IPC) has recommended amendments to the sedition law.

### ■ Committee for Reform in Criminal Law:

- The Ministry of Home Affairs (MHA) has constituted a national level committee for reform in criminal law.
- The committee has been constituted under Ranbir Singh and several other members.
- The committee would be gathering opinions online by consulting with experts and collating material for their report to the government.

### ■ Previous committees:

- Madhav Menon Committee: It submitted its report in 2007, suggesting various recommendations on reforms in the Criminal Justice System of India (CJSI).
- Malimath Committee Report: It submitted its report in 2003 on the Criminal Justice System of India (CJSI).

### ■ The Framework of Reform:

- **Victim Protection:** The reason for victimisation ought to be given a major thrust in reforming laws to identify the rights of crime victims. For Example: Launch of victim and witness protection schemes, use of victim impact statements, increased victim participation in criminal trials, enhanced access of victims to compensation and restitution.
- **Construction of New Offences:** The construction of new offences and reworking of the existing classification of offences must be guided by the principles of criminal jurisprudence which have substantially altered in the past four decades.
  - For Example: Criminal liability could be graded better to assign the degree of punishments. New types of punishments like community service orders, restitution orders, and other aspects of restorative and reformatory justice could also be brought into its fold.
- **Streamlining IPC & CrPC:** The classification of offences must be done in a manner conducive to management of crimes in the future.
- **Curbing Unprincipled Criminalisation:** Guiding principles need to be developed after sufficient debate before criminalising an act as a crime.
  - Unprincipled criminalisation not only leads to the creation of new offences on unscientific grounds, but also arbitrariness in the criminal justice system

## Draft India Data accessibility and use policy 2022

### Context:

- The Ministry of Electronics and Information Technology (MEITY) recently released a policy proposal titled as, "Draft India Data Accessibility & Use Policy, 2022".
- The draft policy's objective to ensure data from every government ministry be open and shareable comes with caveats.

### ■ Why has the Draft Data Accessibility Policy been proposed?

- Data has grown to be an important economic and social resource and, in India, the government is the biggest data repository.
- A policy framework could be beneficial in streamlining government data sharing which faces several bottlenecks today.

### ■ Key points of the India Data Accessibility & Use Policy:

- **Applicability:** The policy will be applicable to all data and information generated by the Indian government directly or through authorised agencies by various ministries and autonomous bodies.
  - Moreover, state governments will be free to adopt the provisions of this policy.
- An **India Data Office (IDO)** will be set up by the Ministry of Electronics and Information Technology (MeitY) to consolidate data access and sharing of public data repositories across the government and other stakeholders.
  - The IDO will be responsible for coordinating with ministries, states, and other schematic programs to identify and provide access to high-value data (HVD).
  - The access will be provided through various mechanisms to interested parties like researchers, start-ups, enterprises, individuals, and government departments.
- The draft policy also proposes a **data management unit** in every ministry, headed by Chief Data Officers, which will work closely with the IDO to implement the policy.

## ■ What is the proposed framework for India Data Council?

- The ministry is also proposing to set up an India Data Council which will comprise the India Data Officer and Chief Data Officers of state and central government departments.
- The council will be aided by a dedicated support unit to coordinate data sharing across ministries, provide technical support, and evaluate their performance periodically.
- The council will be expected to carry out tasks that require deliberations across ministries and state governments such as laying down frameworks for:
  - Defining high-value data sets and value datasets;
  - Finalising data standards and metadata standards;
  - Reviewing the implementation of the policy

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<ul style="list-style-type: none"> <li>■ Stakeholders like start-ups, enterprises, individuals and researchers will be able to access enriched data</li> </ul>	<ul style="list-style-type: none"> <li>■ India Data Council will oversee metadata standards, comprise the India Data Office and data officers of five other government departments</li> </ul>
<ul style="list-style-type: none"> <li>■ Pricing of datasets will be done by the respective government departments in a transparent manner</li> </ul>	
<ul style="list-style-type: none"> <li>■ Draft policy says guidelines will be framed to decide how long datasets can be held by the government</li> </ul>	<ul style="list-style-type: none"> <li>■ Every Ministry/ Department shall have data management units headed by chief data officers</li> </ul>

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